UNITED STATES CODE

1970 EDITION

CONTAINING THE GENERAL AND PERMANENT LAWS
OF THE UNITED STATES, IN FORCE
ON JANUARY 20, 1971

Prepared and published under authority of Title 1, U.S. Code, Section 202 (c)
by the Committee on the Judiciary of the House of Representatives

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TITLE 43—PUBLIC LANDS
TO
TITLE 49—TRANSPORTATION

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TITLES OF UNITED STATES CODE

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* 3. The President.

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*This title has been enacted as law.
†This title has been eliminated by the enactment of Title 10.

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PREFACE—1970 EDITION

This eighth edition of the United States Code was prepared and published pursuant to section 202 (c) of Title 1 of the Code. It contains a consolidation and codification of all the general and permanent laws of the United States which are in force on January 20, 1971. By statutory authority this edition may be cited "U.S.C. 1970 ed." Previous editions were published in 1926, 1934, 1940, 1946, 1952, 1958, and 1964.

Inasmuch as many of the general and permanent laws which are required to be incorporated in this Code are inconsistent, redundant, and obsolete, the Committee on the Judiciary is engaged in a comprehensive project of revising and enacting the Code into law, title by title. In furtherance of this plan bills have been enacted to revise, codify and enact into law Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44. In addition, bills relating to other titles are also being prepared for introduction. When this work is completed all the titles of the Code will be legal evidence of the general and permanent law and recourse to the numerous volumes of the Statutes at Large for this purpose will be unnecessary.

The title and chapter structure of the 1964 edition, together with Supplement V thereto, has been substantially preserved, the only changes made having been necessitated by the enactment of legislation since 1964.

In this edition numerous notes have been added captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. They should be extremely useful to the Congress, the bench and bar, and the public.

The actual work of preparing and editing the material for this edition was done by the West Publishing Co. of St. Paul, Minnesota, under the supervision of the Committee on the Judiciary of the House of Representatives. West Publishing Co. prepared the original Code which Congress enacted in 1926 and has continuously served the Committee since that time in the preparation of the authorized new editions and Supplements to the Code. Grateful acknowledgment is made to the editorial and manuscript staffs of the publishing company and of Joseph Fischer, Esq., the law revision counsel for the Committee, and his staff for their untiring efforts to make this edition as nearly perfect as possible. Acknowledgment of valuable assistance is made also to various officers of Government departments and agencies and the Government Printing Office for their helpful suggestions and criticisms.

The Committee on the Judiciary invites criticisms or suggestions with the view of improving the Code wherever possible. It is hoped that the program of enacting the entire Code, title by title, to improve its present status as merely prima facie evidence of the law, will meet with early success.

Emanuel Celler

Chairman,
Committee on the Judiciary.

Robert W. Kastenmeier

Chairman, Subcommittee No. 3,
Committee on the Judiciary.

WASHINGTON, D.C., *January 2, 1971.*

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CROSS REFERENCES

Mineral lands, see Title 30, Mineral Lands and Mining.

Protection of timber on public lands from fire, disease or insect ravages, see section 594 of Title 16, Conservation.

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Chapter 1.—BUREAU OF LAND MANAGEMENT

Sec.
1. Repealed.
2. Duties concerning public lands.
3 to 4. Omitted.
5. Repealed.
6. Duties of employees to certify, record, etc., patents.
7, 8. Omitted.
9, 10. Repealed.
11. Restriction on officers, clerks, and employees.
12. Seal, books, and records.
13. Original papers on file as evidence.
14. Returns relative to lands.
15. Issuance and signing of patents by Secretary of Interior; delegation of authority; notice.
16. Engrossing and recording patents.
17. Plats of land surveyed.
18. Copies of papers filed.
19 to 25b. Repealed.

§ 1. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

Section, R.S. § 446, which was derived from acts Aug. 25, 1812, ch. 68, § 11, 2 Stat. 717; July 4, 1836, ch. 352, § 1, 5 Stat. 107; Mar. 3, 1873, ch. 226, § 3, 17 Stat. 508, provided that there shall be in the Department of the Interior a Director of the Bureau of Land Management. Provision for a Bureau of Land Management in the Department of the Interior and for the structure of such Bureau is contained in section 403 of the 1946 Reorg. Plan No. 3, which is set out below.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of records, property, personnel, and funds, see sections 1001—1003 of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

BUREAU OF LAND MANAGEMENT CREATED

1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided:

"(a) The functions of the General Land Office and of the Grazing Service in the Department of the Interior are hereby consolidated to form a new agency in the Department of the Interior to be known as the Bureau of Land Management. The functions of the other agencies named in subsection (d) of this section are hereby transferred to the Secretary of the Interior.

"(b) There shall be at the head of such Bureau a Director of the Bureau of Land Management, who shall be appointed by the Secretary of the Interior under the classified civil service, who shall receive a salary at the rate of $10,000 per annum, and who shall perform such duties as the Secretary of the Interior shall designate.

"(c) There shall be in the Bureau of Land Management an Associate Director of the Bureau of Land Management and so many Assistant Directors of the Bureau of Land Management as may be necessary, who shall be appointed by the Secretary of the Interior under the classified civil service and subject to the Classification Act of 1923, as amended, and who shall perform such duties as the Secretary of the Interior may prescribe.

"(d) The General Land Office, the Grazing Service, the offices of Commissioner of the General Land Office, Assistant Commissioner of the General Land Office, Director of the Grazing Service, all Assistant Directors of the Grazing Service, all registers of the district land offices, and United States Supervisor of Surveys, together with the Field Surveying Service now known as the Cadastral Engineering Service, are hereby abolished.

"(e) The Bureau of Land Management and its functions shall be administered subject to the direction and control of the Secretary of the Interior, and the functions transferred to the Secretary by subsection (a) of this section shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate."

§ 2. Duties concerning public lands.

The Secretary of the Interior or such officer as he may designate shall perform all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all grants of land under the authority of the Government. (R. S. § 453; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Apr. 25, 1812, ch. 68, § 1, 2 Stat. 716; July 4, 1836, ch. 352, § 1, 5 Stat. 107; June 6, 1874, ch. 223, 18 Stat. 62; Feb. 18, 1875, ch. 80, 18 Stat. 317.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"The Secretary of the Interior or such officer as he may designate shall perform" was substituted for "The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior," by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 3 to 4. Omitted.

CODIFICATION

Section 3, acts July 11, 1890, ch. 667, § 1, 26 Stat. 257; June 17, 1910, ch. 297, 36 Stat. 512, provided for the office of an assistant commissioner of the General Land Office, which was abolished by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. That Plan provided for a Bureau of Land Management, including an Associate Director and as many Assistant Directors as the Secretary of the Interior may find necessary. See note set out under former section 1 of this title.

Section 3a, act June 5, 1942, ch. 336, § 1, 56 Stat. 312, provided for assistant or deputy commissioners of the General Land Office and Bureau of Indian Affairs. Insofar as it related to the General Land Office it was superseded by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out as notes under former section 1 and former section 3 of this title. Provisions unaffected by the Plan relating to the Bureau of Indian Affairs are set out as section 2a of Title 25, Indians.

Section 4, act May 22, 1908, ch. 186, § 1, 35 Stat. 225, which provided for a temporary assistant commissioner of the General Land Office, was superseded by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, set out as a note under former section 1 of this title. See also notes under former sections 3 and 3a of this title.

§ 5. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

Section, R.S. § 447, provided for a recorder of the former General Land Office.

§ 6. Duties of employees to certify, record, etc., patents.

It shall be the duty of such officers or employees of the Bureau of Land Management as may be designated by the Secretary of the Interior, in pursuance of instructions from the Secretary of the Interior or such officer as he may designate, to certify and affix the seal of the office to all patents for public lands, and to attend to the correct engrossing, recording, and transmission of such patents. They shall prepare alphabetical indexes of the names of patentees, and of persons entitled to patents; and shall prepare such copies and exemplifications of matters on file or recorded in the Bureau of Land Management as the Secretary or such officer may from time to time direct. (R. S. § 459; 1940 Reorg. Plan No. III, § 4, eff. June 30, 1940, 5 F. R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Apr. 25, 1812, ch. 68, § 8, 2 Stat. 717; July 4, 1836, ch. 352, § 4, 5 Stat. 111.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" and references to the Commissioner were changed to Secretary of the Interior or such officer as he may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Office of Recorder of General Land Office, was abolished, and functions of recorder were directed to be exercised under direction and supervision of Secretary of Interior, through such officers or employees of General Land Office as he may designate, by 1940 Reorg. Plan No. III, set out in the Appendix to Title 5. See, also, sections 8 and 9 of 1940 Reorg. Plan No. III for provisions relating to transfer of records, property, personnel, and funds.

§§ 7, 8. Omitted.

CODIFICATION

Section 7, act May 22, 1908, ch. 186, § 1, 35 Stat. 225, authorized the Secretary of the Interior to designate a temporary recorder for the former General Land Office in certain cases. 1940 Reorg. Plan No. III, § 4, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, abolished the office of Recorder of the former General Land Office and provided that his functions should be exercised under the direction and supervision of the Secretary of the Interior through those officers or employees of the former General Land Office as he might designate.

Section 8, which provided for one clerk in the Bureau of Land Management to sign land patents, was from the Department of Interior Appropriation Act, 1949, act June 29, 1948, ch. 754, § 1, 62 Stat. 1114, and has not been repeated in subsequent appropriation acts.

REPEALS

A prior section 8, R. S. § 450; acts June 19, 1878, ch. 329, § 1, 20 Stat. 183; May 24, 1922, ch. 199, 42 Stat. 552; Jan. 24, 1923, ch. 42, 42 Stat. 1174; June 5, 1924, ch. 264, 43 Stat. 391; Mar. 3, 1925, ch. 462, 43 Stat. 1142; May 10,

1926, ch. 277, § 1, 44 Stat. 456; Jan. 12, 1927, ch. 27, 44 Stat. 937; Mar. 7, 1928, ch. 137, § 1, 45 Stat. 202; Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1564; May 14, 1930, ch. 273, § 1, 46 Stat. 281; Feb. 14, 1931, ch. 187, § 1, 46 Stat. 1117; Apr. 22, 1932, ch. 125, § 1, 47 Stat. 92; Feb. 17, 1933, ch. 98, § 1, 47 Stat. 822; Mar. 2, 1934, ch. 38, § 1, 48 Stat. 364; May 9, 1935, ch. 101, § 1, 49 Stat. 180; June 22, 1936, ch. 691, § 1, 49 Stat. 1761; Aug. 9, 1937, ch. 570, § 1, 50 Stat. 568; May 9, 1938, ch. 187, § 1, 52 Stat. 295; May 10, 1939, ch. 119, § 1, 53 Stat. 691; June 18, 1940, ch. 395, § 1, 54 Stat. 411; June 28, 1941, ch. 259, § 1, 55 Stat. 309; July 2, 1942, ch. 473, § 1, 56 Stat. 511; July 12, 1943, ch. 219, § 1, 57 Stat. 455; June 28, 1944, ch. 298, § 1, 58 Stat. 468; July 3, 1945, ch. 262, § 1, 59 Stat. 322; July 1, 1946, ch. 529, § 1, 60 Stat. 352; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100; July 25, 1947, ch. 337, § 1, 61 Stat. 460, was repealed by act June 17, 1948, ch. 496, § 2 (a), (d), 62 Stat. 476. However, act June 29, 1948, reenacted somewhat similar provisions to a prior section 8 of this title, and they were set out as former section 8.

§ 9. Repealed. June 17, 1948, ch. 496, § 2 (b), 62 Stat. 476.

Section, R. S. § 451; act June 19, 1878, ch. 329, § 1, 20 Stat. 183 provided for an assistant to sign land patents, and is now covered by section 15 of this title.

§ 10. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 645.

Section, acts May 24, 1922, ch. 199, 42 Stat. 555; Jan. 24, 1923, ch. 42, 42 Stat. 1177, related to depositary acting for commissioner as receiver of public moneys.

§ 11. Restriction on officers, clerks, and employees.

The officers, clerks, and employees in the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from his office. (R. S. § 452; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Apr. 25, 1812, ch. 68, § 10, 2 Stat. 717; July 4, 1836, ch. 352, § 14, 5 Stat. 112.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 12. Seal, books, and records.

The Secretary of the Interior or such officer as he may designate shall retain the charge of the seal adopted for the Bureau of Land Management which may continue to be used, and of the records, books, papers, and other property appertaining to the Bureau of Land Management. (R. S. § 454; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Apr. 25, 1812, ch. 68, §§ 4, 5, 2 Stat. 717.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and employees.

The functions of General Land Office were consolidated in the Bureau of Land Management and the functions of the Commissioner were transferred to the Secretary of the Interior or such officer as he may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 13. Original papers on file as evidence.

Whenever the officer, as the Secretary of the Interior may designate, of any United States land office shall be served with a subpœna duces tecum or other valid legal process requiring him to produce, in any United States court or in any court of record of any State, the original application for entry of public lands or the final proof of residence and cultivation or any other original papers on file in the Bureau of Land Management of the United States on which a patent to land has been issued or which furnish the basis for such patent, it shall be the duty of such officer to at once notify the Secretary of the Interior, or such officer as he may designate, of the service of such process, specifying the particular papers he is required to produce, and upon receipt of such notice from any such officer of a United States land office the Secretary or such officer designated by him shall at once transmit to the officer of such land office the original papers specified in such notice, and which such officer is required to produce, and to attach to such papers a certificate, under seal of his office, properly authenticating them as the original papers upon which patent was issued; and such papers so authenticated shall be received in evidence in all courts of the United States and in the several State courts of the States of the Union: *Provided*, That the Secretary of the Interior shall make rules and regulations to secure the return of such documents to the Bureau of Land Management, after use in evidence, without cost to the United States. (Apr. 19, 1904, ch. 1398, 33 Stat. 186; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1962, set out in the Appendix to Title 5, Government Organization and Employees.

References to the Commissioner of the General Land Office and registers of United States Land Offices were changed to Secretary of the Interior or such officer as he may designate and "Bureau of Land Management" was substituted for "General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Government records and papers; copies, see section 1733 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 14. Returns relative to lands.

All returns relative to the public lands shall be made to the Secretary of the Interior or such officer as he may designate. (R. S. § 456; July 31, 1894, ch. 174, § 7, 28 Stat. 207; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Apr. 25, 1812, ch. 68, § 9, 2 Stat. 717.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 15. Issuance and signing of patents by Secretary of Interior; delegation of authority; notice.

All patents for public lands shall be issued and signed by the Secretary of the Interior in the name of the United States: *Provided,* That the Secretary may delegate his authority under this section to officers or employees of the Department of the Interior, but notice of any such delegation shall be given by publication in the Federal Register. (June 17, 1948, ch. 496, § 1, 62 Stat. 476.)

REPEALS

Section 2 (c) of act June 17, 1948, repealed R. S. § 458; 1940 Reorg. Plan No. III, § 4 eff. June 30, 1940, 5 F. R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, formerly set out as credits to this section.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Documents required by act of Congress to be published in the Federal Register, see section 1505(a)(3) of Title 44, Public Printing and Documents.

§ 16. Engrossing and recording patents.

The engrossing and recording of patents for public lands may be done by means of typewriters or other machines, under regulations to be made by the Secretary of the Interior and approved by the President. (Mar. 2, 1895, ch. 177, § 3, 28 Stat. 807.)

§ 17. Plats of land surveyed.

The Secretary of the Interior or such officer as he may designate shall, when required by the President or either House of Congress, make a plat of any land surveyed under the authority of the United States, and give such information respecting the public lands and concerning the business of the Bureau of Land Management as shall be directed. (R. S. § 455; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Apr. 25, 1812, ch. 68, § 6, 2 Stat. 717.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" and "Bureau of Land Management" for "his office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 18. Copies of papers filed.

Whenever any person claiming to be interested in or entitled to land, under any grant or patent from the United States, applies to the Department of the Interior for copies of papers filed and remaining therein, in anywise affecting the title to such land, it shall be the duty of the Secretary of the Interior to cause such copies to be made out and authenticated, under his hand and the seal of the Bureau of Land Management, for the person so applying. (R. S. § 460; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Jan. 23, 1823, ch. 6, 3 Stat. 721; July 4, 1836, ch. 352, § 7, 5 Stat. 111.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Authenticated copies of official papers to be furnished, on request and on payment of a fee, by Secretary of Interior or other department head, see sections 1460, 1461, 1462 of this title and section 1733 of Title 28, Judiciary and Judicial Procedure.

Government records and papers; copies, see section 1733 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

§§ 19 to 21. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 461, 2469, 2470; acts Apr. 2, 1888, ch. 54, 25 Stat. 76; Oct. 12, 1888, ch. 1098, 25 Stat. 557; May 29, 1908, ch. 220, § 15, 35 Stat. 469, related to certified copies and exemplifications of records of the former General Land Office.

Department of Interior record provisions and Government records and papers, see section 1460 et seq. of this title, and section 1733 of Title 28, Judiciary and Judicial Procedure.

§ 22. Repealed. July 30, 1947, ch. 354, § 2, 61 Stat. 522.

Section, act June 5, 1920, ch. 235, § 1, 41 Stat. 908, which related to cost of photolithographic copies of plats, is now covered by section 1460 of this title.

§ 23. Repealed. Pub. L. 86-649, title II, § 202(b), July 14, 1960, 74 Stat. 507.

Section, act Feb. 14, 1931, ch. 187, 46 Stat. 1118, which prescribed the fees for depositions in hearings in the Bureau of Land Management, is now covered by section 1371 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior Appropriation Acts:

1925—Mar. 3, 1925, ch. 462, 43 Stat. 1145.
1924—June 5, 1924, ch. 264, 43 Stat. 395.
1923—Jan. 24, 1923, ch. 42, 42 Stat. 1179.
1922—May 24, 1922, ch. 199, 42 Stat. 558.
1915—Mar. 3, 1915, ch. 75, § 1, 38 Stat. 855.

§ 24. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 646, 647.

Section, acts May 10, 1926, ch. 277, § 1, 44 Stat. 456; Jan. 12, 1927, ch. 27, § 1, 44 Stat. 938, authorized payment of mileage for automobile travel.

§§ 25 to 25b. Repealed. Oct. 25, 1951, ch. 562, § 1 (25), 65 Stat. 639.

Sections, act May 28, 1926, ch. 415, §§ 1—3, 44 Stat. 672, 673, which related to transfer to each State, upon the closing of the last land office therein, of land office records, field notes, maps, etc., is now covered by section 3301 et seq. of Title 44, Public Printing and Documents.

Chapter 2.—GEOLOGICAL SURVEY

Sec.
31. Director of Geological Survey.
(a) Establishment of office; appointment and duties; examination of geological structure, mineral resources, and products of the national domain; prohibitions in respect to lands and surveys.
(b) Examination of geological structure, mineral resources, and products outside the national domain.
(c) Report to Congress.
32. Acting Director.
33. Repealed.
34. Scientific employees.
35. Repealed.
36. Purchase of books.
36a. Acquisition of scientific or technical books, maps, etc., for library.
36b. Acquisition of lands or interests therein for use in gaging streams or underground water resources.
37. Purchases or services for Geological Survey.
38. Topographic surveys; marking elevations.
39, 40. Omitted.
41. Publications and reports; preparation and sale.
42. Distribution of maps and atlases, etc.
43. Copies to Senators, Representatives, and Delegates.
44. Sale of transfers or copies of data.
45. Production and sale of copies of photographs and records; disposition of receipts.
46. Exchange of old freight-carrying vehicles as part payment for new.
47. Repealed.
48. Disposition of amounts received from State, Territory, etc.
49. Extension of cooperative work to Puerto Rico.
50. Survey's share of cost of topographic mapping or water resources investigations carried on with States.

§ 31. Director of Geological Survey.

(a) Establishment of office; appointment and duties; examination of geological structure, mineral resources, and products of the national domain; prohibitions in respect to lands and surveys.

The Director of the Geological Survey, which office is established, under the Interior Department, shall be appointed by the President by and with the advice and consent of the Senate. This officer shall have the direction of the Geological Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain. The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.

(b) Examination of geological structure, mineral resources, and products outside the national domain.

The authority of the Secretary of the Interior, exercised through the Geological Survey of the Department of the Interior, to examine the geological structure, mineral resources, and products of the national domain, is expanded to authorize such examinations outside the national domain where determined by the Secretary to be in the national interest.

(c) Report to Congress.

The Secretary of the Interior shall report to the Speaker of the House of Representatives and the President of the Senate on January 31 and July 31 of each year on all actions taken pursuant to subsection (b) of this section during the six months ending on the December 31 and June 30 immediately preceding the reporting date and on the results of such actions. (Mar. 3, 1879, ch. 182, § 1, 20 Stat. 394; Sept. 5, 1962, Pub. L. 87-626, §§ 1, 2, 76 Stat. 427.)

CODIFICATION

Subsec. (a) is from Act Mar. 3, 1879. Subsecs. (b) and (c) are sections 1 and 2, respectively, of Pub. L. 87-626.

Provisions of subsec. (a) which limited the salary of the Director of the Geological Survey to $6,000 a year were omitted as obsolete. See chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

§ 32. Acting Director.

The Secretary of the Interior may authorize one of the geologists to act as Director of the Geological Survey in the absence of that officer. (July 31, 1894, ch. 174, § 1, 28 Stat. 197.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the

performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 33. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, act June 16, 1880, ch. 235, 21 Stat. 274, authorized the Secretary of War to detail officers of the Ordnance Corps to serve with the Geological Survey.

§ 34. Scientific employees.

The scientific employees of the Geological Survey shall be selected by the director, subject to the approval of the Secretary of the Interior exclusively for their qualifications as professional experts. (July 7, 1884, ch. 332, 23 Stat. 212.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 35. Repealed. Pub. L. 87-304, § 9(a)(2), Sept. 26, 1961, 75 Stat. 664.

Section, act June 30, 1906, ch. 3914, § 1, 34 Stat. 727, authorized scientific and other employees of the United States Geological Survey employed in the field to make assignments of pay, and that they be reimbursed for expenses incurred in the discharge of duty in the field and paid from personal funds. See section 5525 of Title 5, Government Organization and Employees.

§ 36. Purchase of books.

The purchase of professional and scientific books and periodicals needed for statistical purposes by the scientific divisions of the United States Geological Survey is authorized to be made and paid for out of appropriations made for the said Survey. (June 28, 1902, ch. 1301, § 1, 32 Stat. 455.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 36a. Acquisition of scientific or technical books, maps, etc., for library.

The Director of the Geological Survey, under the general supervision of the Secretary of the Interior, is authorized to acquire for the United States, by gift or devise, scientific or technical books, manuscripts, maps, and related materials, and to deposit the same in the library of the Geological Survey for reference and use as authorized by law. (May 14, 1940, ch. 190, 54 Stat. 212.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 36b. Acquisition of lands or interests therein for use in gaging streams or underground water resources.

The Secretary of the Interior may, on behalf of the United States and for use by the Geological Survey in gaging streams and underground water resources, acquire lands by donation or when funds have been appropriated by Congress by purchase or condemnation, but not in excess of ten acres for any one stream gaging station or observation well site. For the same purpose the Secretary of the Interior may obtain easements, licenses, rights-of-way, and leases limited to run for such a period of time or term of years as may be required for the effective performance of the function of gaging streams and underground water resources: *Provided,* That nothing in this section shall be construed as affecting or intended to affect or in any way to interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this section, shall proceed in conformity with such laws, and nothing in this section shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water, in, to, or from any interstate stream or the waters thereof. (Dec. 24, 1942, ch. 822, 56 Stat. 1086; Apr. 4, 1960, Pub. L. 86-406, 74 Stat. 14.)

AMENDMENTS

1960—Pub. L. 86-406 authorized the Secretary of the Interior to acquire lands and interests in lands for observation well sites to gage underground water resources.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 37. Purchases or services for Geological Survey.

CODIFICATION

Section, act June 12, 1917, ch. 27, § 1, 40 Stat. 144, is now covered by section 751 et seq. and section 471 et seq. of Title 40, Public Buildings, Property, and Works, chapter 4 of Title 41, Public Contracts, and chapters 21, 25, 27, 29, and 31 of Title 44, Public Printing and Documents.

§ 38. Topographic surveys; marking elevations.

In making topographic surveys west of the ninety-fifth meridian elevations above a base level located in each area under survey shall be determined and marked on the ground by iron or stone posts or permanent bench marks, at least two such posts or bench marks to be established in each township, or equivalent area, except in the forest-clad and mountain areas, where at least one shall be established, and these shall be placed, whenever practicable,

near the township corners of the public-land surveys; and in the areas east of the ninety-fifth meridian at least one such post or bench mark shall be similarly established in each area equivalent to the area of a township of the public land surveys. (June 11, 1896, ch. 420, § 1, 29 Stat. 435.)

§§ 39, 40. Omitted.

CODIFICATION

Section 39, act Feb. 27, 1925, ch. 360, § 1, 43 Stat. 1011, authorized the President to complete a general utility topographical survey of the territory of the United States within a period of twenty years from Feb. 27, 1925.

Section 40, act Feb. 27, 1925, ch. 360, § 2, 43 Stat. 1011, which related to cooperative agreements with States to expedite completion of topographical survey, was omitted in view of the expiration of the completion date authorized by former section 39 of this title.

§ 41. Publications and reports; preparation and sale.

Except as otherwise provided in section 260 of Title 44, the publications of the Geological Survey shall consist of geological and economic maps, illustrating the resources and classification of the lands, and reports upon general and economic geology and paleontology. All special memoirs and reports of said survey shall be issued in uniform quarto series if deemed necessary by the director, but otherwise in ordinary octavos. Three thousand copies of each shall be published for scientific exchanges and for sale at the price of publication, and all literary and cartographic materials received in exchange shall be the property of the United States and form a part of the library of the organization; and the money resulting from the sale of such publications shall be covered into the Treasury of the United States, under the direction of the Secretary of the Interior. (Mar. 3, 1879, ch. 182, § 1, 20 Stat. 394; Aug. 7, 1946, ch. 770, § 1 (10), 60 Stat. 867.)

REFERENCES IN TEXT

Section 260 of Title 44, referred to in text, was repealed in the general revision of Title 44 by Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1238, and is now covered by section 1318 of Title 44.

CODIFICATION

The words "Except as otherwise provided in section 260 of Title 44" were inserted to avoid conflict with the provisions of such section 260 of Title 44 as set out prior to the general revision of Title 44 by Pub. L. 90-620, derived from Joint Res. May 16, 1902, No. 22.

AMENDMENTS

1946—Act Aug. 7, 1946 repealed all provisions requiring preparation, and transmission by the Secretary of the Interior, of an annual report of operations.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 42. Distribution of maps and atlases, etc.

The Director of the Geological Survey is authorized and directed, on the approval of the Secretary of the Interior, to dispose of the topographic and geologic maps and atlases of the United States, made and published by the Geological Survey, at such prices and under such regulations as may from time to time be fixed by him and approved by the Secretary of the Interior; and a number of copies of each map or atlas, not exceeding five hundred, shall be distributed gratuitously among foreign governments and departments of our own Government to literary and scientific associations, and to such educational institutions or libraries as may be designated by the Director of the Survey and approved by the Secretary of the Interior. After June 7, 1924, the distribution of geological publications to libraries designated as special depositaries of such publications shall be discontinued. (Feb. 18, 1897, No. 13, § 1, 29 Stat. 701; June 7, 1924, ch. 303, 43 Stat. 592.)

CODIFICATION

The first sentence is from Joint Res. Feb. 18, 1897; the second sentence from act June 7, 1924.

Joint Res. Feb. 18, 1897 superseded a provision contained in act June 11, 1896, ch. 420, § 1, 29 Stat. 436, authorizing the sale of topographical maps with text at cost and ten per centum added.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Government publications to be sold to public at cost plus 50 per centum except a discount of 25 per centum may be allowed to authorized book dealers and quantity purchasers, see section 1708 of Title 44, Public Printing and Documents.

§ 43. Copies to Senators, Representatives, and Delegates.

One copy of each map and atlas shall be sent to each Senator and each Representative and Delegate in Congress, if published within his term; and a second copy shall be placed at the disposal of each such Senator, Representative and Delegate (Feb. 16, 1897, No. 13, § 2, 29 Stat. 701.)

§ 44. Sale of transfers or copies of data.

The Director of the Geological Survey shall, if the regular map work of the Survey is in no wise interfered with thereby, furnish to any person, concern, institution, State or foreign government, that shall pay in advance the whole cost thereof with 10 per centum added, transfers or copies of any cartographic or other engraved or lithographic data in the division of engraving and printing of the Survey, and the moneys received by the Director for such transfers or copies shall be deposited in the Treasury. (June 30, 1906, ch. 3914, § 1, 34 Stat. 727.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 45. Production and sale of copies of photographs and records; disposition of receipts.

The Director of the United States Geological Survey may produce and sell on a reimbursable basis to interested persons, concerns, and institutions, copies of aerial or other photographs and mosaics that have been obtained in connection with the authorized work of the United States Geological Survey and photographic or photostatic reproductions of records in the official custody of the Director at such prices (not less than the estimated cost of furnishing such copies or reproductions) as the Director, with the approval of the Secretary of the Interior, may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation then current and chargeable for the cost of furnishing copies or reproductions as herein authorized. (Mar. 4, 1909, ch. 299, § 1, 35 Stat. 989; July 21, 1947, ch. 273, 61 Stat. 398.)

AMENDMENTS

1947—Act July 21, 1947 authorized production and sale of aerial or other photographs and reproductions of records on a reimbursement of appropriations basis.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 46. Exchange of old freight-carrying vehicles as part payment for new.

CODIFICATION

Section was from the Interior Department Appropriation Act, 1950, act Oct. 12, 1949, ch. 680, title I, § 101, 63 Stat. 785, and has not been repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

1948—June 29, 1948, ch. 754, § 1, 62 Stat. 1133.
1947—July 25, 1947, ch. 337, § 1, 61 Stat. 477.
1946—July 1, 1946, ch. 529, § 1, 60 Stat. 369.
1945—July 3, 1945, ch. 262, § 1, 59 Stat. 343.
1944—June 28, 1944, ch. 298, § 1, 58 Stat. 491.
1943—July 12, 1943, ch. 219, § 1, 57 Stat. 477.
1942—July 2, 1942, ch. 473, § 1, 56 Stat. 537.
1941—June 28, 1941, ch. 259, § 1, 55 Stat. 339.
1940—June 18, 1940, ch. 395, § 1, 54 Stat. 439.
1939—May 10, 1939, ch. 119, § 1, 53 Stat. 719.
1938—May 9, 1938, ch. 187, § 1, 52 Stat. 325.
1937—Aug. 9, 1937, ch. 570, § 1, 50 Stat. 598.
1936—June 22, 1936, ch. 691, § 1, 49 Stat. 1785.
1935—May 9, 1935, ch. 101, § 1, 49 Stat. 200.
1934—Mar. 2, 1934, ch. 38, § 1, 48 Stat. 382.
1933—Feb. 17, 1933, ch. 98, § 1, 47 Stat. 846.
1932—Apr. 22, 1932, ch. 125, § 1, 47 Stat. 118.
1931—Feb. 14, 1931, ch. 187, § 1, 46 Stat. 1147.
1930—May 14, 1930, ch. 273, § 1, 46 Stat. 310.
1929—Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1594.
1928—Mar. 7, 1928, ch. 137, § 1, 45 Stat. 231.
1927—Jan. 12, 1927, ch. 27, § 1, 44 Stat. 961.
1926—May 10, 1926, ch. 277, § 1, 44 Stat. 486.
1925—Mar. 3, 1925, ch. 462, 43 Stat. 1172.
1924—June 5, 1924, ch. 264, 43 Stat. 419.
1923—Jan. 24, 1923, ch. 42, 42 Stat. 1208.
1922—May 24, 1922, ch. 199, 42 Stat. 586.

§ 47. Repealed. Aug. 7, 1946, ch. 770, § 1 (11), 60 Stat. 867.

Section, act May 10, 1926, ch. 277, § 1, 44 Stat. 487, required annual statements and reports of expenditures for the benefit of Indians relating to the operation of oil and gas leases, and the mining of other minerals, on Indian lands.

§ 48. Disposition of amounts received from State, Territory, etc.

CODIFICATION

Section, which required amounts received by the Geological Survey from any State, Territory or political subdivision thereof in carrying on work involving cooperation to be used in reimbursing the appropriation from which the expense of such work was paid, was from the act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1928 and for other purposes, act Jan. 12, 1927, ch. 27, § 1, 44 Stat. 963, and has not been repeated in subsequent appropriation acts.

Similar provisions were contained in the following act:

1926—May 10, 1926, ch. 277, § 1, 44 Stat. 487.

§ 49. Extension of cooperative work to Puerto Rico.

The provisions of law authorizing the making of topographic and geological surveys and conducting investigations relating to mineral and water resources by the United States Geological Survey in various portions of the United States be, and the same are, extended to authorize such surveys and investigations in Puerto Rico. (June 17, 1935, ch. 268, 49 Stat. 386.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 50. Survey's share of cost of topographic mapping or water resources investigations carried on with States.

The share of the Geological Survey in any topographic mapping or water resources investigations carried on in cooperation with any State or municipality shall not exceed 50 per centum of the cost thereof. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 674.)

SIMILAR PROVISIONS

The text of section is from the Interior Department Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91-98, title I, § 100, 83 Stat. 152.
1968—July 26, 1968, Pub. L. 90-425, title I, § 100, 82 Stat. 431.
1967—June 24, 1967, Pub. L. 90-28, title I, § 100, 81 Stat. 64.
1966—May 31, 1966, Pub. L. 89-435, title I, § 100, 80 Stat. 175.
1965—June 28, 1965, Pub. L. 89-52, title I, § 100, 79 Stat. 181.
1964—July 7, 1964, Pub. L. 88-356, title I, § 100, 78 Stat. 280.
1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 103.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 341.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 252.
1960—May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 108.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 96.
1958—June 4, 1958, Pub. L. 85-439, title I, § 1, 72 Stat. 150.

1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 261.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 261.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 145.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 368.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 269.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 454.
1951—Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 259.
1950—Sept. 6, 1950, ch. 896, ch. VII, title I, § 101, 64 Stat. 690.

Chapter 3.—SURVEYS

Sec.
51. Office of surveyor general abolished; activities transferred to Field Surveying Service.
52. Surveying duties.
53. Powers devolved on Secretary of the Interior on turning over of papers to States.
54. Completion of surveys; delivery to States.
55. Field notes delivered to States; access to.
56. Conditions of delivery to States.
57. Authenticated copies or extracts from records as evidence.
58. Transcripts from records of Louisiana.
59. Official papers in office of surveyor general in California; copies.
60. Stationery for mineral surveys.
61 to 63. Repealed

§ 51. Office of surveyor general abolished; activities transferred to Field Surveying Service.

CODIFICATION

Section, act Mar. 3, 1925, ch. 462, 43 Stat. 1144, which abolished the office of surveyor general and transferred its functions to the Field Surveying Service under the Supervisor of Surveys, was superseded by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

The office of surveyor general was abolished in certain states by acts July 31, 1876, ch. 246, 19 Stat. 121, and Oct. 2, 1888, ch. 1069, 25 Stat. 525, and discontinued in others pursuant to R.S. § 2218.

So far as they were not already superseded or obsolete by reason of the abolition or discontinuance of the office, or otherwise, the following provisions were superseded by former provisions of this section:

R.S. § 2207, providing for the appointment of surveyors general in States and territories therein named, and acts Apr. 10, 1890, ch. 77, § 1, 26 Stat. 53, and July 24, 1897, ch. 14, § 2, 30 Stat. 215, providing for surveyors general in North and South Dakota and Alaska;

R.S. §§ 2208—2211; acts Apr. 10, 1890, ch. 77, § 2, 26 Stat. 53; July 24, 1897, ch. 14, § 3, 30 Stat. 215, concerning the salaries of particular surveyors general;

R.S. §§ 2212—2214, concerning the number and location, of offices, and the place of residence, of surveyors general.

R.S. §§ 2215 and 2216, concerning bonds of surveyors general;

R.S. § 2217, concerning the duration of the term of office of surveyors general;

R.S. §§ 2226 and 2227, concerning allowances for clerk hire and office expenses;

Act Mar. 3, 1893, ch. 211, § 1, 27 Stat. 709, relative to the consolidation of the offices of two or more surveyors general; and provisions of act May 24, 1922, ch. 199, 42 Stat. 556, and prior acts concerning the detail of clerks from the office of one surveyor general to another.

§ 52. Surveying duties.

The Secretary of the Interior or such officer as he may designate shall engage a sufficient number of skillful surveyors as his deputies, to whom he is authorized to administer the necessary oaths upon their appointments. He shall have authority to frame regulations for their direction, not inconsistent with law or the instructions of the Bureau of Land Management, and to remove them for negligence or misconduct in office.

Second. He shall cause to be surveyed, measured, and marked, without delay, all base and meridian lines through such points and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed by law or by instructions from the Bureau of Land Management, in respect to the public lands to which the Indian title has been or may be extinguished.

Third. He shall cause to be surveyed all private land claims after they have been confirmed by authority of Congress, so far as may be necessary to complete the survey of the public lands.

Fourth. He shall transmit to the officer, as the Secretary of the Interior may designate, of the respective land offices general and particular plats of all lands surveyed by him for each land district; and he shall forward copies of such plats to such officer as the Secretary may designate.

Fifth. He shall, so far as is compatible with the desk duties of his office, occasionally inspect the surveying operations while in progress in the field, sufficiently to satisfy himself of the fidelity of the execution of the work according to contract, and the actual and necessary expenses incurred by him while so engaged shall be allowed; and where it is incompatible with his other duties for the Secretary of the Interior or such officer as he may designate to devote the time necessary to make a personal inspection of the work in progress, then he is authorized to depute a confidential agent to make such examination; and the actual and necessary expenses of such person shall be allowed and paid for that service, and $5 a day during the examination in the field; but such examination shall not be protracted beyond thirty days; and in no case longer than is actually necessary; and when the Secretary or such officer, or any person employed in his office at a regular salary, is engaged in such special service, he shall receive only his necessary expenses in addition to his regular salary. (R. S. § 2223; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts May 18, 1796, ch. 29, § 1, 1 Stat. 464; Apr. 29, 1816, ch. 151, § 1, 3 Stat. 325; Mar. 3, 1831, ch. 116, § 1, 4 Stat. 492; Mar. 3, 1853, ch. 145, §§ 3, 10, 10 Stat. 245, 247; Apr. 24, 1874, ch. 127, 18 Stat. 34; Aug. 9, 1876, ch. 256, 19 Stat. 126.

CODIFICATION

References to the surveyors general were changed to the supervisor of surveys and provisions limiting the application of the section to points "within his surveying district" were omitted on authority of act Mar. 3, 1925, which abolished the office of surveyor general and transferred its activities to the Field Surveying Service under the jurisdiction of the U.S. Supervisor of Surveys.

Provisions different from those of the fifth paragraph, for inspection of surveying operations, were made by several Sundry Civil Appropriation Acts, in connection with the appropriations for surveys and resurveys, and limited to the expenditure of the particular appropriation.

TRANSFER OF FUNCTIONS

References to the Supervisor of Surveys and the Commissioner of the General Land Office were changed to Secretary of the Interior or such officer as he may designate, reference to manager was changed to officer designated by the Secretary of the Interior, and "Bureau of Land Management" was substituted for "General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 53. Powers devolved on Secretary of the Interior on turning over of papers to States.

In all cases where, as provided in section 54 of this title, the field notes, maps, records, and other papers appertaining to land titles in any State are turned over to the authorities of such State, the same authority, powers, and duties in relation to the survey, resurvey, or subdivision of the lands therein, and all matters and things connected therewith, as previously exercised by the surveyor general, whose district included such State, shall be vested in, and devolved upon, the Secretary of the Interior or such officer as he may designate. (R. S. § 2219; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Jan. 22, 1853, ch. 24, § 1, 10 Stat. 152.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SURVEYOR GENERAL

Abolition of office of surveyor general, see note under former section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 56 of this title.

§ 54. Completion of surveys; delivery to States.

The Secretary of the Interior shall take all the necessary measures for the completion of the surveys in the several surveying districts, at the earliest periods compatible with the purposes contemplated by law; and whenever the surveys and records of any such district are completed, the Secretary of the Interior or such officer as he may designate shall deliver over to the secretary of state of the respective States, including such surveys, or to such other officer as may be authorized to receive them, all the field notes, maps, records, and other papers appertaining to land titles within the same. (R. S. § 2218; June 5, 1924, ch. 264, 43 Stat. 394; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts June 12, 1840, ch. 36, § 1, 5 Stat. 384; July 31, 1876, ch. 246, 19 Stat. 121.

CODIFICATION

The original text of R.S. § 2218 provided for the completion of surveys "in the several surveying-districts for which surveyors general have been, or may be, appointed" and also provided that "the surveyor general thereof shall be required to deliver over" all papers appertaining to land titles within the district, "and the office of surveyor general in every such district shall thereafter cease and be discontinued."

Those references to the surveyors general did not appear in the Code, in view of act Mar. 3, 1925 (formerly classified to section 51 of this title) abolishing the office of surveyor general and transferring its activities to the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys.

R.S. § 2207, formerly credited to this section, provided for the appointment of surveyors general, and was superseded by act Mar. 3, 1925 (formerly classified to section 51 of this title) and repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429.

Act June 5, 1924, appropriated funds for use in making the surveys in twelve districts.

Act May 25, 1906, ch. 2554, 34 Stat. 199, provided for a survey, pursuant to R.S. § 2218, of unsurveyed lands in Louisiana, and was omitted from the Code as executed.

Provisions of Act Oct. 2, 1888, ch. 1069, 25 Stat. 525, for the transfer to State officials of the field notes, maps, records and other papers appertaining to land surveys in Nebraska and Iowa, were omitted from the Code as executed.

All records, etc., belonging to the office of the recorder of land titles for Missouri were delivered to the State upon the discontinuance of the office, by provisions of act June 6, 1874, ch. 223, § 3, and act July 31, 1876, ch. 246 (omitted from the Code as executed).

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 53 of this title.

§ 55. Field notes delivered to States; access to.

Under the authority and direction of the Secretary of the Interior or such officer as he may designate, any deputy surveyor or other agent of the United States shall have free access to any field notes, maps, records, and other papers, mentioned in section 53 of this title, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind. (R. S. § 2220; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Jan. 22, 1853, ch. 24, § 2, 10 Stat. 152.

CODIFICATION

The word "such" preceding "field notes" was omitted and the words "mentioned in section 53 of this title" were inserted following "papers,".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 56. Conditions of delivery to States.

The field notes, maps, records, and other papers mentioned in section 53 of this title, shall in no case be turned over to the authorities of any State, until

such State has provided by law for the reception and safe-keeping of the same as public records, and for the allowance of free access to the same by the authorities of the United States. (R. S. § 2221.)

DERIVATION

Acts Jan. 22, 1853, ch. 24, § 3, 10 Stat. 152; June 6, 1874, ch. 223, § 3, 18 Stat. 62.

§ 57. Authenticated copies or extracts from records as evidence.

Any copy of or extract from the plats, field notes, records, or other papers of the offices of the former surveyors general for the districts of Oregon and California, when authenticated by the seal and signature of the Secretary of the Interior or such officer as he may designate, shall be evidence in all cases in which the original would be evidence. (R. S. § 2224; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 3, 1853, ch. 145, §§ 2, 11, 10 Stat. 245, 248.

CODIFICATION

This section is from a part of R.S. § 2224, as affected by act Mar. 3, 1925. The original text provided for the continuation of the use of the official seals authorized for the offices of the surveyors general of Oregon, California, and Louisiana.

This provision was superseded by act Mar. 3, 1925 (formerly classified to section 51 of this title), abolishing the office of surveyor-general. The rest of the section became inapplicable to Louisiana upon the discontinuance of the office of surveyor general of Louisiana pursuant to R.S. § 2218. Upon incorporation into the Code, the section was changed to provide for authentication by the supervisor of surveys, instead of a surveyor-general, in view of act Mar. 3, 1925 (formerly classified to section 51 of this title) abolishing the office of surveyor general and transferring its activities to the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rule 44 on this section, see note by Advisory Committee under that rule.

§ 58. Transcripts from records of Louisiana.

Any copy of a plat of survey, or transcript from the records of the office of the former surveyor general of Louisiana, duly certified, shall be admitted as evidence in all the courts of the United States and the Territories thereof. (R. S. § 2225.)

DERIVATION

Act Mar. 3, 1831, ch. 116, § 5, 4 Stat. 493.

CODIFICATION

Upon incorporation into the Code, the word "former" was inserted before "surveyor general" because of the discontinuance of the office of surveyor general in Louisiana.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rule 44 on this section, see note by Advisory Committee under that rule.

§ 59. Official papers in office of surveyor general in California; copies.

All official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies, which have been authorized by law to be collected and deposited in the surveyor general's office in California, shall be safely and securely kept by the Secretary of the Interior, or such officer as he may designate, in the archives of his office until disposed of as provided by law; and copies thereof, authenticated by the Secretary or such officer under his seal of office, shall be evidence in all cases where the originals would be evidence. (R. S. § 2229; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100; Oct. 25, 1951, ch. 562, § 3 (3), 65 Stat. 639.)

DERIVATION

Act May 18, 1858, ch. 39, § 1, 11 Stat. 289.

CODIFICATION

"Supervisor of Surveys" was substituted for "surveyor general" by act Mar. 3, 1925.

AMENDMENTS

1951—Act Oct. 25, 1951, inserted "until disposed of as provided by law".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3. See note under section 1 of this title.

CROSS REFERENCES

Management and disposition of records, see chapters 29, 30, and 31 of Title 44, Public Printing and Documents.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rule 44 on this section, see note by Advisory Committee under that rule.

§ 60. Stationery for mineral surveys.

The stationery and drafting instruments purchased for exclusive use of the Secretary of the Interior or such officers as he may designate in the preparation of plats and field notes of mineral surveys, as also the rent of additional quarters that may be necessary for the execution of such work, shall be paid for out of the fund created by deposits made by individuals to the credit of the United States to cover the cost of office work on such mineral surveys. (Mar. 3, 1901, ch. 830, § 1, 31 Stat. 1003; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Field Surveying Service" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

"Field Surveying Service" was substituted for "surveyors-general" on authority of act Mar. 3, 1925, which abolished the office of surveyor general and transferred its activities to the Field Surveying Service.

§§ 61 to 63. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 2230—2232, related to bonds and oath of deputy surveyors.

R.S. § 2233, which provided that a deputy in Louisiana failing to comply with his contract should forfeit the penalty of his bond, and be debarred from receiving a contract for surveying land, was omitted from the Code as obsolete.

Chapter 4.—DISTRICT LAND OFFICES

Sec.
70 to 72. Repealed.
73, 74. Omitted.
75. Administration of oaths.
75a to 79b. Repealed.
79c. Payment of fees, commissions, etc.; deposit in Treasury.
79d. Alaska land claimant liable for fees, commissions or purchase money; deposit in Treasury.
80 to 82. Repealed.
83. Transcripts of records as evidence.
84. Repealed.
85. Excess of fees covered into Treasury.
86. Accounting for fees for notices of cancellation of entries.
87, 88. Repealed.
89. Monthly returns of district land offices.
90. Expenses incurred.
91. Deposit in Treasury of unearned fees and unofficial moneys.
92. Lists furnished with deposits.
93. Deposit of moneys deposited by unknown parties.
94. Reimbursement of sums disbursed as special disbursing agents.
95 to 98a. Repealed.
99. Repayment of moneys deposited and covered into Treasury.
100. Disqualification.
101. Report of disqualification; designation of officer to act.
102. Attendance of witnesses.
103. Witnesses' fees.
104. Disobedience to subpoena.
105. Depositions of witnesses residing outside county.
106. Continuing taking of depositions in behalf of opposite party.
107. Penalty for false information.

§§ 70 to 72. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 638, 645, 646.

Section 70, act Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208, consolidated the offices of register and receiver.

Section 71, act Mar. 3, 1925, ch. 462, 43 Stat. 1145 provided for consolidation of the offices of register and receiver, effective July 1, 1925.

Section 72, R.S. § 2334; acts Jan. 27, 1898, ch. 10, 30 Stat. 234; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, 11 F.R. 7876, 60 Stat. 1100, which was derived from acts Apr. 24, 1874, ch. 127, § 2, 18 Stat. 34; June 20, 1874, ch. 340, 18 Stat. 122; June 20, 1874, ch. 341, 18 Stat. 122; June 20, 1874, ch. 342; 18 Stat. 123; Jan. 11, 1875, ch. 12, § 2, 18 Stat. 295, related to duties of the Secretary of the Interior concerning sale of public lands.

SIMILIAR PROVISIONS

Provisions similar to former section 71 of this title were contained in the following prior Appropriation Acts:

1923—Jan. 24, 1923, ch. 42, 42 Stat. 1179.

1922—June 30, 1922, ch. 255, § 1, 42 Stat. 766.

May 24, 1922, ch. 199, 42 Stat. 557.

1921—Mar. 24, 1921, ch. 161, § 1, 41 Stat. 1397.

1920—June 5, 1920, ch. 235, § 1, 41 Stat. 907.

1919—July 19, 1919, ch. 24, § 1, 41 Stat. 194.

Act May 24, 1922, ch. 199, 42 Stat. 557, abolished the land office at Springfield and the offices of register and receiver there at.

Act May 2, 1914, ch. 74, §§ 1, 2, 38 Stat. 371, 372, abolished the office of receiver of public moneys at Springfield, Mo., transferred his duties and the custody of books, records, etc., to the register, and contained other provisions concerning the register's duties.

Act. Mar. 2, 1895, ch. 177, § 3, 28 Stat. 807, required duplication of reports and returns of registers and receivers to be prevented by regulations.

Act. Oct. 1, 1890, ch. 1269, § 2, 26 Stat. 657, concerned the taking of final proofs by the remaining officer in case of a vacancy in the office of register or receiver.

§§ 73, 74. Omitted.

CODIFICATION

Section 73, act Oct. 28, 1921, ch. 114, § 2, 42 Stat. 208, which related to designation of chief clerk to act in case of death, resignation, removal, or disability of register, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, which abolished registers and transferred their functions to the Secretary of the Interior. See note under former section 1 of this title.

Section 74, R. S. § 2228, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, authorizing the President to transfer the duties of register in any district to the Supervisor of Surveys, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

§ 75. Administration of oaths.

The officer designated by the Secretary of the Interior is authorized, and it shall be his duty, to administer any oath required by law or the instructions of the Bureau of Land Management, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath. (R. S. § 2246; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act June 12, 1840, ch. 35, 5 Stat. 384.

CODIFICATION

The words "or receiver" which followed "register" in the original text were omitted, in view of act Mar. 3, 1925 (classified to former section 71 of this title), providing for the consolidation of the offices of register and receiver.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer designated by the Secretary of the Interior" and "Bureau of

Land Management" was substituted for "General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 75a to 79b. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 645, 646, 652.

Section 75a, act May 17, 1926, ch. 303, 44 Stat. 558, authorized the administration of oaths by an employee of the Department of Interior designated to act as register.

Section 76, R.S. § 2244; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to term of office of registers.

Section 77, R.S. § 2222; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for continuation of duties and bond of the register after expiration of his commission.

Section 78, R.S. § 2235; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, required the register to reside at the place where the land office was located.

Section 79, R.S. § 2236; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, required registers to give bond in the penal sum of $10,000.

Sections 79a, 79b, act Apr. 24, 1944, ch. 177, §§ 1, 2, 58 Stat. 215, related to bond of registers and to their compensation.

§ 79c. Payment of fees, commissions, etc.; deposit in Treasury.

No provision of Act April 24, 1944, ch. 177, 58 Stat. 215, shall relieve any public land applicant or claimant from the necessity of making payment of fees, commissions, or other moneys required by law or regulation. Commencing sixty days after April 24, 1944, the officials of district land offices shall not receive any compensation based on fees, commissions, or other receipts and all amounts collected by them shall be covered into the Treasury of the United States. (Apr. 24, 1944, ch. 177, § 3, 58 Stat. 215; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act April 24, 1944, ch. 177, 58 Stat. 215, referred to in the text, was contained in this section, notes thereunder, and former sections 79a and 79b of this title, relating to compensation of the former registers of district land offices.

REPEALS

Section 4 of act Apr. 24, 1944, provided: "Sections 2237 and 2240 of the Revised Statutes and the act of May 21, 1928 (45 Stat. 684; 43 U. S. C., sec. 80), as amended, are hereby repealed, and all other provisions of law inconsistent with this Act [former sections 79a and 79b of this title and this section] are repealed to the extent of such inconsistency."

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officials of district land offices" were substituted for "registers" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 79d. Alaska land claimant liable for fees, commissions or purchase money; deposit in Treasury.

No provision of Act October 9, 1942, ch. 584, 56 Stat. 778, shall relieve any public land claimant from the necessity of making payment of fees, commissions, or purchase money required by law or regulation in connection with an application, selection, location, or lease of public lands in Alaska, and all such payments, when made, shall be covered into the Treasury of the United States. (Oct. 9, 1942, ch. 584, § 5, 56 Stat. 779.)

REFERENCES IN TEXT

Act Oct. 9, 1942, ch. 584, 56 Stat. 778, referred to in the text, is classified to this section and section 123a of this title, was formerly classified to sections 366 and 367 of Title 48 and as a note thereunder, which provisions related to registers at land offices at Anchorage, Nome, and Fairbanks, additional registers, and their duties, and abolition of Anchorage, Nome, and Fairbanks offices, and repealed prior sections 365—367 of Title 48, which provided for number of land districts and location of land offices in Alaska, clerks and marshals of district courts as ex officio registers and receivers, and compensation of such officers, respectively.

§§ 80, 80a. Repealed. Apr. 24, 1944, ch. 177, § 4, 58 Stat. 215.

Section 80, acts May 21, 1928, ch. 661, 45 Stat. 684; Aug. 22, 1935, ch. 602, 49 Stat. 680; Oct. 9, 1942, ch. 584, § 7, 56 Stat. 779, provided that from and after Sept. 1, 1935, registers should be paid $2,000 per annum together with fees and commissions limited to $3,600 per annum, and is now covered by section 79c of this title.

Section 80a, R.S. §§ 2237, 2240; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided that registers should be paid $500 per annum together with fees and commissions limited to $3,000 per annum, and is now covered by section 79c of this title.

§ 81. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 645, 646.

Section, R.S. § 2243; acts Oct. 28, 1921, ch. 115, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to commencement of compensation of registers.

§ 82. Repealed. Pub. L. 86–649, title II, § 202(b), July 14, 1960, 74 Stat. 507.

Section, R.S. § 2238; acts May 14, 1880, ch. 89, § 2, 21 Stat. 141; Dec. 17, 1880, ch. 2, 21 Stat. 311; July 26, 1892, ch. 251, 27 Stat. 270; Mar. 22, 1904, ch. 748, 33 Stat. 144; May 29, 1908, ch. 220, § 14, 35 Stat. 468; Jan. 24, 1923, ch. 42, 42 Stat. 1179; June 5, 1924, ch. 264, 43 Stat. 395; Mar. 3, 1925, ch. 462, 43 Stat. 1145, which prescribed the fees and commissions required to be collected by district land offices, is now covered by section 1371 of this title.

§ 83. Transcripts of records as evidence.

Transcripts of the records in the district land offices, when made and duly certified to by the Secretary of the Interior or such officers as he may designate for individuals, shall be admitted as evidence in all courts of the United States and the Territories thereof, and before all officials authorized to receive evidence, with the same force and effect as the original records. (Mar. 22, 1904, ch. 748, 33 Stat. 144; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

The words "and receivers" which followed "registers" in the original text were omitted as superseded by acts Oct. 28, 1921 and Mar. 3, 1925, providing for consolidation of the two offices.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2,

eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "district land offices" were substituted for "offices of registers" and "the Secretary of the Interior or such officers as he may designate" for "them" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Government records and papers; copies, see section 1733 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rule 44 on this section, see note by Advisory Committee under that rule.

§ 84. Repealed. Pub. L. 86-649, title II, § 202(b), July 14, 1960, 74 Stat. 507.

Section, R.S. § 2239; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees for consolidated land offices, and is now covered by section 1371 of this title.

§ 85. Excess of fees covered into Treasury.

CODIFICATION

Section, acts Mar. 3, 1887, ch. 362, 24 Stat. 526; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; May 21, 1928, ch. 661, 45 Stat. 684, requiring all fees collected by registers which would increase their salaries beyond a certain amount to be covered into the Treasury, except for certain clerical fees, was superseded by section 79c of this title and section 367a of Title 48, Territories and Insular Possessions, which require all fees to be covered into the Treasury.

§ 86. Accounting for fees for notices of cancellation of entries.

All money or fees received or collected by the Secretary of the Interior or such officers as he may designate of United States land offices for issuing notices of cancellation of entries shall be reported and accounted for by the Secretary or such officers in the same manner as other fees or moneys received or collected. (Mar. 4, 1911, ch. 261, § 2, 36 Stat. 1352; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "registers of United States land offices" and "such registers" were changed to "Secretary of the Interior or such officers as he may designate" and the Secretary or such officers" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 87, 88. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 634, 645, 646.

Section 87, acts Mar. 3, 1883, ch. 101, § 2, 22 Stat. 484; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, 11 F.R. 7876, 60 Stat. 1100, related to plats of townships and lists of lands sold.

Section 88, R.S. § 2242; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to receipt of illegal fees by registers.

§ 89. Monthly returns of district land offices.

The Secretary of the Interior or such officer as he may designate shall make to the Secretary of the Treasury monthly returns of the moneys received in district land offices, and pay over such money pursuant to his instructions. (R. S. § 2245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act July 4, 1836, ch. 352, § 9, 5 Stat. 111.

CODIFICATION

The office of receiver was consolidated with that of register by act Mar. 3, 1925, under a register only, the office of receiver being abolished.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "registers", "district land offices" was substituted for "their several offices" and former last sentence relating to returns to Commissioner of the General Land Office was omitted by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 90. Expenses incurred.

CODIFICATION

Section, act July 1, 1946, ch. 529, § 1, 60 Stat. 352, requiring authorization of Commissioner of the General Land Office for expenses chargeable to the Government incurred by registers, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out as a note under section 1 of this title, which abolished the offices of registers and Commissioner of the General Land Office. Section was not repeated in the Interior Department Appropriation Act, 1948, act July 25, 1947, ch. 337, 61 Stat. 460.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1945—July 3, 1945, ch. 262, § 1, 59 Stat. 323.
1944—June 28, 1944, ch. 298, § 1, 58 Stat. 468.
1943—July 12, 1943, ch. 219, § 1, 57 Stat. 455.
1942—July 2, 1942, ch. 473, § 1, 56 Stat. 511.
1941—June 28, 1941, ch. 259, § 1, 55 Stat. 310.
1940—June 18, 1940, ch. 395, § 1, 54 Stat. 412.
1939—May 10, 1939, ch. 119, § 1, 53 Stat. 692.
1938—May 9, 1938, ch. 187, § 1, 52 Stat. 297.
1937—Aug. 9, 1937, ch. 570, § 1, 50 Stat. 569.
1936—June 22, 1936, ch. 691, § 1, 49 Stat. 1762.
1935—May 9, 1935, ch. 101, § 1, 49 Stat. 180.
1934—Mar. 2, 1934, ch. 38, 48 Stat. 366.
1933—Feb. 17, 1933, ch. 98, 47 Stat. 823.
1932—Apr. 22, 1932, ch. 125, 47 Stat. 93.
1931—Feb. 14, 1931, ch. 187, 46 Stat. 1117.
1930—May 14, 1930, ch. 273, 46 Stat. 283.
1929—Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1565.
1928—Mar. 7, 1938, ch. 137, § 1, 45 Stat. 203.
1927—Jan. 12, 1927, ch. 27, § 1, 44 Stat. 938.
1926—May 10, 1926, ch. 277, § 1, 44 Stat. 457.
1924—June 5, 1924, ch. 264, 43 Stat. 395.
1923—Jan. 24, 1923, ch. 42, 42 Stat. 1179.
1922—May 24, 1922, ch. 199, 42 Stat. 557.
1917—June 12, 1917, ch. 27, § 1, 40 Stat. 142.
1915—Mar. 3, 1915, ch. 75, 38 Stat. 855.

§ 91. Deposit in Treasury of unearned fees and unofficial moneys.

Officers of district land officers, as designated by the Secretary of the Interior are authorized, under the direction of the Secretary of the Interior or such officer as he may designate, to deposit to the credit

of the Treasurer of the United States all unearned fees and unofficial moneys that have been carried upon the books of their respective offices for a period of five years or more, which sums shall be covered into the Treasury by warrant and carried to the credit of the parties from whom such fees or moneys were received, and into an appropriation account to be denominated "Outstanding liabilities." (Mar. 2, 1907, ch. 2562 § 1, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Officers of district land offices, as designated by the Secretary of the Interior," was substituted for "registers" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

APPROPRIATIONS

Effective July 1, 1935, the appropriation provided for in this section was repealed and provision was made for annual appropriations of sums necessary to meet expenditures by act June 26, 1934, ch. 756, § 17, 48 Stat. 1230. See section 725p (b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 92. Lists furnished with deposits.

At the time of making such deposit the officer designated by the Secretary of the Interior shall furnish a list showing the date when the money was paid to him or to his predecessor; the names and residences of the parties; the purposes of the payments and the amounts thereof, which list shall bear the certificate of the officer that the same is correct; that the amounts are due and payable; that diligence has been exercised to return the same, and that the sums specified have remained unclaimed for a period of five years or more. (Mar. 2, 1907, ch. 2562, § 2, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" and "officer" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 93. Deposit of moneys deposited by unknown parties.

Amounts that appear in the accounts of a district land office as "Moneys deposited by unknown parties" shall also be deposited to the credit of the Treasurer of the United States, accompanied by a list showing the amount and, if possible, the date of the receipt of each item; which list shall bear the certificate of the officer designated by the Secretary of the Interior that, after careful investigation, the ownership of said moneys could not be determined, and that they have been reported in the unearned fees and unofficial moneys accounts for five years or more. (Mar. 2, 1907, ch. 2562, § 3, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "the accounts of a district land office" were substituted for "a register's accounts" and "officer designated by the Secretary of the Interior" for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 94. Reimbursement of sums disbursed as special disbursing agents.

The Secretary of the Treasury is authorized and directed to pay, out of any unexpended balances of appropriations for contingent expenses of land offices, for the expenses of hearings in land entries and the expenses of depositing public moneys, such sums as have been or may be disbursed by receivers of public moneys acting as special disbursing agents at United States land offices, before the receipt of Government funds: *Provided*, That no payment shall be made under this section in excess of the amount appropriated by the Congress for the particular purpose in each instance and for the fiscal year in which such disbursements were made: *Provided*, That all such disbursements shall have been or shall be made in pursuance of law in carrying out departmental regulations or to meet authorizations by the Secretary of the Interior or such officer as he may designate: *Provided further*, That the accounts containing such items shall have been duly approved by the Secretary of the Interior or such officer as he may designate.

(Mar. 2, 1907, ch. 2563, 34 Stat. 1245; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Section referred to registers instead of receivers, in view of act Mar. 3, 1925, providing for the consolidation of the offices of register and receiver and the abolition of the latter.

"Officers designated by the Secretary of the Interior" was substituted for "registers" and "Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 95 to 98a. Repealed. Pub. L. 86-649, title II, § 204(b), July 14, 1960, 74 Stat. 507.

Sections 95—98, acts Mar. 26, 1908, ch. 102, §§ 1—5, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366, authorized repayment of purchase moneys and excess payments, provided for certification of amount of excess moneys and repayments, and authorized the Secretary of the Interior to promulgate regulations, and are now covered by section 1374 of this title.

Section 98a, act June 27, 1930, ch. 642, 46 Stat. 822, made sections 95 to 98 of this title applicable to all payments in excess of lawful requirements made under statutes relating to disposition of public lands.

§ 99. Repayment of moneys deposited and covered into Treasury.

Any person or persons who shall have made payment to an officer designated by the Secretary of the Interior or to his predecessor, and the money shall have been covered into the Treasury pursuant to section 91 or 93 of this title, shall, on presenting satisfactory evidence of such payment to the General Accounting Office, be entitled to have the same returned by the settlement of an account and the issuing of a warrant in his favor according to the practice in other cases of authorized and liquidated claims against the United States: *Provided*, That when such moneys shall remain unclaimed in the Treasury for more than five years the right to recover the same shall be barred: *Provided*, That no homestead entryman shall be required to make payment of the purchase money on any application to make a cash entry until the same shall have been approved by the officer designated by the Secretary of the Interior, but such payment shall be made within ten days after notice of such approval. (R. S. § 236; Mar. 2, 1907, ch. 2562, § 4, 34 Stat. 1245; June 10, 1921, ch. 18, § 305, 42 Stat. 24; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished.

"General Accounting Office" was substituted for "proper officer of the Treasury Department" on authority of act June 10, 1921.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Moneys received as "unearned moneys, lands," to be deposited into Treasury and be available for refunds, see section 725r of Title 31, Money and Finance.

Unobligated balances under account for "outstanding liabilities," to be covered into trust fund receipt account in Treasury designated as "Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown," see section 725p (b) (15) of Title 31, Money and Finance.

§ 100. Disqualification.

No officer shall receive evidence in, hear, or determine any cause pending in any district land office in which cause he is interested directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law. (Jan. 11, 1894, ch. 10, § 1, 28 Stat. 26; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

The original text was applicable to both registers and receivers. The office of receiver was abolished by acts Mar. 3, 1925, and Oct. 28, 1921, which consolidated the two offices.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Word "officer" was substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 101. Report of disqualification; designation of officer to act.

It shall be the duty of every officer so disqualified to report the fact of his disqualification to the Secretary of the Interior or such officer as he may designate as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other officer or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such officer would otherwise have possessed to act in such case. (Jan. 11, 1894, ch. 10, § 2, 28 Stat. 26; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat.

1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Word "officer" was substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg Plan No. 3. See note under former section 1 of this title.

§ 102. Attendance of witnesses.

Officers of district land offices designated by the Secretary of the Interior in all matters requiring a hearing before them are authorized and empowered to issue subpoenas directing the attendance of witnesses, which subpoenas may be served by any person by delivering a true copy thereof to such witness, and when served, witnesses shall be required to attend in obedience thereto: *Provided,* That if any subpoena be served under the provisions of this section by any person other than an officer authorized by the laws of the United States, or of the State or Territory in which the depositions are taken, the service thereof shall be proved by the affidavit of the person serving the same: *Provided further,* That said subpoenas shall be served within the county in which attendance is required, and at least five days before attendance is required. (Jan. 31, 1903, ch. 344, § 1, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

The original text referred to both registers and receivers, but reference to the latter was omitted from the Code in view of the abolition of such office under acts Mar. 3, 1925, and Oct. 28, 1921 which provided for the consolidation of the two offices under a register only.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Officers of district land offices designated by the Secretary of the Interior" was substituted for "Registers of the land office, or either of them," by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 103. Witnesses' fees.

Witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land offices are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing. (Jan. 31, 1903, ch. 344, § 2, 32 Stat. 790.)

CROSS REFERENCES

Evidence; witnesses, see chapter 119 of Title 28, Judiciary and Judicial Procedure.

§ 104. Disobedience to subpoena.

Any person willfully neglecting or refusing obedience to such subpoena, or neglecting or refusing to appear and testify when subpoenaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than $200, or imprisonment not to exceed ninety days, or both, at the discretion of the court: *Provided,* That if such witness has been prevented from obeying such subpoena without fault upon his part he shall not be punished under the provisions of this section. (Jan. 31, 1903, ch. 344, § 3, 32 Stat. 790; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

§ 105. Depositions of witnesses residing outside county.

Whenever the witness resides outside the county in which the hearing occurs any party to the proceeding may take the testimony of such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States commissioner, notary public, judge, or clerk of a court of record. Subpoenas for witnesses before the officer taking depositions may issue from the office of the officer designated by the Secretary of the Interior or may be issued by the officer taking the depositions, and disobedience thereof, as defined in section 104 of this title, shall also be punished; and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpoena to appear before the officer designated by the Secretary of the Interior and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions. (Jan. 31, 1903, ch. 344, § 4, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

The original text referred to both registers and receivers, but reference to the latter was omitted from the Code in view of the abolition of such office under acts Mar. 3, 1925, and Oct. 28, 1921, which provided for the consolidation of the two offices under a register only.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the

performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 106. Continuing taking of depositions in behalf of opposite party.

Whenever the taking of any depositions taken in pursuance of section 105 of this title is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: *Provided,* That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions of his intention to do so. (Jan. 31, 1903, ch. 344, § 5, 32 Stat. 791.)

§ 107. Penalty for false information.

If any person applies to any officer designated by the Secretary of the Interior to enter any land whatever, and the officer knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such officer shall be liable therefor, to the person so applying, for $5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount. (R. S. § 2247; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act July 4, 1836, ch. 352, § 13, 5 Stat. 112.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Chapter 5.—LAND DISTRICTS

Sec.
121. Discontinuance of land offices by President.
122. Discontinuance of land offices by the Secretary of the Interior.
123. Continuance of land offices when required by public convenience.
123a. Continuation of existing land districts and offices in Alaska; change of district boundaries, or discontinuance of districts; designation and location of land offices.
124. Consolidation of land offices.
125. Annexation of discontinued district to adjacent district.
126. Change of location of land offices.
127. Change of boundaries of land districts.
128. Division or change of boundaries: continuance of business of original district.
129. Office rent and clerk hire for consolidated land offices.
130. Entry of public lands in States where no land offices exist.

§ 121. Discontinuance of land offices by President.

Upon the recommendation of the Secretary of the Interior, the President may order the discontinuance of any land office and the transfer of any of its business and archives to any other land office within the same State or Territory. (R. S. § 2252; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act May 30, 1862, c. 86, § 5, 12 Stat. 409.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "the Commissioner of the General Land Office, approved by" were omitted by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F. R. 5385, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Consolidation of land offices by Secretary of Interior where practicable and consistent with public interest, see section 124 of this title.

§ 122. Discontinuance of land offices by the Secretary of the Interior.

Whenever the quantity of public land remaining unsold in any land district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Secretary of the Interior to discontinue the land office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land office, the same shall be subject to sale at some one of the existing land offices most convenient to the district in which the land office has been discontinued, of which the Secretary of the Interior shall give notice. (R. S. § 2248.)

DERIVATION

Act June 12, 1840, ch. 36, § 2, 5 Stat. 385.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Annexation of district in which land office discontinued because of excessive costs to some other adjoining district, see section 125 of this title.

Consolidation of land offices by Secretary of Interior where practicable and consistent with public interest, see section 124 of this title.

§ 123. Continuance of land offices when required by public convenience.

The Secretary of the Interior may continue any land district in which is situated the seat of government of any one of the States, and may continue the land office in such district, notwithstanding the quantity of land unsold in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land system in such State. (R. S. § 2249.)

DERIVATION

Act Sept. 4, 1841, ch. 16, § 7, 5 Stat. 455.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 123a. Continuation of existing land districts and offices in Alaska; change of district boundaries, or discontinuance of districts; designation and location of land offices.

Subject to the authority conferred upon the Secretary of the Interior by this section, the land districts and land offices existing in Alaska on October 9, 1942 are continued. The Secretary of the Interior is authorized and empowered in his discretion to change the boundaries of, or discontinue, any land district in Alaska, and in lieu thereof to designate such land district, or land region, as, in his opinion, is necessary for the transaction of the business relating to the public lands in the Territory and to designate or change the location of any land office for such land district or land region. (Oct. 9, 1942, ch. 584, § 6, 56 Stat. 779.)

LAND DISTRICTS AND LAND OFFICES CONTINUED

Provisions of acts Feb. 14, 1902, ch. 17, § 1, 32 Stat. 20; Mar. 2, 1907, ch. 2537, § 1, 34 Stat. 1232, which constituted former section 365 of Title 48 and were repealed by section 7 of Act Oct 9, 1942, which enacted this section, read as follows: "There shall be two land districts in Alaska, the boundaries of which shall be designated by the President, to be known as the Nome land district and the Fairbanks land district, with the land offices located, respectively, at Nome, Alaska, and Fairbanks, Alaska, and one other land district and land office, the location of which shall be fixed by the President."

§ 124. Consolidation of land offices.

It shall be the duty of the Secretary of the Interior to consolidate the district land offices where practicable and consistent with the public interests. (Aug. 5, 1892, ch. 380, § 1. 27 Stat. 368.)

APPROPRIATIONS

The Secretary of the Interior was required to consolidate the district land offices so as to bring the total compensation of the registers and receivers for the fiscal year 1894, within the appropriation made therefor by the sundry Civil Appropriation Act for that year, act Mar. 3, 1893, ch. 208, 27 Stat. 591, which was fixed at $520,000.

§ 125. Annexation of discontinued district to adjacent district.

Whenever the cost of collecting the revenue from the sales of the public lands in any land district is as much as one-third of the whole amount of revenue collected in such district, it may be lawful for the President, if, in his opinion, not incompatible with the public interest, to discontinue the land office in such district, and to annex the same to some other adjoining land district. (R. S. § 2250.)

DERIVATION

Act Mar. 3, 1853, ch. 97, § 1, 10 Stat. 189, 194.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Consolidation of land offices by Secretary of Interior where practicable and consistent with public interest, see section 124 of this title.

§ 126. Change of location of land offices.

The President is authorized to change the location of the land offices in the several land districts established by law, and to relocate the same from time to time at such point in the district as he deems expedient. (R. S. § 2251.)

DERIVATION

Acts Mar. 3, 1853, ch. 97, § 1, 10 Stat. 204; Mar. 3, 1853, ch. 144, 10 Stat. 244.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

§ 127. Change of boundaries of land districts.

The President is authorized to change and reestablish the boundaries of land districts whenever, in his opinion, the public interests will be subserved thereby, without authority to increase the number of land offices or land districts. (R. S. § 2253.)

DERIVATION

Act June 29, 1870, ch. 171, 16 Stat. 171.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

§ 128. Division or change of boundaries; continuance of business of original district.

In case of the division of existing land districts by the erection of new ones, or by a change of boundaries by the President, all business in such original districts shall be entertained and transacted without prejudice or change, until the offices in the new districts are duly opened by public announcement under the direction of the Secretary of the Interior. All sales or disposals of the public lands heretofore regularly made at any land office, after such lands have been made part of another district by any Act of Congress, or by any act of the President, are confirmed, provided the same are free from conflict with prior valid rights. (R. S. § 2254.)

DERIVATION

Act May 31, 1872, ch. 241, 17 Stat. 192.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions,

transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 129. Office rent and clerk hire for consolidated land offices.

The Secretary of the Interior is authorized to make a reasonable allowance for office rent for each consolidated land office; and when satisfied of the necessity therefor, to approve the employment of one or more clerks, at a reasonable per diem compensation, for such time as such clerical force is absolutely required to keep up the current public business, which clerical force shall be paid out of the surplus fees authorized to be charged by section 84 of this title, if any, and if no surplus exists, then out of the appropriation for incidental expenses of district land offices; but no clerk shall be so paid unless his employment has been first sanctioned by the Secretary of the Interior. (R. S. § 2255; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Feb. 18, 1861, ch. 38, § 2, 12 Stat. 131.

REFERENCES IN TEXT

Section 84 of this title, referred to in the text, was repealed by Pub. L. 86-649, title II, § 202(b), July 14, 1960, 74 Stat. 507, and is now covered by section 1371 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "by the register" following "to approve the employment" were omitted by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 130. Entry of public lands in States where no land offices exist.

Public lands situated in States in which there are no land offices may be entered at the Bureau of Land Management, subject to the provisions of law touching the entry of public lands; and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record. And moneys received by the Secretary of the Interior, or such officer as he may designate, for lands entered by cash entry shall be covered into the Treasury. (Mar. 3, 1877, ch. 102, 19 Stat. 315; June 19, 1878, ch. 329, § 1, 20 Stat. 201; 1946 Reorg. Plan No. 38, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

SIMILAR PROVISIONS

Similar provisions were contained in act Mar. 3, 1877, ch. 102, § 1, 19 Stat. 315.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" and "Secretary of the Interior, or such officer as he may designate," for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Chapter 6.—WITHDRAWAL FROM SETTLEMENT, LOCATION, SALE, OR ENTRY

Sec.
141. Withdrawal and reservation of lands for water-power sites or other purposes.
142. Lands withdrawn open to exploration under mining laws; rights of occupants or claimants of oil- or gas-bearing lands; national forests.
143. Repealed.
144. Entries on land withdrawn as valuable for oil or gas validated.
145. Sale of lands withdrawn.
146. Patents to purchasers of lands withdrawn.
147. Disposition of proceeds of sale of withdrawn lands.
148. Withdrawal of lands in Indian reservations for power or reservoir sites.
149. Exchange of private lands included in Indian reservation for other lands.
150. Withdrawals of land for Indian reservations prohibited.
151. Opening of lands restored to entry after withdrawals.
152. Restoration of lands previously withdrawn.
153. Reservation of lands in North Dakota.
154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations.
155. Withdrawal, reservation, or restriction of public lands for defense purposes; definition; exception.
156. Same; approval by Congress of over 5,000 acres for any project or facility.
157. Same; applications; specifications.
158. Same; mineral resources.

§ 141. Withdrawal and reservation of lands for water-power sites or other purposes.

The President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States, including Alaska, and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an Act of Congress. (June 25, 1910, ch. 421, § 1, 36 Stat. 847.)

CODIFICATION

The words "the District of," which preceded "Alaska" in the original text were superseded by the organization of Alaska as a Territory by act Aug. 24, 1912, c. 387. See section 21 of Title 48, Territories and Insular Possessions.

SHORT TITLE

Sections 141-143 of this title are popularly known as the "Pickett Act."

ADMISSION OF ALASKA TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

EX. ORD. NO. 10355. DELEGATION OF AUTHORITY

Ex. Ord. No. 10355, May 26, 1952, 17 F. R. 4831, provided:

SECTION 1. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, I hereby delegate to

the Secretary of the Interior the authority vested in the President by section 1 of the act of June 25, 1910, ch. 421, 36 Stat. 847 [this section], and the authority otherwise vested in him to withdraw or reserve lands of the public domain and other lands owned or controlled by the United States in the continental United States or Alaska for public purposes, including the authority to modify or revoke withdrawals and reservations of such lands heretofore or hereafter made.

(b) All orders issued by the Secretary of the Interior under the authority of this order shall be designated as public land orders and shall be submitted to the Division of the Federal Register, General Services Administration, for filing and for publication in the FEDERAL REGISTER.

(c) No order affecting land under the administrative jurisdiction of any executive department or agency of the Government other than the Department of the Interior shall be issued by the Secretary of the Interior under the authority of this order without the prior approval or concurrence, so far as the order affects such land, of the head of the department or agency concerned, or of such officer of the department or agency concerned as the head thereof may designate for such purpose: *Provided,* that such officer is required to be appointed by the President by and with the advice and consent of the Senate.

(d) Any disagreement between two or more executive departments or agencies with respect to any proposed withdrawal or reservation shall be referred to the Director of the Bureau of the Budget [now Office of Management and Budget] for consideration and adjustment. The Director may, in his discretion, submit the matter to the President for his determination.

SEC. 2. The Secretary of the Interior is authorized to issue such rules and regulations, and to prescribe such procedures, as he may from time to time deem necessary or desirable for the exercise of the authority delegated to him by this order.

SEC. 3. The Secretary of the Interior is authorized to redelegate the authority delegated to him by this order to one or more of the following-designated officers: the Under Secretary of the Interior and the Assistant Secretaries of the Interior.

SEC. 4. This order supersedes Executive Order No. 9337 of April 24, 1943, entitled "Authorizing the Secretary of the Interior to Withdraw and Reserve Lands of the Public Domain and Other Lands Owned or Controlled by the United States".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 142, 145, 300 of this title.

§ 142. Lands withdrawn open to exploration under mining laws; rights of occupants or claimants of oil- or gas-bearing lands; national forests.

All lands withdrawn under the provisions of this section and section 141 of this title shall at all times be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same apply to metalliferous minerals: *Provided,* That the rights of any person who, at the date of any order of withdrawal, is a bona fide occupant or claimant of oil- or gas-bearing lands and who, at such date, is in the diligent prosecution of work leading to the discovery of oil or gas, shall not be affected or impaired by such order so long as such occupant or claimant shall continue in diligent prosecution of said work: *Provided further,* That this section and section 141 of this title shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil- or gas-bearing lands after any withdrawal of such lands made prior to June 25, 1910: *And provided further,* That there shall be excepted from the force and effect of any withdrawal made under the provisions of this section and section 141 of this title all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further,* That no national forest shall be created, nor shall any additions be made to one created, prior to August 24, 1912, within the limits of the States of California, Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress. (June 25, 1910, ch. 421, § 2, 36 Stat. 847; Aug. 24, 1912, ch. 369, 37 Stat. 497.)

CODIFICATION

Act Aug. 24, 1912, substituted "metalliferous minerals" for "minerals other than coal, oil, gas, and phosphates" in the first clause, and "June 25, 1910" for "the passage of this Act" in the second proviso.

In the last proviso, "national forest" was substituted for "forest reserve", in view of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, providing that forest reserves should be known as national forests.

The provisions of the last proviso of this section were also codified to section 471 of Title 16, Conservation.

CROSS REFERENCES

Not national forest to be created within limits of certain states except by act of Congress, see section 471 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300 of this title.

§ 143. Repealed. Pub. L. 86-533, § 1(14), June 29, 1960, 74 Stat. 248.

Section, act June 25, 1910, ch. 421, § 3, 36 Stat. 848, required the Secretary of the Interior to report withdrawals to the Congress.

§ 144. Entries on land withdrawn as valuable for oil or gas validated.

Entries existing on February 7, 1925, and allowed prior to April 1, 1924, under sections 291 to 301 of this title, for land withdrawn as valuable for oil or gas, but not otherwise reserved or withdrawn, are validated, if otherwise regular: *Provided,* That at date of entry the land was not within the limits of the geologic structure of a producing oil or gas field. (Feb. 7, 1925, ch. 147, § 12, 43 Stat. 812.)

§ 145. Sale of lands withdrawn.

Whenever in the opinion of the Secretary of the Interior any lands which have been withdrawn under the provisions of section 141 of this title for the purpose of exploratory drilling to discover water supplies for irrigation or other purposes, and which have had wells or other permanent improvements placed thereon by and at the expense of the United States are no longer needed for the purpose for which they were withdrawn and improved, the Secretary of the Interior may appraise the lands, together with the improvements thereon, and thereafter sell the same to a citizen of the United States for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and publication for not less than thirty days in

a newspaper of general circulation in the vicinity of the land. (Jan. 26, 1921, ch. 27, § 1, 41 Stat. 1089.)

§ 146. Patents to purchasers of lands withdrawn.

Upon payment of the purchase price the Secretary of the Interior is authorized by appropriate patent to convey all the right, title, and interest in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided,* That not over one hundred and sixty acres shall be sold to any one person: *Provided further,* That any patent issued hereunder shall contain a reservation to the United States of all oil, gas, coal, and other mineral. (Jan. 26, 1921, ch. 27, § 2, 41 Stat. 1089.)

§ 147. Disposition of proceeds of sale of withdrawn lands.

The moneys derived from the sale of such lands and improvements shall be disposed of as are other receipts from the sale and disposal of public lands. (Jan. 26, 1921, ch. 27, § 3, 41 Stat. 1090.)

§ 148. Withdrawal of lands in Indian reservations for power or reservoir sites.

The Secretary of the Interior is authorized, in his discretion, to reserve from location, entry, sale, allotment, or other appropriation any lands within any Indian reservation, valuable for power or reservoir sites, or which may be necessary for use in connection with any irrigation project authorized by Congress: *Provided,* That if no irrigation project shall be authorized prior to the opening of any Indian reservation containing such power or reservoir sites the Secretary of the Interior may, in his discretion, reserve such sites pending future legislation by Congress for their disposition. (June 25, 1910, ch. 431, § 13, 36 Stat. 858; June 29, 1960, Pub. L. 86-533, § 1(13), 74 Stat. 248.)

AMENDMENTS

1960—Pub. L. 86-533 repealed provisions which required the Secretary of the Interior to report to the Congress all reservations made.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 sections 564h, 697, 747, 797, 843.

§ 149. Exchange of private lands included in Indian reservation for other lands.

Any private land over which an Indian reservation has been extended by Executive order, may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value and situated in the same State or Territory. (Apr. 21, 1904, ch. 1402, § 1, 33 Stat. 211.)

§ 150. Withdrawals of land for Indian reservations prohibited.

No public lands of the United States shall be withdrawn by Executive Order, proclamation, or otherwise, for or as an Indian reservation except by act of Congress. (June 30, 1919, ch. 4, § 27, 41 Stat. 34.)

§ 151. Opening of lands restored to entry after withdrawals.

When public lands are excluded from national forests or released from withdrawals the President may, whenever in his judgment it is proper or necessary, provide for the opening of the lands by settlement in advance of entry, by drawing, or by such other method as he may deem advisable in the interest of equal opportunity and good administration, and in doing so may provide that lands so opened shall be subject only to homestead entry by actual settlers only or to entry under the desert-land laws for a period not exceeding ninety days, the unentered lands to be thereafter subject to disposition under the public-land laws applicable thereto. (Sept. 30, 1913, ch. 15, § 1, 38 Stat. 113.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 152 of this title.

§ 152. Restoration of lands previously withdrawn.

Where under the law the Secretary of the Interior is authorized or directed to make restoration of lands previously withdrawn he may also restrict the restoration as prescribed in section 151 of this title. (Sept. 30, 1913, ch. 15, § 2, 38 Stat. 114.)

§ 153. Reservation of lands in North Dakota.

Upon receipt of a proper deed from the State of North Dakota, executed under authority of the act of its legislative assembly, approved February 5, 1915, reconveying to the United States title to section 16, township 138 north, range 81 west, fifth principal meridian, the Secretary of the Interior is authorized to issue patents to said State for such vacant, surveyed, unreserved, unoccupied, nonmineral public lands as may be selected by said State within its boundaries, not exceeding one thousand two hundred and eighty acres in aggregate area, and said section when so reconveyed shall not be subject to settlement, location, entry, or selection under the public land laws, but shall be reserved for the use of the Department of Agriculture in carrying on experiments in dry-land agriculture at the Northern Great Plains Field Station, Mandan, North Dakota. (July 3, 1916, ch. 219, 39 Stat. 344.)

§ 154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations.

Where public lands of the United States have been withdrawn for possible use for construction purposes under the Federal reclamation laws, and are known or believed to be valuable for minerals and would, if not so withdrawn, be subject to location and patent under the general mining laws, the Secretary of the Interior, when in his opinion the rights of the United States will not be prejudiced thereby, may, in his discretion, open the land to location, entry, and patent under the general mining laws, reserving such ways, rights, and easements over or to such lands as may be prescribed by him and as may be deemed necessary or appropriate, including the right to take and remove from such lands construction materials for use in the construction of irrigation works, and/or the said Secretary may require the execution of a contract by the intending locator or entryman as a

condition precedent to the vesting of any rights in him, when in the opinion of the Secretary same may be necessary for the protection of the irrigation interests. Such reservations or contract rights may be in favor of the United States or irrigation concerns cooperating or contracting with the United States and operating in the vicinity of such lands. The Secretary may prescribe the form of such contract which shall be executed and acknowledged and recorded in the county records and United States local land office by any locator or entryman of such land before any rights in their favor attach thereto, and the locator or entryman executing such contract shall undertake such indemnifying covenants and shall grant such rights over such lands as in the opinion of the Secretary may be necessary for the protection of Federal or private irrigation in the vicinity. Notice of such reservation or of the necessity of executing such prescribed contract shall be filed in the Bureau of Land Management and in the appropriate local land office, and notations thereof shall be made upon the appropriate tract books, and any location or entry thereafter made upon or for such lands, and any patent therefor shall be subject to the terms of such contract and/or to such reserved ways, rights, or easements and such entry or patent shall contain a reference thereto.

The Secretary of the Interior may prescribe such rules and regulations as may be necessary to enable him to enforce the provisions of this section. (Apr. 23, 1932, ch. 134, §§ 1, 2, 47 Stat. 136, 137; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3, and regulations thereunder. See note under former section 1 of this title.

§ 155. Withdrawal, reservation, or restriction of public lands for defense purposes; definition; exception.

Notwithstanding any other provisions of law, except in time of war or national emergency hereafter declared by the President or the Congress, on and after February 28, 1958 the provisions hereof shall apply to the withdrawal and reservation for, restriction of, and utilization by, the Department of Defense for defense purposes of the public lands of the United States, including public lands in the Territories of Alaska and Hawaii: *Provided*, That—

(1) for the purposes of this Act, the term "public lands" shall be deemed to include, without limiting the meaning thereof, Federal lands and waters of the Outer Continental Shelf, as defined in section 1331 of this title, and Federal lands and waters off the coast of the Territories of Alaska and Hawaii;

(2) nothing in this Act shall be deemed to be applicable to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the coast of the Territory of Alaska reserved for use of the military departments prior to the enactment of the Outer Continental Shelf Lands Act; and

(4) nothing in this section, section 156, or section 157 of this title shall be deemed to be applicable either to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which subsequent to such expiration have been and are now used by the military departments with the concurrence of the Department of the Interior, or to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges in the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.

(Pub. L. 85-337, § 1, Feb. 28, 1958, 72 Stat. 27.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 85-337, which is classified to sections 155—158 of this title, section 2671 of Title 10, Armed Forces, and section 472 (d) of Title 40, Public Buildings, Property and Works.

Prior to the enactment of the Outer Continental Shelf Lands Act, referred to in par. (3), means prior to Aug. 7, 1953, which is the date of enactment of section 1331 et seq. of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 156. Same; approval by Congress of over 5,000 acres for any project or facility.

No public land, water, or land and water area shall, except by Act of Congress, on and after February 28, 1958 be (1) withdrawn from settlement, location, sale, or entry for the use of the Department of Defense for defense purposes; (2) reserved for such use; or (3) restricted from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act, if such withdrawal, reservation, or restriction would result in the withdrawal, reservation, or restriction of more than five thousand acres in the aggregate for any one defense project or facility of the Department of Defense since the date of enactment of this Act or since the last previous Act of Congress which withdrew, reserved, or restricted public land, water, or land and water area for that project or facility, whichever is later. (Pub. L. 85-337, § 2, Feb. 28, 1958, 72 Stat. 28.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in the text, is classified to section 1331 et seq. of this title.

The date of enactment of this Act, referred to in the text, means Feb. 28, 1958, which is the date of enactment of Pub. L. 85-337.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 157 of this title.

§ 157. Same; applications; specifications.

Any application filed on and after February 28, 1958 for a withdrawal, reservation, or restriction, the approval of which will, under section 156 of this title, require an Act of Congress, shall specify—

(1) the name of the requesting agency and intended using agency;

(2) location of the area involved, to include a detailed description of the exterior boundaries and excepted areas, if any, within such proposed withdrawal, reservation, or restriction;

(3) gross land and water acreage within the exterior boundaries of the requested withdrawal, reservation, or restriction, and net public land, water, or public land and water acreage covered by the application;

(4) the purpose or purposes for which the area is proposed to be withdrawn, reserved, or restricted, or if the purpose or purposes are classified for national security reasons, a statement to that effect;

(5) whether the proposed use will result in contamination of any or all of the requested withdrawal, reservation, or restriction area, and if so, whether such contamination will be permanent or temporary;

(6) the period during which the proposed withdrawal, reservation, or restriction will continue in effect;

(7) whether, and if so to what extent, the proposed use will affect continuing full operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources, timber and other material resources, grazing resources, fish and wildlife resources, water resources, and scenic, wilderness, and recreation and other values; and

(8) if effecting the purpose for which the area is proposed to be withdrawn, reserved, or restricted, will involve the use of water in any State, whether, subject to existing rights under law, the intended using agency has acquired, or proposes to acquire, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water.

(Pub. L. 85-337, § 3, Feb. 28, 1958, 72 Stat. 28.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 155 of this title.

§ 158. Same; mineral resources.

All withdrawals or reservations of public lands for the use of any agency of the Department of Defense, except lands withdrawn or reserved specifically as naval petroleum, naval oil shale, or naval coal reserves, heretofore or hereafter made by the United States, shall be deemed to be subject to the condition that all minerals, including oil and gas, in the lands so withdrawn or reserved are under the jurisdiction of the Secretary of the Interior and there shall be no disposition of, or exploration for, any minerals in such lands except under the applicable public land mining and mineral leasing laws: *Provided,* That no disposition of, or exploration for, any minerals in such lands shall be made where the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the lands so withdrawn or reserved. (Pub. L. 85-337, § 6, Feb. 28, 1958, 72 Stat. 30.)

CROSS REFERENCES

Mineral leasing laws, see section 1 et seq. of Title 30, Mineral Lands and Mining.

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GENERAL PROVISIONS

§ 161. Entry of unappropriated public lands.

Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one-quarter section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any State or Territory, shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres. (R. S. § 2289; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097.)

DERIVATION

Acts May 20, 1862, ch. 75, § 1, 12 Stat. 392; Feb. 11, 1874, ch. 25, 18 Stat. 15; Mar. 13, 1874, ch. 55, 18 Stat. 22; June 22, 1874, ch. 400, 18 Stat. 194; Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420; Apr. 21, 1875, ch. 72, 19 Stat. 35; Mar. 3, 1877, ch. 127, 19 Stat. 405.

Said preemption laws, were repealed by section 4 of act Mar. 3, 1891.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 162, 173, 184, 191, 201, 211, 218, 219, 255, 271, 451a, 1197 of this title.

§ 162. Application for entry; affidavit.

Any person applying to enter land under section 161 of this title shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the officer designated by the Secretary of the Interior on payment of $5 when the entry is of not more than eighty acres, and on payment of $10 when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified. (R. S. § 2290; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts May 20, 1862, ch. 75, § 2, 12 Stat. 392; Mar. 21, 1864, ch. 38, § 2, 13 Stat. 35; June 21. 1866, ch. 127, § 2, 14 Stat. 67; June 22, 1874, ch. 394, 18 Stat. 192; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420.

TRANSFER OF FUNCTIONS

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 169, 173, 184, 191, 201, 211, 218, 219, 255, 271, 1197 of this title.

§ 163. Record of applications; returns to Bureau of Land Management.

The officer of the land office designated by the Secretary of the Interior shall note all applications under the provisions of this chapter, on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the Bureau of Land Management, together with the proof upon which they have been founded. (R. S. § 2295; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 70 Stat. 1100.)

DERIVATION

Act May 20, 1862, ch. 75, § 3, 12 Stat. 393.

TRANSFER OF FUNCTIONS

Words "officer of the land office designated by the Secretary of the Interior" were substituted for "register of the land office" and "Bureau of Land Management" for "General Land Office" by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 164. Certificate or patent; issuance.

No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time,

or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit and makes affidavit that no part of such land has been alienated, except as provided in section 174 of this title, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided,* That upon filing in the local land office notice of the beginning of such absence the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided further,* That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further,* That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry and until final proof, except that in the case of entries under section 218 (f) of this title, double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *And provided further,* That the above provision as to cultivation shall not apply to entries under section 224 of this title, commonly known as the Kinkaid Act, or entries under sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title, commonly known as the reclamation law, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required. (R. S. § 2291; June 6, 1912, ch. 153, 37 Stat. 123.)

DERIVATION

Acts June 21, 1866, ch. 127, § 2, 14 Stat. 67; June 18, 1874, ch. 308, 18 Stat. 81.

REFERENCES IN TEXT

Section 381 of this title, referred to in the text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

CROSS REFERENCES

Commuter required to prove 14 months' actual residence and that he is a United States citizen, see section 231 of this title.

Leave of absence of five months in each year to be allowed entryman in one or two continuous periods, see section 231 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 169, 170, 173, 184, 191, 201, 211, 218, 219, 231, 255, 256, 270, 271, 1131 of this title.

§ 165. Suspension of entries for correction of clerical errors; patents.

CODIFICATION

Section, act Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098, is now set out as section 1165 of this title.

§ 166. Time for settlers to file application and to perfect entry; marriage of entrywoman; preferential right of entry.

Any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as allowed on May 14, 1880, to settlers under the then existing preemption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under such preemption laws.

Where an unmarried woman who has heretofore settled, or may hereafter settle, upon a tract of public land, improved, established, and maintained a bona fide residence thereon, with the intention of appropriating the same for a home, subject to the homestead law, and has married, or shall thereafter marry, before making entry of said land, or before making application to enter said land, she shall not on account of her marriage forfeit her right to make entry and receive patent for the land: *Provided,* That she does not abandon her residence on said land, and is otherwise qualified to make homestead entry: *Provided further,* That the man whom she marries is not, at the time of their marriage, claiming a separate tract of land under the homestead law: *Provided further,* That any settler upon lands designated by the Secretary of the Interior as subject to the provisions of subsections (a)—(e), of section 218 of this title and subsections (a)—(e), of section 219 of this title, shall be entitled to the preference right of entry accorded by this section, provided he shall have plainly marked the exterior boundaries of the lands claimed as his homestead: *And provided further,* That after the designation by the Secretary of the Interior of public lands for entry under the nonresidence provisions of the Enlarged Homestead Acts, sections 218 and 219 of this title, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improvements thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry; but such right shall forfeit unless the settler or claimant under the provisions of the Enlarged Homestead Acts shall annually cultivate and improve the lands in the form and manner and to the

extent therein required following date of initiation of his claim hereunder. (May 14, 1880, ch. 89, § 3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267.)

REFERENCES IN TEXT

The Enlarged Homestead Acts, referred to in the text, are classified to sections 218, 219, and 291—301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 223 of this title.

§ 167. Marriage of entryman to entrywoman.

The marriage of a homestead entryman to a homestead entrywoman after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but the husband shall elect, under rules and regulations prescribed by the Secretary of the Interior, on which of the two entries the home shall thereafter be made, and residence thereon by the husband and wife shall constitute a compliance with the residence requirements upon each entry: *Provided,* That the provisions of this section shall apply to entries existing on April 6, 1914: *Provided further,* That in the administration of this section the terms "entryman" and "entrywoman" shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage. (Apr. 6, 1914, ch. 51, 38 Stat. 312; Mar. 1, 1921, ch. 90, 41 Stat. 1193.)

§ 168. Marriage of entrywoman to alien.

Any female citizen of the United States who has initiated a claim to a tract of public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen. (Oct. 17, 1914, ch. 325, 38 Stat. 740.)

§ 169. Failure to establish residence; reversion to Government.

If, at any time after the filing of the affidavit as required in section 162 of this title and before the expiration of the three years mentioned in section 164 of this title, it is proved, after due notice to the settler, to the satisfaction of the Secretary of the Interior or such officer as he may designate that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then, and in that event, the land so entered shall revert to the Government: *Provided,* That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further,* That where there may be climatic reasons, sickness, or other unavoidable cause, the Secretary of the Interior or such officer as he may designate may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe. (R. S. § 2297; Mar. 3, 1881, ch. 153, 21 Stat. 511; June 6, 1912, ch. 153, 37 Stat. 124; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts May 20, 1862, ch. 75, § 5, 12 Stat 393; Dec. 28, 1874, ch. 10, 18 Stat. 294; Apr. 21, 1876, ch. 72, 19 Stat. 36.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "register of the land office" and for "Commissioner of the General Land Office" by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 256, 271 of this title.

§ 170. Rights of wife abandoned by husband.

In any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section 164 of this title: *Provided,* That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further,* That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe. (Oct. 22, 1914, ch. 335, 38 Stat. 766.)

§ 171. Rights inuring to infant children.

In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of

the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose, and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and the sum of money above specified. (R. S. §§ 2289, 2292.)

DERIVATION

R. S. § 2289 from acts May 20, 1862, ch. 75, § 1, 12 Stat. 392; Feb. 11, 1874, ch. 25, 18 Stat. 15; Mar. 13, 1874, ch. 55, 18 Stat. 22; June 22, 1874, ch. 400, 18 Stat. 194; Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420; Apr. 21, 1875, ch. 72, 19 Stat. 35; Mar. 3, 1877, ch. 127, 19 Stat. 405.

R. S. § 2292 from act June 21, 1866, ch. 127, § 2, 14 Stat. 67.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 270, 271, 1131 of this title.

§ 172. Insanity of settlers.

In all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the preemption or homestead laws, became insane, prior to June 8, 1880, or shall have thereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Secretary of the Interior, or such officer as he may designate, that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties. (June 8, 1880, ch. 136, 21 Stat. 166; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 173. Commutation after 14 months.

All commutations of homestead entries shall be allowed after the expiration of fourteen months from date of settlement. Nothing in sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title shall be so construed as to prevent any person who shall avail himself of the benefits of section 161 of this title from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months. (R. S. § 2301; Mar. 3, 1891, ch. 561, § 6, 26 Stat. 1098; June 3, 1896, ch. 312, § 2, 29 Stat. 197.)

DERIVATION

Act May 20, 1862, ch. 75, § 8, 12 Stat. 393.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 180, 184, 187a, 189, 191, 201, 211, 217, 255, 271, 1091 of this title.

§ 174. Right to transfer claim.

Any bona fide settler under the preemption, the homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right-of-way of railroads, telegraph, telephones, canals, reservoirs, or ditches, for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim. (R. S. § 2288; Mar. 3, 1891, ch. 561, §§ 3, 4, 26 Stat. 1097; Mar. 3, 1905, ch. 1424, 33 Stat. 991.)

DERIVATION

Act Mar. 3, 1873, ch. 266, 17 Stat. 602.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 255 of this title.

§ 175. Exemption from execution of homestead land.

No lands acquired under the provisions of the homestead laws and laws supplemental and amendatory thereof shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor. (R. S. § 2296; Apr. 28, 1922, ch. 155, 42 Stat. 502.)

DERIVATION

Act May 20, 1862, ch. 75, § 4, 12 Stat. 393.

FEDERAL RULES OF CIVIL PROCEDURE

Execution, see Rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

Continuation of section under Rule 69, see note by Advisory Committee under that rule.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 176. Commissioners.

CODIFICATION

Section, act Mar. 2, 1895, ch. 174, §§ 1—3, 28 Stat. 744, provided for appointment of court commissioners for certain Territories, which have since become States.

§ 177. Patents for lands in New Mexico held under color of title.

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, not known to be mineral, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part

thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizen: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented under this section: *Provided further*, That the term "citizen" as used in this section shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof. (June 8, 1926, ch. 501, 44 Stat. 709.)

§ 178. Same; lands contiguous to Spanish or Mexican land grants.

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, contiguous to a Spanish or Mexican land grant, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizens: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented hereunder: *Provided further*, That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *Provided further*, That the term "citizen", as used in this section, shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof. (Feb. 23, 1932, ch. 52, 47 Stat. 53.)

§ 179. Free homesteads to settlers; commutation rights; payments to Indians.

All settlers under the homestead laws of the United States upon the agricultural public lands, which were prior to May 17, 1900, opened to settlement, acquired prior to May 17, 1900, by treaty or agreement from the various Indian tribes, who have resided or shall reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices fixed by existing laws on May 17, 1900, shall remain in full force and effect: *Provided, however*, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe, by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments provided for agricultural colleges and experimental stations by sections 321 to 326 and 328 of Title 7, for the more complete endowment and support of the colleges for the benefit of agricultural and mechanic arts, established under sections 301 to 305, 307, and 308 of Title 7, such deficiency shall be paid by the United States: *And provided further*, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government. (May 17, 1900, ch. 479, § 1, 31 Stat. 179.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 180, 187a of this title.

§ 180. Extension of right of settlers to commute entry.

The provisions of section 173 of this title, allowing homestead settlers to commute their homestead entries are extended to all homestead settlers affected by or entitled to the benefits of the provisions of section 179 of this title: *Provided, however*, That in commuting such entries the entryman shall pay the price provided in the law under which original entry was made. (Jan. 26, 1901, ch. 180, 31 Stat. 740.)

RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

§ 181. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, act June 5, 1900, ch. 716, § 3, 31 Stat. 270, provided that a person making an entry which was lost or forfeited should be entitled to the benefits of the homestead laws as though the former entry had not been made. See section 182 of this title.

§ 182. Entry after forfeiture of prior entry without fault.

Any person otherwise duly qualified to make entry or entries of public lands under the homestead or desert-land laws, who has prior to September 5, 1914, made or may thereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may lose, forfeit, or abandon same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided*, That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries. (Sept. 5, 1914, ch. 294, 38 Stat. 712.)

§ 183. Minor veterans; serving in military establishment; relinquishment of entries.

No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either Regular or Vol-

unteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

Any person, under the age of twenty-one, who has served or shall hereafter serve in the Army of the United States during the emergency contemplated by the act of August 31, 1918, shall be entitled to the same rights under the homestead and other land and mineral entry laws, general or special, as those over twenty-one years of age now possess under said laws: *Provided,* That any requirements as to establishment of residence within a limited time shall be suspended as to entry by such person until six months after his discharge from military service: *And provided further,* That applications for entry may be verified before any officer in the United States, or any foreign country, authorized to administer oaths by the laws of the State or Territory in which the land may be situated.

No relinquishment of any public-land entry made under and by authority of the preceding paragraph shall be valid or effective for any purpose unless executed after the entryman shall have actually resided upon and cultivated the land, in the case of a homestead entry, for at least six months, and in the case of an entry made under other than the homestead laws, after the entryman shall have complied with the provisions of the applicable law for at least one year.

Any person, firm, or corporation soliciting or dealing with the relinquishment of such claim or entry prior to the completion of compliance with the applicable law and with this section, and who or which solicits, demands, or receives, or accepts any fee or compensation for locating, filing, or securing the claims or entries for persons entitled to the benefits of said paragraph shall, upon conviction, be fined not to exceed $1,000 or imprisoned for not exceeding two years, or both. (R. S. § 2300; Aug. 31, 1918, ch. 166, § 8, 40 Stat. 957; Sept. 13, 1918, ch. 173, 40 Stat. 960.)

DERIVATION

Act May 20, 1862, ch. 75. § 6, 12 Stat. 393.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 184. No distinction on account of race or color.

No distinction shall be made in the construction or execution of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title, on account of race or color. (R. S. § 2302.)

DERIVATION

Act June 21, 1866, ch. 127, § 1, 14 Stat. 67.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 191, 201, 211, 255, 271 of this title.

§ 185. Preference right of entry of successful contestants.

In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preemption, homestead or timber culture entry, he shall be notified by the officer designated by the Secretary of the Interior of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided,* That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States, may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this section that contestant would have been if his dealth had not occurred. (May 14, 1880, ch. 89, § 2, 21 Stat. 141; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; July 26, 1892, ch. 251, 27 Stat. 270; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 186. Preference right of entry of veterans; rules and regulations.

For the period of ten years following February 14, 1930, on the opening of public or Indian lands to entry, or the restoration to entry of public lands theretofore withdrawn from entry, such opening or restoration shall, in the order therefor, provide for a period of not less than ninety days before the general opening of such lands to disposal in which officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in any war, military occupation, or military expedition and been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve shall have a preferred right of entry under the homestead or desert-land laws, if qualified thereunder, except as againset prior existing valid settlement rights and as against preference rights conferred by existing laws or equitable claims subject to allowance and confirmation: *Provided,* That for the purposes of this resolution the war with Spain shall be considered to include the period from April 21, 1898, to July 4, 1902: *Provided further,* That the same preference rights are extended to apply to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies shall be similar to the service with the Army of the United States for which recognition is granted in this joint resolution: *Provided further,* That the rights and benefits conferred by this joint resolution shall not extend to any person who, having been drafted for service under the provisions of the Selective Service Act, shall have refused to render such service or to wear the uniform of such service of the United States.

The Secretary of the Interior is authorized to make any and all regulations necessary to carry into full force and effect the provisions of this section. (Feb. 14, 1920, ch. 76, §§ 1, 2, 41 Stat. 434, 435; Jan. 21, 1922, ch. 32, §§ 1, 2, 42 Stat. 358; Dec. 28, 1922, ch. 19, 42 Stat. 1067; June 12, 1930, ch. 471, 46 Stat. 580.)

REFERENCES IN TEXT

Selective Service Act, referred to in the text, is act May 18, 1917, ch. 15, 40 Stat. 76, which was formerly classified to section 201 et seq. of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Preference right of World War II and Korean conflict veterans, see sections 279—283 of this title.

§ 187. Entrants on ceded Indian reservations.

Any person who prior to February 25, 1925, entered, under the homestead laws, and paid a price equivalent to or greater than $2.50 per acre, lands embraced in a ceded Indian reservation, shall, upon proof of such fact, if otherwise qualified, be entitled to the benefits of the homestead law as though such former entry had not been made: *Provided,* That the provisions of this section shall not apply to any person who has failed to pay the full price for his former entry, or whose former entry was canceled for fraud. (Feb. 25, 1925, ch. 326, 43 Stat. 981.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 187a of this title.

§ 187a. Same; new homestead entry.

Any person who prior to June 21, 1934, made entry under the homestead laws on any lands embraced within any reservation ceded to the United States by the Indian tribes, and has paid for his land the sum of at least $1.25 per acre, shall, upon proof of such facts, if otherwise qualified, be entitled to the benefit of the homestead law as though such former entry had not been made; but the provisions of this section shall not apply to any person who has failed to pay the full price for his former entry or whose former entry was canceled for fraud: *Provided,* That, in making any new homestead entry as authorized by this section or the prior similar Acts of February 20, 1917 (39 Stat. 926), and section 187 of this title, such entry shall not include any land to which the Indian title shall not have been fully extinguished. (June 21, 1934, ch. 690, 48 Stat. 1185.)

§ 187b. Second homestead entry by certain settlers.

Any person who, prior to May 17, 1900, having made a homestead entry and perfected the same and acquired title to the land by final entry by having paid the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of section 179 of this title had final entry not been made prior to May 17, 1900, may make another homestead entry of not exceeding one hundred and sixty acres of any of the public lands in any State or Territory subject to homestead entry: *Provided,* That any person desiring to make another entry under this section will be required to make affidavit, to be transmitted with the other filing papers required by law, giving the description of the tract formerly entered, date and number of entry, and name of the land office where made, or other sufficient data to admit of readily identifying it on the official records: *And provided further,* That said person has all the other proper qualifications of a homestead entryman: *And provided also,* That commutation under section 173 of this title, or any similar statute, shall not be permitted of an entry made under this section, excepting where the final proof, submitted on the former entry hereinbefore described, shows a residence upon the land covered thereby for the full period of five years, or such term of residence thereon as added to any properly credited military or naval service shall equal such period of five years. (May 22, 1902, ch. 821, § 2, 32 Stat. 203.)

§ 188. Purchaser of Flathead Indian land, Montana.

Persons who purchased land under and in accordance with the terms of an Act entitled "An Act to provide for the sale of lands patented to certain members of the Flathead band of Indians in the Territory of Montana, and for other purposes", approved March 2, 1889, shall not be held to have impaired or exhausted their homestead rights by or on account of any such purchase. (June 5, 1900, ch. 716, § 3, 31 Stat. 270.)

§ 189. Indians abandoning tribal relations.

Any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of this chapter, except that the provisions of section 173 of this title shall not be held to apply to entries made under this section: *Provided, however,* That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: *Provided,* That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void. (Mar. 3, 1875, ch. 131, § 15, 18 Stat. 420.)

CROSS REFERENCES

Indians located on public lands to have full rights under homestead laws, see section 190 of this title.

§ 190. Indians located on public lands; patents.

Such Indians as may have been located on public lands prior to July 4, 1884, or as may, under the direction of the Secretary of the Interior, or otherwise, thereafter, so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States. No fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case

of his decease, of his widow and heirs according to the laws of the State where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever. (July 4, 1884, ch. 180, § 1, 23 Stat. 96.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 190a of this title.

§ 190a. Indian allotments or homesteads; discontinued in San Juan County, Utah.

No further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under section 190 of this title. (Mar. 1, 1933, ch. 160, § 1, 47 Stat. 1418.)

CODIFICATION

Section is repeated in part in section 337a of Title 25, Indians.

§ 191. Stockbridge Munsee Indians.

Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee Tribes of Indians, residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

The homestead secured by virtue of this section shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States. (R.S. §§ 2310, 2311.)

DERIVATION

Act. Mar. 3, 1865, ch. 127, § 4, 13 Stat. 562.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 201, 211, 255, 271 of this title.

LANDS SUBJECT TO ENTRY

§ 201. Mineral lands.

Mineral lands shall not be liable to entry and settlement under the provisions of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 274, 277 and 278 of this title. (R.S. § 2302.)

DERIVATION

Act June 21, 1866, ch. 127, § 1, 14 Stat. 67.

CROSS REFERENCES

Coal lands opened to homestead entry, see sections 77 and 83—85 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 211, 255, 271 of this title.

§ 202. Relinquished entries.

When a homestead claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Secretary of the Interior or such officer as he may designate. (May 14, 1880, ch. 89, § 1, 21 Stat. 140; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 203. Former Ute Indian Reservation in Colorado.

The provisions of the homestead laws are extended over and shall apply to the lands included within the limits of the former Ute Indian Reservation in Colorado not included in any national forest in addition to the existing laws relating to cash entries thereon: *Provided,* That no selection or entry of lands in lieu of land included within a national forest or of soldiers' or sailors' additional homesteads shall be allowed within said limits.

Reimbursement of Ute Indian fund.

All sums of money that may be lost to the Ute Indian fund by reason of the enactment of this section shall be paid into the fund by the United States, and all moneys received by reason of the commutation of any homestead entry shall be credited to said Ute Indian fund.

Lands on which Government has improvements excepted.

No lands shall be included in any location or settlement under the provisions of this section on which the United States Government has valuable improvements. (June 13, 1902, ch. 1080, §§ 1—3, 32 Stat. 384; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

§ 204. Entries on even sections within railroad and other grants.

The even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under laws in force March 3, 1879, taken a homestead on any even section within the limits of any railroad or military road land grant, and who, by such laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty

acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the three years' residence and cultivation required by law: *Provided,* That in no case shall patent issue upon an additional or new homestead entry under this section until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year. (Mar. 3, 1879, ch. 191, 20 Stat. 472.)

CROSS REFERENCES

General requisites to issuance of patent or certificate for public lands, see section 164 of this title.

Patents for additional entries within railway limits to be granted without further cost or proof of settlement or cultivation, see section 206 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 205. Entries on odd sections within railroad and other grants.

The odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad where the even sections have been granted to and received by any railroad company or by such States respectively in aid of any railroad shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under laws in force July 1, 1879, taken a homestead on any section within the limits of any railroad grant in said States, and who by such laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the three years' residence and cultivation required by law: *Provided,* That in no case shall patent issue upon an additional or new homestead entry under this section until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year. (July 1, 1879, ch. 60, 21 Stat. 46.)

CROSS REFERENCES

General requisites to issuance of patent or certificate for public lands, see section 164 of this title.

Patents for additional entries within railway limits to be granted without further cost or proof of settlement or cultivation, see section 206 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 206. Patents for additional entries within railway limits.

All homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land, who have prior to May 6, 1886, made or may thereafter make the additional entry allowed by either section 204 or 205 of this title, after having made final proof of settlement and cultivation under the original entry, shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation. (May 6, 1886, ch. 88, 24 Stat. 22.)

§ 207. Military reservations in Nevada.

All the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition may be disposed of under the homestead and desert-land laws, and not otherwise: *Provided,* That this section is intended to make applicable to the desert-land laws only such lands as were included under sections 321 to 323, 325, and 327 to 329 of this title, providing for the disposition of public lands under the desert-land laws. (Aug. 21, 1916, ch. 361, 39 Stat. 518.)

§ 208. Unreserved public lands in Columbia or Moses Reserve.

All unreserved public lands within the former Columbia or Moses Reserve in the State of Washington, made subject to acquisition under the homestead laws by the Act of Congress approved July 4, 1884 (Twenty-third Statutes, page 76) are made subject to acquisition under sections 321 to 323, 325, 327, to 329 and 1171 of this title, and other Acts applicable generally to the public domain. (June 3, 1924, ch. 240, 43 Stat. 357.)

§ 209. Extension of public-land laws to certain lands in Oklahoma.

The public-land laws of the United States be, and the same are, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the Act of May 4, 1896 (29 Stat. 113): *Provided,* That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law. (June 22, 1948, ch. 605, § 1, 62 Stat. 576.)

REFERENCES IN TEXT

The Act of May 4, 1896 (29 Stat. 113), referred to in the text, is act May 4, 1896, ch. 155, 29 Stat. 113, and was not classified to the Code.

§ 210. Same; recognition of equitable claims; validation of homestead entries.

The Secretary of the Interior is authorized and directed to recognize equitable claims to such lands based on settlement made prior to January 1, 1934,

and all homestead entries of such lands, the allowance of which was erroneous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are validated if otherwise regular, as of the date of the regular application. (June 22, 1948, ch. 605, § 2, 62 Stat. 576.)

LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

§ 211. Limitation of amount of homestead entry.

Except as otherwise provided, no person shall be permitted to acquire title to more than one-quarter section under the provisions of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title. (R.S. § 2298.)

DERIVATION

Act May 20, 1862, ch. 75, § 6, 12 Stat. 393.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 255, 271 of this title.

§ 212. Limitation of aggregate amount of entries.

No person who shall enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, except as otherwise provided, under all of said laws, but this limitation shall not operate to curtail the right of any person who has before August 30, 1890, made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by Act of August 30, 1890 (chapter 837, 26 Statutes 391).

The above provisions of this section shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws. (Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

CROSS REFERENCES

Sale of isolated or disconnected tracts of public lands to be sold notwithstanding this section, see section 1171 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1171 of this title.

§ 213. Additional entry on land contiguous to former entry of less than quarter section.

Any homestead settler who has heretofore entered, or may hereafter enter, less than one-quarter section of land, may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres.

Before a patent may issue on the additional entry, the entryman must show that he has cultivated an amount equal to one-eighth of the area of the additional entry for at least one year after the additional entry and until the submission of final proof thereon. The cultivation required with respect to the additional entry may be performed on the original entry, the additional entry or on both, but where it is performed on the original entry, it must be in addition to that required and relied upon in making final proof on the original entry. No proof of residence shall be required with respect to the additional entry.

The additional entry may be made before or after final proof has been made on the original entry. Final proof for the additional entry may be submitted only at the time of final proof for the original entry, or subsequent thereto, but must be submitted within five years after the additional entry is made.

This section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the originial entry. If the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled. (Apr. 28, 1904, ch. 1776, §§ 2, 3, 33 Stat. 527; Aug. 3, 1950, ch. 521, 64 Stat. 398.)

AMENDMENTS

1950—Act Aug. 3, 1950 required cultivation for at least 1 year of an area equal to ⅛ of the additional entry.

§ 214. Additional entry; after final proof on entry of less than quarter section.

Every person entitled, under the provisions of the homestead laws, to enter a homestead, who has prior to March 2, 1889, complied with or who shall thereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided,* That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homstead laws resided upon and cultivated the lands so additionally entered and otherwise fully complied with such laws: *Provided also,* That this section shall not be construed as affecting any rights as to location of soldiers' certificates issued, prior to March 2, 1889, under section 274 of this title. (Mar. 2, 1889, ch. 381, § 6, 25 Stat. 854; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

Word "register's" preceding "final receipt" was omitted by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 215. Additional entry after patent on entry for less than quarter section.

Any person otherwise qualified who has obtained title under the homestead laws to less than one quarter section of land may make entry and obtain title under the provisions for enlarged homesteads, for such an area of public land as will, when one-half of such area is added to the area of the lands to which he has already obtained title, not exceed one quarter section: *Provided,* That this section shall not be construed to apply to soldiers' additional homestead entries made under section 274 of this title, or Acts amendatory thereof or supplemental thereto. (Feb. 20, 1917, ch. 98, 39 Stat. 925.)

§ 216. Validation of additional entry after patent.

All homestead entries pending on March 4, 1921, made in good faith prior to January 1, 1916, under the provisions of the enlarged homestead laws, and all rights to enter land under said laws, based on settlement made thereon in good faith before said date, and while the land was unsurveyed, by persons who, before making such enlarged homestead entry, had acquired title to land under the homestead laws, and therefore were not qualified to make an enlarged homestead entry, or such settlement, are validated, if in all other respects regular, in all cases where the original homestead entry was for less than one hundred and sixty acres of land: *Provided,* That no settlement claim shall be validated where adverse claim for the land has been initiated before March 4, 1921. (Mar. 4, 1921, ch. 162, § 1, 41 Stat. 1433.)

§ 217. Additional entry after commutation of former entry.

Any person who has, prior to June 5, 1900, made entry under the homestead laws and commuted same under provisions of section 173 of this title, shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of said section, shall not be allowed of an entry made under this section. (June 5, 1900, ch. 716, § 2, 31 Stat. 269.)

§ 218. Enlarged entries of certain nonmineral, nonirrigable lands in certain States.

(a) Lands which may be entered; by whom.

Any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivisions, under the provisions of this section, in the States of Arizona, California, Colorado, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, three hundred and twenty acres, or less, of nonmineral, nonirrigable, unreserved, and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body, and not over one and one-half miles in extreme length: *Provided,* That no lands shall be subject to entry under the provisions of this section until such lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation at a reasonable cost from any known source of water supply.

(b) Applications; affidavits; fees.

Any person applying to enter land under the provisions of this section shall make and subscribe before the proper officer an affidavit as required by section 162 of this title and in addition thereto shall make affidavit that the land sought to be entered is of the character described in subsection (a) of this section, and shall pay the fees required to be paid under the homestead laws.

(c) Additional entry of land contiguous to former entry not to exceed limitation.

Any person who has made, or shall make, homestead entry of lands of the character herein described, and who has not submitted final proof thereon, or who having submitted final proof still owns and occupies the land thus entered, shall have the right to enter public lands, subject to the provisions of this section, contiguous to his first entry, which shall not, together with the original entry, exceed three hundred and twenty acres: *Provided,* That the land originally entered and that covered by the additional entry shall have first been designated as subject to this section, as provided by subsection (a) of this section.

(d) Proof of cultivation; final proofs on additional entries.

At the time of making final proof, as provided in section 164 of this title, the entryman under this section shall, in addition to the proofs and affidavits required under said section prove by himself and two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses, beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided,* That any qualified person who has prior to February 19, 1909, made, or who thereafter makes, additional entry under the provisions of subsection (c) of this section to an entry upon which final proof has not been made, may be allowed to perfect title to his original entry by showing compliance with the provisions of section 164 of this title, respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date of such original entry, but the cultivation required upon entries made under this section must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvements made upon his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this section has been performed; and to this end the time within which proof must be made upon such a combined entry is extended to seven years from the date of the original entry: *Provided further,* That where an entry is made as additional to an entry upon which final proof has theretofore been submitted by an entryman who still owns and occupies the land thus entered, the entryman in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date thereof, but the cultivation required upon entries made under this section must be shown respecting such additional entry and must be performed upon the land included therein to the extent and for the period required in connection with the original entries under this section, proof of which must be submitted within five years from and after the date of the additional entry: *Provided further,* That nothing herein contained shall be so construed as to require residence upon the combined entry in

excess of the period of residence as required by section 164 of this title.

(e) Other rights of entry not affected.

Nothing in this section contained shall be held to affect the right of a qualified entryman to make homestead entry in the States named in subsection (a) of this section under the provisions of section 161 of this title, but no person who has made entry under this section shall be entitled to make homestead entry under the provisions of section 161 of this title and no entry made under this section shall be commuted.

(f) Lands in Utah without domestic water supply designated; residence and cultivation.

Whenever the Secretary of the Interior shall find that any tracts of land, in the State of Utah, subject to entry under this section, do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate 2,000,000 acres, and thereafter they shall be subject to entry under this section without the necessity of residence: *Provided,* That in such event the entryman on any such entry shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of such entry, and that after entry and until final proof the entryman shall reside within such distance of said land as will enable him successfully to farm the same as required by this paragraph.

(g) Noncontiguous lands; occupancy and improvements; soldiers' additional homesteads.

Any person who has made or shall make homestead entry of less than three hundred and twenty acres of lands of the character described, in this section, and who shall have submitted final proof thereon, shall have the right to enter public lands subject to the provisions of this section, not contiguous to his first entry, which shall not with the original entry exceed three hundred and twenty acres: *Provided,* That the land originally entered and that covered by the additional entry shall first have been designated as subject to this section as provided by subsection (a) of this section: *Provided further,* That in no case shall patent issue for the land covered by such additional entry until the person making same shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered, and otherwise complied with such laws, except that where the land embraced in the additional entry is located not exceeding twenty miles from the land embraced in the original entry no residence shall be required on such additional entry if the entryman is residing on his former entry: *And provided further,* That this section shall not be construed as affecting any rights as to location of soldiers' additional homesteads under section 274 of this title. (Feb. 19, 1909, ch. 160, §§ 1—6, 35 Stat. 639–640; June 6, 1912, ch. 153, 37 Stat. 123; June 13, 1912, ch. 166, 37 Stat. 132; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 84, 38 Stat. 953; Mar. 3, 1915, ch. 91, 38 Stat. 957; Mar. 4, 1915, ch. 150, § 2, 38 Stat. 1163; July 3, 1916, ch. 220, 39 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 166, 219, 220, 222, 223 of this title; title 30 section 83.

§ 219. Enlarged entries of certain nonmineral, nonirrigable lands in Idaho.

(a) Lands which may be entered; by whom.

Any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivision, under the provisions of this section, in the State of Idaho, three hundred and twenty acres or less of arid nonmineral, nonirrigable, unreserved, and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body and not over one and one-half miles in extreme length: *Provided,* That no lands shall be subject to entry under the provisions of this section until the lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation, at a reasonable cost, from any known source of water supply.

(b) Applications; affidavits; fees.

Any person applying to enter land under the provisions of this section shall make and subscribe before the proper officer an affidavit as required by section 162 of this title and in addition thereto shall make affidavit that the land sought to be entered is of the character described in subsection (a) of this section, and shall pay the fees now required to be paid under the homestead laws.

(c) Additional entry of land contiguous to former entry not to exceed limitation.

Any person who has made, or shall make, homestead entry of lands of the character described in this section, and who has not submitted final proof thereon, or who, having submitted final proof, still owns and occupies the land thus entered, shall have the right to enter public lands, subject to the provisions of this section, contiguous to his first entry, which shall not, together with the original entry, exceed three hundred and twenty acres: *Provided,* That the land originally entered and that covered by the additional entry shall have first been designated as subject to this section, as provided by subsection (a) of this section.

(d) Proof of cultivation; final proofs on additional entries.

At the time of making final proof, as provided in section 164 of this title, the entryman under this section shall, in addition to the proofs and affidavits required under section 164 of this title prove by himself and two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses, beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided,* That any qualified person who has, prior to June 17, 1910, made, or who thereafter makes, additional entry under the provisions of subsection (c) of this section to an entry upon which final proof has not been made, may be allowed to perfect title to his

original entry by showing compliance with the provisions of section 164 of this title, respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date of such original entry, but the cultivation required upon entries made under this section must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvement made upon his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this subsection has been performed; and to this end the time within which proof must be made upon such a combined entry is extended to seven years from the date of the original entry: *Provided further,* That where an entry is made as additional to an entry upon which final proof has theretofore been submitted by an entryman who still owns and occupies the land thus entered, the entryman in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date thereof, but the cultivation required upon entries made under this section must be shown respecting such additional entry and must be performed upon the land included therein to the extent and for the period required in connection with the original entries under this section, proof of which must be submitted within five years from and after the date of the additional entry; *Provided further,* That nothing herein contained shall be so construed as to require residence upon the combined entry in excess of the period of residence as required by section 164 of this title.

(e) Other rights of entry not affected.

Nothing contained in this section shall be held to affect the right of a qualified entryman to make homestead entry in the State of Idaho under the provisions of section 161 of this title, but no person who has made entry under this section shall be entitled to make homestead entry under the provisions of section 161 of this title, and no entry made under this section shall be commuted.

(f) Lands without domestic water supply designated; residence and cultivation.

Whenever the Secretary of the Interior shall find any tracts of land in the State of Idaho, subject to entry under this section, do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible he may, in his discretion, designate such tracts of land, not to exceed in the aggregate one million acres, and thereafter they shall be subject to entry under this section without the necessity of residence upon the land entered: *Provided,* That the entryman shall in good faith cultivate not less than one-sixteenth of the entire area of the entry which is susceptible of cultivation during the first year of the entry, not less than one-eighth during the second year, and not less than one-fourth during the third year of the entry and until final proof: *Provided further,* That after six months from the date of entry and until final proof the entryman shall be a resident of the State of Idaho.

(g) Noncontiguous lands; occupancy and improvements; soldiers' additional homesteads.

Any person who has made or shall make homestead entry of less than three hundred and twenty acres of lands of the character described in this section and who shall have submitted final proof thereon, shall have the right to enter public lands subject to the provisions of this section, not contiguous to his first entry, which shall not with the original entry exceed three hundred and twenty acres: *Provided,* That the land originally entered and that covered by the additional entry shall first have been designated as subject to this section or section 218 of this title, as provided by subsection (a) of this section and section 218 of this title: *Provided further,* That in no case shall patent issue for the land covered by such additional entry until the person making same shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered, and otherwise complied with such laws, except that where the land embraced in the additional entry is located not exceeding twenty miles from the land embraced in the original entry no residence shall be required on such additional entry if the entryman is residing on his former entry: *And provided further,* That this section shall not be construed as affecting any rights as to location of soldiers' additional homesteads under section 274 of this title. (June 17, 1910, ch. 298, §§ 1—6, 36 Stat. 531, 532; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 91, 38 Stat. 957; Sept. 5, 1916, ch. 440, 39 Stat. 724; Aug. 10, 1917, ch. 52, § 10, 40 Stat. 275.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 166, 220, 222, 223 of this title.

§ 220. Applications for entry of lands not designated as subject to entry and for additional entry of contiguous land.

Where any person qualified to make entry under the provisions of sections 218 and 219 of this title shall make application to enter under the provisions of said sections any unappropriated public land in any State affected thereby which has not been designated as subject to entry under the section (provided said application is accompanied and supported by properly corroborated affidavit of the applicant in duplicate, showing prima facie that the land applied for is of the character contemplated by said section), such application, together with the regular fees and commissions, shall be received by the officer designated by the Secretary of the Interior of the land district in which said land is located, and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character; that during such suspension the land described in said application shall be segregated by the said officer and not subject to entry until the case is disposed of; and if it

shall be determined that such land is of the character contemplated by the said section, then such application shall be allowed; otherwise it shall be rejected, subject to appeal: *Provided,* That the provisions of this section shall apply to the application of a qualified entryman to make additional entry of unappropriated land adjoining his unperfected homestead entry, the area of which, together with his original entry, shall not exceed three hundred and twenty acres. (Mar. 4, 1915, ch. 150, § 1, 38 Stat. 1162, 1163; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" by section 403 of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 221. Provisions extended to South Dakota.

CODIFICATION

Section, act Mar. 4, 1915, ch. 150, § 2, 38 Stat. 1163, is now set out as part of section 218 of this title.

§ 222. Additional entries by homestead entrymen on lands in national forests.

Any homestead entrymen of one hundred and sixty acres or less of lands which have been prior to March 4, 1923, or may thereafter be designated or classified by the Secretary of the Interior as subject to entry under the provisions of sections 218 and 219 of this title, who has not submitted final proof upon his existing entry, and any homestead entryman who has submitted final proof, or received patent, for such an amount of lands which have been at that time or may thereafter be designated or classified by the Secretary of the Interior as of the character described in said sections, and who owns and resides upon the said homestead entry, where said lands are within a national forest, may make an additional entry for and obtain patent to such an amount of land, of that same character, not in a national forest, and within a radius of twenty miles from said homestead entry, as, when the area thereof is added to the area of the original entry, will not exceed three hundred and twenty acres, and residence upon the original entry shall be credited on both entries; but cultivation must be made on the additional entry as required by said sections. For the purposes of this section the Secretary of the Interior is authorized to designate as subject to such sections, lands embraced, at the time of such designation, within valid subsisting entries within national forests. (Mar. 4, 1923, ch. 245, § 1, 42 Stat. 1445.)

§ 223. Preference of settler to entry under Enlarged Homestead Act.

Any settler upon lands designated by the Secretary of the Interior as subject to the provisions of subsections (a)—(e), of section 218 of this title, and section 219 of this title, shall be entitled to the preference right of entry accorded by section 166 of this title; provided he shall have plainly marked the exterior boundaries of the lands claimed as his homestead: *Provided,* That after the designation by the Secretary of the Interior of public lands for entry under the nonresidence provisions of sections 218 and 219 of this title, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improvements thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry; but such right shall forfeit unless the settler or claimant under the provisions of the said sections shall annually cultivate and improve the lands in the form and manner and to the extent therein required following date of initiation of his claim hereunder. (May 14, 1880, ch. 89, § 3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267.)

§ 224. Limitation of entries within certain boundaries in Nebraska extended; exclusion of irrigable lands.

(a) Limitation of entries; boundaries; exceptions.

After June 27, 1904, entries made under the homestead laws in the State of Nebraska west and north of the following line, to wit: Beginning at a point on the boundary line between the States of South Dakota and Nebraska where the first guide meridian west of the sixth principal meridian strikes said boundary; thence running south along said guide meridian to its intersection with the fourth standard parallel north of the base line between the States of Nebraska and Kansas; thence west along said fourth standard parallel to its intersection with the second guide meridian west of the sixth principal meridian; thence south along said second guide meridian to its intersection with the third standard parallel north of the said base line; thence west along said third standard parallel to its intersection with the range line between ranges 25 and 26 west of the sixth principal meridian; thence south along said line to its intersection with the second standard parallel north of the said base line; thence west on said standard parallel to its intersection with the range line between ranges 30 and 31 west; thence south along said line to its intersection with the boundary line between the States of Nebraska and Kansas, shall not exceed in area six hundred and forty acres, and shall be as nearly compact in form as possible, and in no event over two miles in extreme length: *Provided,* That there shall be excluded from the provisions of this section such lands within the territory herein described as in the opinion of the Secretary of the Interior it may be reasonably practicable to irrigate under the national irrigation law, or by private enterprise; and that said Secretary shall, prior to the date above mentioned, designate and exclude from entry under this section the lands, particularly along the North Platte River, which in his opinion it may be possible to irrigate as aforesaid; and shall thereafter, from time to time, open to entry under this section any

of the lands, so excluded, which, upon further investigation, he may conclude cannot be practically irrigated in the manner aforesaid.

(b) Limit of additional entry of contiguous land.

Entrymen under the homestead laws of the United States within the territory above described who owned and occupied the lands heretofore entered by them prior to April 28, 1904, may, under the provisions of this section and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned, and occupied, exceed in the aggregate six hundred and forty acres; and residence continued and improvements made upon the original homestead, subsequent to the making of the additional entry, shall be accepted as equivalent to actual residence and improvements made upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same, except in favor of entrymen entitled to credit for military service.

(c) Fees and commissions on entries; commutation.

The fees and commissions on all entries under this section shall be uniformly the same as those charged for a maximum entry at the minimum price. The commutation provisions of the homestead law shall not apply to entries under this section, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than $1.25 per acre for each acre included in his entry: *Provided,* That a former homestead entry shall not be a bar to the entry under the provisions of this section of a tract which, together with the former entry, shall not exceed six hundred and forty acres: *Provided,* That any former homestead entryman who shall be entitled to an additional entry under subsection (b) of this section shall have for ninety days after April 28, 1904, the preferential right to make additional entry as provided in said subsection.

(d) Benefits of section extended to certain entries.

All qualified entrymen who, during the period beginning on the 28th day of April 1904, and ending on the 28th day of June 1904, made homestead entry in the State of Nebraska within the area affected by this section, shall be entitled to all the benefits of this section as if their entries had been made prior or subsequent to the above-mentioned dates, subject to all existing rights.

(e) Benefits of military service extended to entries.

The benefits of military service in the Army or Navy of the United States granted under the homestead laws shall apply to entries made under this section, and all homestead entries hereafter made within the territory described in this section shall be subject to all the provisions thereof.

(f) Sale of isolated tracts.

Within the territory described in this section, it shall be lawful for the Secretary of the Interior to order into market and sell under the provisions of the laws providing for the sale of isolated or disconnected tract or parcels of land any isolated or disconnected tract not exceeding three quarter sections in area: *Provided,* That not more than three quarter sections shall be sold to any one person.

(g) Qualifications of entrymen making additional entries.

The qualifications of a former homestead entryman who has been permitted to make an additional or another entry under this section, prior to August 24, 1912, shall be determined by the qualifications, except as to citizenship, possessed on the date of his first entry in all cases where the rights of third persons shall not have intervened and the additional or second entry has not been canceled. (Apr. 28, 1904, ch. 1801, §§ 1—3, 33 Stat. 547, 548; Mar. 2, 1907, ch. 2527, §§ 1—3, 34 Stat. 1224; May 29, 1908, ch. 220, § 7, 35 Stat. 466; Aug. 24, 1912, ch. 371, 37 Stat. 499.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 164 of this title; title 16 section 493.

LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE OR NONCULTIVATION

§ 231. Optional leaves of absence; proof of commutation.

The entryman mentioned in section 164 of this title upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods, not exceeding in the aggregate five months in each year after establishing residence: *Provided,* That the officer designated by the Secretary of the Interior of the local land office under rules and regulations made by the Secretary of the Interior or such officer as he may designate may, upon proper showing, upon application of the homesteader, and only for climatic conditions, which makes residence on the homestead for seven months in each year a hardship, reduce the term of residence to not more than six months in each year, over a period of four years, or to not more than five months each year over a period of five years, but the total residence required shall in no event exceed twenty-five months, not less than five of which shall be in each year; proof to be made within five years after entry; and upon the termination of such absence, in each period, the entryman shall file a notice of such termination in the local land office; but in case of commutation the fourteen months' actual residence, as now required by law, must be shown, and the person commuting be at the time a citizen of the United States. (Aug. 22, 1914, ch. 270, 38 Stat. 704; Feb. 25, 1919, ch. 21, 40 Stat. 1153; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the

Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 232. Settlers on unsurveyed land.

Any qualified person who has prior to July 3, 1916, or shall thereafter in good faith make settlement upon and improve unsurveyed unreserved unappropriated public lands of the United States with intention, upon survey, of entering same under the homestead laws shall be entitled to a leave of absence in one or two periods not exceeding in the aggregate five months in each year after establishmnet of residence: *Provided,* That he shall have plainly marked on the ground the exterior boundaries of the lands claimed and have filed in the local land office notice of the approximate location of the lands settled upon and claimed, of the period of intended absence, and that he shall upon the termination of the absence and his return to the land file notice thereof in the local land office. (July 3, 1916, ch. 214, 39 Stat. 341.)

§ 233. Persons receiving treatment for wounds.

Every person who, after discharge from the military or naval service of the United States during the war against Germany and its allies, is furnished any treatment by the Government for wounds received or disability incurred in line of duty, and who before entering upon such treatment, shall have made entry upon or application for public lands of the United States under the homestead laws, or who has settled or shall hereafter settle upon public lands, shall be entitled to a leave of absence from his land for the purpose of undergoing such treatment, and such absence, while actually engaged in such training shall be counted as constructive residence: *Provided,* That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year. (Sept. 29, 1919, ch. 64, 41 Stat. 288; Apr. 6, 1922, ch. 122, § 2, 42 Stat. 491.)

CODIFICATION

As originally enacted, this section also provided for leave of absence for purpose of undergoing vocational training by the Department of the Interior. Vocational training for veterans of World War I was discontinued after two years from June 30, 1926.

§ 234. Destruction or failure of crops, sickness, or unavoidable casualty.

Whenever it shall be made to appear to the officer designated by the Secretary of the Interior of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such officer may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided,* That the time of such actual absence shall not be deducted from the actual residence required by law: *Provided further,* That if any such settler has, prior to December 29, 1894, forfeited his or her entry for any of said reasons, such person shall be permitted to make entry of not to exceed a quarter section on any public land subject to entry under the homestead law, and to perfect title to the same under the same conditions in every respect as if he had not made the former entry. (Mar. 2, 1889, ch. 381, § 3, 25 Stat. 854; Dec. 29, 1894, ch. 14, 28 Stat. 599; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Entry after forfeiture of prior entry without fault, see section 182 of this title.

§ 235. Destruction or injury to crops by grasshoppers.

It shall be lawful for homestead and preemption settlers on the public lands, and in all cases where preemptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Secretary of the Interior or such officer as he may designate shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred. (July 1, 1879, ch. 63, § 1, 21 Stat. 48; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 236 to 237c. Omitted.

CODIFICATION

Section 236, act Dec. 20, 1917, ch. 6, 40 Stat. 430, allowed persons who filed applications for homestead entry prior to Dec. 20, 1917, a leave of absence from their land during pendency of war with Germany for purpose of performing farm labor.

Section 237, act July 24, 1919, ch. 26, 41 Stat. 271, excused entrymen from residence during drought in 1919.

Section 237a, act Mar. 2, 1932, ch. 69, 47 Stat. 59, excused entrymen from residence during drought period of 1929 to 1932.

Section 237b, act May 21, 1934, ch. 320, 48 Stat. 787, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1932, 1933 or 1934.

Section 237c, act May 22, 1935, ch. 135, 49 Stat. 286, excused entryment from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1935.

§ 237d. Cultivation requirement restricted.

Exclusive of Alaska, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to homestead entries existing August 19, 1935, and made prior to February 5, 1935, or thereafter if based upon valid settlement or application made prior to said date, and no patent shall be withheld for failure to cultivate such lands: *Provided,* That this section shall not be construed to affect any provision of law requiring the cultivation of lands subject to the reclamation laws, nor to apply to entries made under sections 506 to 508 and 509 of Title 16. (Aug. 19, 1935, ch. 560, 49 Stat. 659; Mar. 31, 1938, ch. 57, 52 Stat. 149.)

REFERENCES IN TEXT

Sections 506 to 508 and 509 of Title 16, referred to in the text, were repealed by Pub. L. 87–869, § 4, Oct. 23, 1962, 76 Stat. 1157.

§ 237e. Absence due to economic conditions in 1936.

CODIFICATION

Section, act Apr. 20, 1936, ch. 239, § 1, 49 Stat. 1235, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1936.

§ 237f. Absence during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.

Any person who holds a homestead entry on public lands which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on July 30, 1956, is granted leave of absence from the lands until March 1, 1959, and any person who holds a homestead or desert land entry which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on July 30, 1956, is granted permission to suspend until March 1, 1959, further operations looking to the cultivation and improvement of the lands: *Provided,* That such entryman shall forfeit no rights and shall not otherwise be excused from full compliance with the applicable public land laws by reason of such absence or of such suspension of cultivation and improvement operations: *And provided further,* That the rights of such entrymen shall not be protected by this section and sections 237g and 237h of this title unless they file with the land office having jurisdiction over the area in which the land is located, (a) a notice of their intention to absent themselves from the land or to suspend cultivation and improvement operations and accompanying such notice information as to location and extent of present cultivation or improvement placed on the entry, and (b) a grant to the United States, for itself and for its lessees, licensees, and permittees, of a right to enter upon and occupy the lands which have not been prepared for cultivation or which have not had improvements placed on them, without recourse, for any purpose authorized by the public land laws, except that such grant need not include a right to construct permanent improvements on the land or to permit a substantial change in its character. (July 30, 1956, ch. 778, § 1, 70 Stat. 715.)

CODIFICATION

Section is also set out as section 336a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 237h of this title.

§ 237g. Same; applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.

Any person who on March 1, 1956, had on file a homestead or desert land application which application shall be allowed on its merits subsequent to July 30, 1956, and prior to March 1, 1959, shall not be required to enter upon the lands and commence residence thereon, or cultivate and improve the lands prior to March 1, 1959: *Provided,* That said person files with the land offices having jurisdiction over the area in which the land is located, (a) within sixty days after the date of allowance of his entry, a notice of his intention to delay initiation of his residence, cultivation, or improvements, and (b) at least ninety days prior to initiation of his residence, cultivation, or improvements, a notice of his intention to initiate said activity. For the purposes of the homestead and desert land laws, March 1, 1959, may be treated as the date of the entry, if an actual entry has not been made prior to that date. If an actual entry is made prior to March 1, 1959, the date of such actual entry shall be the date of entry for the purposes of the homestead and desert land laws. Until an actual entry by a person subject to the provisions of this section has been made, or until March 1, 1959, whichever first occurs, the United States, for itself and for its lessees, permittees, and licensees, shall retain the right to enter upon and occupy the lands in each such entry, without recourse, for any purpose authorized by the public land laws: *Provided,* That the United States, its lessees, permittees, and licensees, shall not construct permanent improvements on the lands or otherwise substantially change such lands in their character. (July 30, 1956, ch. 778, § 2, 70 Stat. 716.)

CODIFICATION

Section is also set out as section 336b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237f, 237h of this title.

§ 237h. Same; lands to which applicable.

Sections 237f to 237h of this title shall apply only to applications filed for, or entries made on, public lands in the continental United States, exclusive of Alaska, pursuant to the Act of May 20, 1862, as amended and supplemented, and pursuant to Act of March 3, 1877, as amended and supplemented. Nothing in sections 237f to 237h shall apply to applications filed for, or entries made on, public lands pursuant to the Act of June 17, 1902, as amended and supplemented. (July 30, 1956, ch. 778, § 4, 70 Stat. 716.)

REFERENCES IN TEXT

Act of May 20, 1862, as amended and supplemented, referred to in the text, is classified generally to this chapter.

Act of Mar. 3, 1877, as amended and supplemented, referred to in the text, is classified generally to chapter 9 of this title.

Act of June 17, 1902, as amended and supplemented, referred to in the text, is classified generally to chapter 12 of this title.

CODIFICATION

Section is also set out as section 336d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 237f of this title.

§ 238. Residence and cultivation, etc., by disabled veterans excused.

Any bona fide settler, applicant, or entryman under the homestead laws of the United States, or any desert-land entryman whose entry is subject to the provisions of sections 372, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 476, 491, and 498 of this title, who, after settlement, application, or entry, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to the service is unable to return to the land, may make final proof, without further residence, improvement, cultivation, or reclamation, at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or settled upon, subject to the provisions of the Act or Acts under which such settlement or entry was made: *Provided,* That no such patent shall issue prior to the conformation of the entry to a single farm unit, as required by sections 435 and 443 of this title: *And provided further,* That this section shall not be construed to exempt or relieve such applicant or entryman from payment of any lawful fees, commissions, purchase moneys, water charges, or other sums due to the United States, or its successors in control of the reclamation project, in connection with such lands. (Mar. 1, 1921, ch. 102, § 1, 41 Stat. 1202; Apr. 7, 1922; ch. 125, 42 Stat. 492.)

REFERENCES IN TEXT

Section 381 of this title, referred to in the text, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section 476 of this title, referred to in the text, was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

CROSS REFERENCES

Conforming entries under reclamation projects to single farm unit, see section 435 of this title.

§ 239. Service in Army or Navy, etc., as equivalent to residence.

Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service. (R. S. § 2308.)

DERIVATION

Act June 8, 1872, ch. 338, § 4, 17 Stat. 333.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 240. Service in time of war as equivalent to residence and cultivation.

In every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or during any other war in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and after June 16, 1898, no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases thereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: *Provided,* That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further,* That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

The above provisions of this section shall be applicable in all cases of military service rendered in connection with operations in Mexico, or along the borders thereof, or in mobilization camps elsewhere, whether such service be in the military or naval organization of the United States or the National Guard of the several States now or hereafter in the service of the United States. (June 16, 1898, ch. 458, 30 Stat. 473; Aug. 29, 1916, ch. 420, 39 Stat. 671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 272a of this title.

§§ 241, 242. Repealed. Oct. 17, 1940, ch. 888, article V, § 503 (3), 54 Stat. 1187.

Sections, act July 28, 1917, ch. 44, §§ 1, 2, 40 Stat. 248, related to residence requirements of entrymen in military service during war and their widows and children. Repealing provision is set out as section 563 (3) of Title 50, Appendix, War and National Defense.

§ 243. Military service in certain Indian wars as equivalent to residence and cultivation.

In every case in which an entryman or settler upon the public lands of the United States under the homestead laws has established, or may hereafter establish, military service in accordance with the

provisions of sections 381 to 381b of Title 38, the military service of such entryman or settler so established shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; except that (1) if any such entryman or settler was discharged on account of wounds received or disability incurred in line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service; and (2) no patent shall issue to any such entryman or settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year. (Apr. 7, 1930, ch. 108, 46 Stat. 144.)

REFERENCES IN TEXT

Sections 381—381b of Title 38, referred to in the text, were repealed by Pub. L. 85-56, title XXII, § 2202 (114), (144), (216), June 17, 1957, 71 Stat. 167, eff. Jan. 1, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 243a of this title.

§ 243a. Same; extension of credits to widows; patents to minor children on death of mother.

The provisions and limitations of section 243 of this title are extended to the widow of any person who would be entitled to make homestead entry or settlement and receive credit in connection therewith for military service under the provisions of said section, if such widow is unmarried and otherwise qualified to make entry of public lands under the provisions of the homestead laws of the United States and has heretofore made or shall hereafter make such entry: *Provided,* That in the event of the death of any such widow prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law. (Mar. 3, 1933, ch. 198, 47 Stat. 1424.)

FINAL PROOF GENERALLY

§ 251. Notice of intention to make final proof.

Before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for preemption or homestead entries, such person shall file with the officer designated by the Secretary of the Interior of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice, the officer shall publish a notice, that such application has been made once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days, the claimant shall be entitled to make proof in the manner provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions. (Mar. 3, 1879, ch. 192, 20 Stat. 472; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 252 of this title.

§ 252. Time of taking testimony for final proof in case of unavoidable delay.

Section 251 of this title shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made, in cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified. (Mar. 2, 1889, ch. 381, § 7, 25 Stat. 855.)

§ 253. Notice of contest; publication.

The notices of contest now provided by law under the homestead, preemption and tree-culture laws of the United States shall be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land. (June 3, 1878, ch. 152, 20 Stat. 91.)

REPEALS

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

§ 254. Officers before whom affidavits or proofs may be made; perjury; fees.

All proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the Homestead, Preemption, Timber Culture, Desert Land, and Timber and Stone Acts, may in addition to those now authorized to take such affidavits, proofs, and oaths be made before any United States commissioner or commissioner of the court exercising Federal jurisdiction in the Territory or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: *Provided,* That in cases where because of geographic or topographic conditions there is a qualified officer nearer or more accessible to the land involved, but outside the county and land district, affidavits, proofs, and oaths may be taken before such officer: *Provided further,* That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken outside of the county or land district in which the land is located, the applicant must show by affidavit, satisfactory to the Secretary of the Interior, or such officer as he may

designate, that it was taken before the nearest or most accessible officer qualified to take such affidavits, proofs, and oaths; but such showing by affidavits need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the officer designated by the Secretary of the Interior when transmitted to him with the fees and commissions allowed and required by law. If any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths, he shall be deemed guilty of perjury and shall be liable to the same pains and penalties as if he had sworn falsely before the officer designated by the Secretary of the Interior. The fees for entries and for final proofs when made before any other officer than the Secretary of the Interior shall be as follows:

For each affidavit, 25 cents.

For each deposition of claimant or witness, when not prepared by the officer, 25 cents.

For each deposition of claimant or witness prepared by the officer, $1.

Any officer demanding or receiving a greater sum for such service shall be guilty of misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding $100. (R. S. § 2294; May 26, 1890, ch. 355, 26 Stat. 121; Mar. 3, 1893, ch. 208, 27 Stat. 593; Mar. 11, 1902, ch. 182, 32 Stat. 63; Mar. 4, 1904, ch. 394, 33 Stat. 59; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Feb. 23, 1923, ch. 105, 42 Stat. 1281; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Mar. 21, 1864, ch. 38, § 3, 13 Stat. 35; June 22, 1874, ch. 394, 18 Stat. 192.

REFERENCES IN TEXT

Distribution of the Homestead, Preemption, Timber Culture, Desert Land, and Timber and Stone Acts, to which reference is made in section, see Popular Name Tables.

REPEALS

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 255. Persons in military or naval service; affidavits taken by commanding officer.

In case of any person desirous of availing himself of the benefits of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which sections 161, 162, 164, 171, and 174 of this title require, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the officer designated by the Secretary of the Interior; and upon such affidavit being filed with the officer designated by the Secretary of the Interior by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law. (R. S. § 2293; Oct. 6, 1917, ch. 86, 40 Stat. 391; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 21, 1864, ch. 38, § 4, 13 Stat. 35.

CODIFICATION

Section formerly contained a provision, added by act October 6, 1917, that during the continuance of the World War soldiers might make affidavits relating to land claims before their commanding officers.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 271 of this title.

§ 256. Election as to law under which to make final proof.

Any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to homestead entry) prior to June 6, 1912, may perfect his proof for such lands under the provisions of sections 164 and 169 of this title, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary. (Mar. 4, 1913, ch. 149, § 1, 37 Stat. 925.)

§ 256a. Extension of time for offering final proof; rules and regulations.

The Secretary of the Interior is authorized to extend for not exceeding two years the period during which annual or final proof may be offered by any person who has a pending homestead or desert-land entry upon public lands of the United States on which on May 13, 1932, or on any date on or prior to December 31, 1936, under existing law, annual or final proof is required, showing residence, cultivation, improvements, expenditures, or payment of purchase money as the case may be: *Provided,* That any such entryman shall be required to show that it is a hardship upon himself to meet the requirements incidental to annual or final proof upon the date required by existing law due to adverse weather or economic conditions: *And provided further,* That this section shall apply only to cases where adequate relief is not available under existing law.

The Secretary of the Interior is authorized to make such rules and regulations as are necessary to carry out the purposes of this section. (May 13, 1932, ch. 178, §§ 1, 2, 47 Stat. 153; June 16, 1933, ch. 99, 48 Stat. 274; July 26, 1935, ch. 419, 49 Stat. 504; June 16, 1937, ch. 361, 50 Stat. 303.)

§ 256b. Final proof by disabled World War veterans.

Any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon. (Aug. 27, 1935, ch. 770, 49 Stat. 909.)

PAYMENTS AND REFUNDS

§ 261. Time for payments; extension of time for payment.

Whenever it shall appear by the filing of such evidence in the office of any officer designated by the Secretary of the Interior as shall be prescribed by the Secretary of the Interior that any settler on the public lands, by reason of a failure of crops for which he is in nowise responsible, is unable to make the payment on his homestead or preemption claim required by law, the Secretary of the Interior or such officer as he may designate, is authorized to extend the time for such payment for not exceeding one year from the date when the same becomes due. (Sept. 30, 1890, No. 59, 26 Stat. 684; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 262. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, act Mar. 2, 1907, ch. 2568, 34 Stat. 1248, provided for refund of excess payments. See section 1374 of this title.

§ 263. Cancellation of entries; repayment.

In all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under section 274 of this title, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Secretary of the Interior, or such officer as he may designate, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns.

The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

The Secretary of the Interior or such officer as he may designate shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this section into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.

No proof of loyalty shall be required in the cases mentioned in this section. (June 16, 1880, ch. 244, §§ 1—4, 21 Stat. 287; Apr. 18, 1904, No. 25, 33 Stat. 589; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Repayment of excess money paid, see section 1374 of this title.

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

ALASKA HOMESTEADS

§ 270. Homestead laws extended to Alaska; locations on navigable waters; entries on unsurveyed lands.

All the provisions of the homestead laws of the United States not in conflict with the provisions of this section, and all rights incident thereto, are extended to the Territory of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu land selections pertaining to any land grant outside of Alaska shall be made, and no land scrip or land warrant of any kind whatsoever shall be located within or exercised upon any lands in said Territory except as provided by law; and provided further that no more than one hundred and sixty acres shall be entered in any single body by such scrip, lieu selection, or soldier's additional homestead right; and provided further that no commutation privileges shall be allowed in excess of one hundred and sixty acres included in any homestead entry under the provisions hereof: *Provided,* That no entry shall be allowed extending more than one hundred and sixty rods along the shore of any navigable water, and that nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within Alaska; and no patent shall issue hereunder until all the requirements of sections 164, 171, and 272 of this title have been fully complied with as to residence, improvements, cultivation, and proof except as to commuted lands as herein provided. If any of the land so settled upon, or to be settled upon, is unsurveyed, then the land settled upon, or to be settled upon, must be located in a rectangular form, not more than one mile in length, and located by north and south lines run according to the true meridian; the location so made shall be marked upon the ground by permanent monuments at each of the four corners of the said location, so that the boundaries of the same may be readily and easily traced; that within ninety days from the date of settlement on surveyed or unsurveyed lands a notice shall be filed by or on behalf of the settler for record in the United States land office for the district in which the land is situated. Said notice shall contain the name of the settler and the date of the settlement, and such a description of the land settled upon, if surveyed, by legal subdivisions, section, township, and range, or, if unsurveyed, by reference to some natural object or permanent monument and by a statement if desired, of the approximate latitude and longitude determined from a map of Alaska, as will identify the land; and, if after the expiration of the period of three years, or at such date as the settlor may desire to commute, the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the manager of the proper land office that the settler is a citizen of the United States, and upon the further proof required by section 164 of this title, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section 270–4 of this title, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided without the payment of any purchase price or other charges, except the ordinary office fees and commissions, and except one dollar and twenty-five cents per acre on the land commuted: *And provided always,* That no title shall be obtained hereunder to any of the mineral or coal lands of Alaska. The right of any homestead settler to transfer any portion of the land so settled upon, as provided by section 174 of this title, shall be restricted and limited within the Territory of Alaska as follows: For church, cemetery, or school purposes to five acres, and for the right of railroads across such homestead to one hundred feet in width on either side of the center line of said railroad; and all contracts by the settlor made before his receipt of patent from the Government, for the conveyance of the land homesteaded by him or her, except as herein provided, shall be held null and void. (May 14, 1898, ch. 299, § 1, 30 Stat. 409; Mar. 3, 1903, ch. 1002, 32 Stat. 1028; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Apr. 29, 1950, ch. 137, § 1, 64 Stat. 94; Aug. 3, 1955, ch. 496, § 1, 69 Stat. 444.)

REFERENCES IN TEXT

Homestead laws, referred to in the text, are classified to this chapter.

AMENDMENTS

1955—Act Aug. 3, 1955, eliminated provisions which prohibited location of scrip, selection or right along shore waters within 80 rods of any lands, and which reserved from entry a space of 80 rods along the shore.

1950—Act Apr. 29, 1950, extended provisions to cover unsurveyed lands as well as surveyed lands, and required recordation in the district land office for the land district in which the land is located.

CHANGE OF NAME

Acts Oct. 28, 1921, and Mar. 3, 1925, consolidated the offices of register and receiver and provided for a single officer to be known as register.

SAVINGS CLAUSE

Protection of interests of permitted users of reserved lands, see section 5 of act Aug. 3, 1955, set out as a note under section 687a–2 of this title.

TRANSFER OF FUNCTIONS

Functions of registers were transferred to that officer as the Secretary of the Interior may designate by 1946 Reorg. Plan No. 3, and regulations thereunder. See note under former section 1 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 5, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

RESTORATION OF LANDS FROM RESERVATION

Lands restored from reservation as subject to the public lands law of Alaska, see section 4 of act Aug. 3, 1955, set out as a note under section 687a-2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-6, 270-8, 270-15, 270-16, 687a-1, 687b-3 of this title.

§ 270-1. Allotments to native Indians, Aleuts, or Eskimos; conveyance of allotted land.

The Secretary of the Interior is authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of vacant, unappropriated, and unreserved nonmineral land in Alaska, or, subject to the provisions of sections 270-11 and 270-12 of this title, vacant, unappropriated, and unreserved land in Alaska that may be valuable for coal, oil, or gas deposits, to any Indian, Aleut, or Eskimo of full or mixed blood who resides in and is a native of Alaska, and who is the head of a family, or is twenty-one years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress: *Provided,* That any Indian, Aleut, or Eskimo, who receives an allotment under this section, or his heirs, is authorized to convey by deed, with the approval of the Secretary of the Interior, the title to the land so allotted, and such conveyance shall vest in the purchaser a complete title to the land which shall be subject to restrictions against alienation and taxation only if the purchaser is an Indian, Aleut, or Eskimo native of Alaska who the Secretary determines is unable to manage the land without the protection of the United States and the conveyance provides for a continuance of such restrictions. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding one hundred and sixty acres. (May 17, 1906, ch. 2469, 34 Stat. 197; Aug. 2, 1956, ch. 891, § 1(a)—(d), 70 Stat. 954.)

AMENDMENTS

1956—Act Aug. 2, 1956, included Aleuts, restricted allotment of nonmineral land to vacant, unappropriated, and unreserved nonmineral land, permitted allotment of vacant, unappropriated, and unreserved land that may be valuable for coal, oil, or gas deposits, and authorized conveyance of allotted land.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-2, 270-3, 687a of this title.

§ 270-2. Same; allotments in national forests.

Allotments in national forests may be made under sections 270-1 to 270-3 of this title if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes. (May 17, 1906, ch. 2469, § 2, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-2, 270-3 of this title.

§ 270-3. Same; proof of continuous use and occupancy of land.

No allotment shall be made to any person under sections 270-1 to 270-3 of this title until said person has made proof satisfactory to the Secretary of the Interior of substantially continuous use and occupancy of the land for a period of five years. (May 17, 1906, ch. 2469, § 3 as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-2 of this title.

§ 270-4. Affidavits; filing, publishing, and posting proofs of claims.

All affidavits, testimony, proofs, and other papers provided for by the provisions of this Act and the Act of March 3, 1891, concerning public lands, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from such officer as the Secretary of the Interior may designate, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before such officer as the Secretary of the Interior may designate. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the public survey office at Juneau, and if such survey and plat shall be approved by the Secretary of the Interior or such officer as he may designate, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, such officer as the Secretary of the Interior may designate of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimaint

shall, within sixty days after the filing of such adverse claim, begin action to quite title in a court of competent jurisdiction within Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court. (May 14, 1898, ch. 299, § 10, 30 Stat. 413; Oct. 28, 1921, ch. 114 § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section is comprised of the last paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 687a to 687a-5 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Supervisor of Surveys and Registers were transferred to the Secretary of the Interior of that officer as he may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Act Mar. 3, 1925, abolished the office of surveyor general and transferred the administration of all activities of surveyors general to the Field Surveying Service under the jurisdiction of the United States Supervisor of Surveys subject to regulations of the Secretary of the Interior.

Act Oct. 28, 1921, authorized the President to consolidate the offices of register and receiver in any district land office and to abolish the office of receiver.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 270-5. Filing of notice of location; time limit.

Any person who on April 29, 1950 is maintaining a settlement claim on surveyed or unsurveyed public land in Alaska shall file notice of the location of his settlement claim in the United States land office for the district in which the land is situated, (a) within ninety days from April 29, 1950, if notice of the location has not heretofore been filed in the recording district in which the land is situated, or (b) within two years from April 29, 1950, if notice of the location has heretofore been filed in such recording district. (Apr. 29, 1950, ch. 137, § 2, 64 Stat. 95.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-6 of this title.

§ 270-6. Same; effect of failure to file.

Unless notice of a settlement claim is filed in the proper district land office within the time prescribed by sections 270 and 270-5 of this title, the claimant, in making homestead proof or submitting a showing of residence, cultivation and improvements as a basis for a free survey, shall not be given credit for such residence and cultivation as may have taken place prior to the filing of (a) a notice of the claim in the proper district land office, (b) a petition for survey, or (c) an application for homestead entry, whichever is the earlier. (Apr. 29, 1950, ch. 137, § 3, 64 Stat. 95.)

§ 270-7. Final or commutation homestead proof on unsurveyed land as basis for free survey; time limit.

A homestead settler on unsurveyed public lands shall make final or commutation homestead proof within five years from the date of the filing of notice of the settlement claim in the district land office, as a basis for a free survey under section 270-10 of this title in accordance with regulations of the Secretary of the Interior. (Apr. 29, 1950, ch. 137, § 4, 64 Stat. 95; July 11, 1956, ch. 571, § 2, 70 Stat. 529.)

AMENDMENTS

1956—Act July 11, 1956, substituted "final or commutation homestead proof" for "proof of residence, cultivation, and improvements", and eliminated "and thereafter shall submit final or commutation proof" preceding "in accordance with regulations of the Secretary of the Interior."

§ 270-8. Amount of homestead entries.

Every person who was qualified under laws existing July 8, 1916, to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations of section 270 of this title, be entitled to enter one hundred and sixty acres or a less quantity of unappropriated public land in Alaska, and no more: *Provided,* That nothing herein contained shall be construed to limit or curtail the area of any homestead claim unlawfully initiated prior to July 8, 1916. (July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632.)

REFERENCES IN TEXT

Homestead laws, referred to in the text, are classified to this chapter.

CODIFICATION

Section is comprised of the first part and the proviso of section 1 of act July 8, 1916. The clause preceding the proviso of section 1 of act July 8, 1916, is classified to section 270-9 of this title.

AMENDMENTS

1918—Act June 28, 1918, re-enacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-14 of this title.

§ 270-9. Effect of entry in another State or Territory.

A former homestead entry in any other State or Territory shall not be a bar to a homestead entry in Alaska. (July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632.)

CODIFICATION

Section is comprised of the clause preceding the proviso of section 1 of act July 8, 1916. The remainder of section 1 of act July 8, 1916, is classified to section 270-8 of this title.

AMENDMENTS

1918—Act June 28, 1918, re-enacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-14 of this title.

§ 270-10. Entry on unsurveyed lands; final proof.

The entryman may, after due compliance with the terms of the homestead laws, file his final homestead

proof in accordance with applicable regulations of the Secretary of the Interior regardless of whether or not the system of public surveys has been extended over the land included in a homestead entry. The Secretary of the Interior shall, within one year after the filing of such proof, issue proper instructions for the survey of the land so entered, without expense to the entryman, and if the entryman has complied with the requirements of the homestead law and applicable regulations a patent based on such survey shall be issued. Nothing in this section however, shall prevent the homesteader from securing earlier action on his entry and proof by a special survey at his own expense, if he so elects. (July 8, 1916, ch. 228, § 2, as added June 28, 1918, ch. 110, 40 Stat. 633, and amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; July 11, 1956, ch. 571, § 1, 70 Stat. 528.)

REFERENCES IN TEXT

Homestead laws, referred to in the text are classified to this chapter.

AMENDMENTS

1956—Act July 11, 1956, eliminated provisions requiring a preliminary showing of proof that residence, cultivation, and improvement requirements have been met by the settler.

CHANGE OF NAME

Acts Oct. 28, 1921, and Mar. 3, 1925, consolidated the offices of register and receiver and provided for a single officer to be known as register.

TRANSFER OF FUNCTIONS

Officers of United States Supervisor of Surveys and Registers were abolished and their functions transferred to the Bureau of Land Management by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

Functions of "register" and "Supervisor of Surveys" were transferred to "such officer as the Secretary of the Interior may designate" and "Secretary of the Interior or such officer as he may designate," respectively, on authority of 1946 Reorg. Plan No. 3, and regulations thereunder. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-7, 270-14, 687a of this title.

§ 270-11. Entry on land containing coal, oil, or gas.

Claims under section 687a of this title, and homestead claims may be initiated by actual settlers on public lands of the United States in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which are not otherwise reserved or withdrawn, whenever such claim shall be initiated with a view of obtaining or passing title with a reservation to the United States of the coal, oil, or gas in such lands, and of the right to prospect for, mine, and remove the same; and any claimant who has initiated such a claim in good faith on lands containing workable deposits of coal, oil or gas, or that may be valuable for the coal, oil, or gas contained therein, may perfect the same under the provisions of the laws under which the claim was initiated, but shall receive the limited patent provided for in section 270-12 of this title: *Provided, however,* That should it be discovered at any time prior to the issuance of a final certificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the patent issued on such entry shall contain the reservation required by said section. (Mar. 8, 1922, ch. 96, § 1, 42 Stat. 415; Aug. 23, 1958, Pub. L. 85-725, § 1, 72 Stat. 730.)

AMENDMENTS

1958—Pub. L. 85-725 provided for settlement and entry of public lands in Alaska containing coal, oil, or gas under section 687a of this title and substituted "claimant who has initiated such a claim" for "settler who has initiated a homestead claim".

CREDITS; DIVESTMENT OF VESTED RIGHTS

Section 4 of Pub. L. 85-725 provided that: "Any person who heretofore settled or entered on lands made subject to the provision of the Act of March 8, 1922 [this section and section 270-12 of this title], under the terms of this Act [amending this section and sections 270-12 and 687a of this title] shall be entitled to credit toward the requirements of the Act under which settlement or entry was made to the full extent that he complied with such requirements prior to the enactment of this Act [Aug. 23, 1958]: *Provided, however,* That this section shall not be construed to divest or impair any right which has heretofore vested in any person, firm, or corporation pursuant to lease, contract or any other provision of law."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-12 of this title.

§ 270-12. Patent for land entered under section 270-11; reservations.

Upon satisfactory proof of full compliance with the provisions of the laws under which the entry is made and of section 270-11 of this title the entryman shall be entitled to a patent to the lands entered by him, which patent shall contain a reservation to the United States of all the coal, oil, or gas in the land so patented, together with the right to prospect for, mine, and remove the same. The coal, oil, or gas deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine and remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands entered or patented, as provided by the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove the oil or gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided,* That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time

prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this section or section 270–11 of this title shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase. (Mar. 8, 1922, ch. 96, § 2, 42 Stat. 416; Aug. 23, 1958, Pub. L. 85–725, § 2, 72 Stat. 730.)

AMENDMENTS

1958—Pub. L. 85–725 deleted last proviso "*And provided further,* That nothing herein contained shall be held or construed to authorize the entry or disposition, under section 274 of this title, or under Acts amendatory thereof or supplemental thereto, of withdrawn or classified coal, oil, or gas lands or of lands valuable for coal, oil, or gas."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–11, 270–13 of this title.

§ 270–13. Sale or disposition of lands containing coal, oil, or gas deposits.

The Secretary of the Interior may (a) sell under the provisions of section 1171 of this title, or (b) make disposition under the following townsite laws, as amended: Sections 711 and 712 of this title; section 732 of this title; sections 733 to 736 of this title; and sections 975 to 975g of this title, of any lands in Alaska known to contain workable coal, oil or gas deposits, or that may be valuable for the coal, oil or gas contained therein, and which are otherwise subject to sale or disposition under said section 1171 of this title, or the said townsite laws, as amended, upon the condition that the patent issued to the purchaser thereof shall contain the reservation required by section 270–12 of this title. (Mar. 8, 1922, ch. 96, § 3, as added Aug. 17, 1961, Pub. L. 87–147, 75 Stat. 384, and amended Oct. 3, 1962, Pub. L. 87–742, 76 Stat. 740.)

AMENDMENTS

1962—Pub. L. 87–742 empowered the Secretary to dispose of lands under sections 711 and 712; section 732; sections 733 to 737; and sections 975 to 975g of this title.

§ 270–14. Lands excepted from entry.

There shall be excepted from homestead settlement and entry under the provisions of sections 270–8 to 270–10 of this title, the lands in Annette and Pribilof Islands, the islands leased or occupied for the propagation of foxes, and such other lands as have been, or may be, reserved or withdrawn from settlement or entry. (July 8, 1916, ch. 228, § 3, formerly § 2, 39 Stat. 352, renumbered June 28, 1918, ch. 110, 40 Stat. 633.)

§ 270–15. Claims; rectangular system of surveys; departure on account of local or topographic conditions.

The provisions of section 270 of this title, in so far as they require that the lands so settled upon, or to be settled upon, if unsurveyed, must be located in rectangular form by north and south lines running according to the true meridian, and marked upon the ground by permanent monuments at each of the four corners shall not apply where, by reason of the local or topographic conditions, it is not feasible or economical to include in a rectangular form with cardinal boundaries the lands desired; but all such claims must be compact and approximately rectangular in form, and marked upon the ground by permanent monuments at each corner, and the entryman or claimant shall conform his boundaries thereto. In all other respects the claims will be in conformity with the provisions of section 270 of this title. (Apr. 13, 1926, ch. 121, § 1, 44 Stat. 243; Apr. 29, 1950, ch. 134, § 3, 64 Stat. 93.)

AMENDMENTS

1950—Act Apr. 29, 1950, deleted, after "each of the four corners", and preceding ", shall not apply", the words "; and the provisions of section 270–10 of this title, in so far as they require that surveys executed thereunder without expense to the claimant, must follow the general system of the public land surveys".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–17, 687a of this title.

§ 270–16. Soldier's additional entry; trade or manufacturing site; application for official survey; deposit.

If the rectangular system of the public lands surveys has not been extended over the lands included in a soldier's additional homestead entry, authorized by section 270 of this title, or a trade and manufacturing site authorized by section 687a of this title, the entryman or claimant may, upon the approval of such officer as the Secretary of the Interior may designate make application to the public survey office for an official survey of his claim, accompanied by a deposit of the estimated cost of the field and office work incident to the execution of such survey. Upon receipt of the application and its accompanying deposit the public survey office will immediately issue appropriate instructions for the survey of the lands involved, to be executed by the surveying service of the Bureau of Land Management not later than the next surveying season under the direction of the Secretary of the Interior or such officer as he may designate, unless by reason of the inaccessibility of the locality or other conditions the Secretary of the Interior or such officer as he may designate decides that it will result to the advantage of the Government or claimants to have the survey executed by a United States deputy surveyor, in which event the laws and regulations on April 13, 1926, governing the execution of the surveys by United States deputy surveyors will be observed. (Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Apr. 13, 1926, ch. 121, § 2, 44 Stat. 244; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CHANGE OF NAME

Acts Oct. 28, 1921, and Mar. 3, 1925, consolidated the offices of register and receiver and provided for a single officer to be known as register.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office," "such officer as the Secretary of the Interior may designate" for "register" and "Secretary

of the Interior or such officer as he may designate" for "supervisor of surveys". 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–17, 270–18 of this title.

§ 270–17. Same; disposition of deposit; rules.

The sum so deposited shall be held by the public survey office, and may be expended by it in payment of the cost of such survey, including field and office work; and any excess over the cost of the survey shall be repaid to the depositor or his legal representative. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry sections 270–15 to 270–17 of this title into full force and effect. (Apr. 13, 1926, ch. 121, § 3, 44 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270–18 of this title.

SOLDIERS' AND SAILORS' HOMESTEAD

§ 271. Soldiers and sailors entitled to make entry generally.

Every private soldier and officer who served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February 13, 1862, and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, and every private soldier and officer who served in the Army of the United States during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged; and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged, shall, on compliance with the provisions of sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement. (R. S. § 2304; Mar. 1, 1901, ch. 674, 31 Stat. 847.)

DERIVATION

Act June 8, 1872, ch. 338, § 1, 17 Stat. 333.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 272a, 274, 277, 278, 1091, 1092 of this title.

§ 272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans.

The time which the homestead settler has served in the Army, Navy, or Marine Corps of the United States shall be deducted from the time otherwise required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, or if regularly discharged from service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time so required to perfect title without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements: *Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue. (R. S. § 2305; Mar. 1, 1901, ch. 674, 31 Stat. 847; Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

DERIVATION

Act June 8, 1872, ch. 338, § 1, 17 Stat. 333.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 270, 271, 272a, 273, 278, 1091, 1092 of this title.

§ 272a. Application of sections 271 and 272 to military and naval service in Mexican border operations or in World War I.

Subject to the conditions therein expressed, as to length of service and honorable discharge, the provisions of sections 271 and 272 of this title shall be applicable in all cases of military and naval service rendered in connection with the Mexican border operations as defined by the second paragraph of section 240 of this title, or during the war with Germany and its allies as defined by sections 241 and

242 of this title. The provisions of the first sentence of this section shall be extended to apply to those citizens of the United States who served with the allied armies during the World War, and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies was similar to the service with the Army of the United States for which recognition is granted in said sentence. (Feb. 25, 1919, ch. 37, 40 Stat. 1161; Dec. 28, 1922, ch. 19, 42 Stat. 1067.)

REFERENCES IN TEXT

Sections 241 and 242 of this title, referred to in text, were repealed by act Oct. 17, 1940, ch. 888, art. V, § 503(3), 54 Stat. 1187.

CROSS REFERENCES

Preferred right of entry granted to citizens of United States who rendered similar service with allied armies during World War I and were honorably discharged, see section 186 of this title.

§ 273. Veterans receiving compensation for wounds or disability.

The provisions of section 272 of this title, so far as applicable to those discharged from the military or naval service because of wounds received or disability incurred therein, are extended to those regularly discharged from such service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty. (Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

§ 274. Additional entry by veteran.

Every person entitled, under the provisions of section 271 of this title to enter a homestead who may have, prior to June 22, 1874, entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres. (R. S. § 2306.)

DERIVATION

Act June 8, 1872, ch. 338, § 2, 17 Stat. 333.

SATISFACTION OF CLAIMS ARISING OUT OF SCRIP, LIEU SELECTION, AND SIMILAR RIGHTS

Pub. L. 88-545, Aug. 31, 1964, 78 Stat. 751, provided: "That, except for military bounty land warrants, all claims and holdings recorded under the Act of August 5, 1955 (69 Stat. 534, 535) [set out as a note under this section], which are not satisfied in one of the ways hereafter set forth, shall become null and void on the later of the two following dates: (a) January 1, 1970, or, in the case of soldiers' additional homestead claims, January 1, 1975; (b) at the termination of any transaction initiated pursuant to this Act.

"SEC. 2. Prior to July 1, 1966, holders of claims recorded under the Act of August 5, 1955, may apply to the Secretary of the Interior to have conveyed to them, in satisfaction of their claims, such lands as they may, in their applications, designate. The Secretary shall thereafter convey the selected lands if he finds them to be proper, under existing law, for such disposition, and if the claim upon which an application is based is determined to be valid. As used in this Act, the terms 'lands' and 'land' include any rights or interests therein.

"SEC. 3. (a) Prior to January 1, 1967, the Secretary shall classify, for conveyance and exchange for each type of claim recorded under the Act of August 5, 1955, public lands in sufficient quantity so as to provide each holder of such a claim with a reasonable choice of public lands against which to satisfy his claim. The public lands so classified shall be of a value of not less than the average fair market value, determined by the Secretary as of the date patent issued, of those public lands actually conveyed in exchange for each type of claim since August 5, 1955.

"(b) Holders of recorded claims may apply for reasonably compact areas of land so classified, and, upon his determination that the claim upon which an application is based is valid, the Secretary shall convey such lands to the applicant.

"SEC. 4. Prior to January 1, 1968, the Secretary shall, by registered mail or certified mail sent to the address of record of each person having an unsatisfied claim, offer in satisfaction of such claim lands of a value of not less than the average fair market value of those public lands actually conveyed in exchange for each type of claim since August 5, 1955. Fair market value shall be determined in the manner prescribed in section 3 of this Act. Upon acceptance of the offer, the Secretary shall convey the lands to the claimant, if he determines that the claim is valid.

"SEC. 5. In respect of any type of claim recorded under the Act of August 5, 1955, not more than three conveyances of public lands in exchange for which have taken place since that date, the Secretary shall determine the type of claim which it most nearly resembles, and at least four conveyances in exchange for which has taken place since August 5, 1955, and shall, for the purposes of this Act, treat it in all respects as if it were such type of claim.

"SEC. 6. Prior to January 1, 1970, or, in the case of soldiers' additional homestead claims, January 1, 1975, any person who has a claim recorded pursuant to the Act of August 5, 1955, by written notice to the Secretary of the Interior, or any officer of the Department of the Interior to whom authority to receive such notice may be delegated, may elect to receive cash instead of public land in satisfaction of his claim, at a rate per acre equal to the average value of the lands offered by the Secretary under section 4 of this Act. Upon a determination that the claim is valid, the Secretary or his delegate shall certify the claim to the Secretary of the Treasury who is authorized and directed to pay the claim out of any money in the Treasury not otherwise appropriated. Acceptance of the money shall constitute a full and complete satisfaction of the claim or holding for which the money is paid: *Provided*, That no agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void."

RECORDATION OF SCRIP, LIEU SELECTION, AND SIMILAR RIGHTS

Act Aug. 5, 1955, ch. 573, 69 Stat. 534, provided that: "[Sec. 1. Rights to be recorded; time]. Any owner of, and any person claiming rights to, Valentine scrip, issued under the Act of April 5, 1872 (17 Stat. 649); Sioux Half-Breed scrip, issued under the Act of July 17, 1854 (10 Stat. 304); Supreme Court scrip, issued under the Acts of June 22, 1860 (12 Stat. 85), March 2, 1867 (14 Stat. 544), and June 10, 1872 (17 Stat. 378); Surveyor-General scrip, issued under the Act of June 2, 1858 (11 Stat. 294); a soldier's additional homestead right, granted by sections 2306 and 2307 of the Revised Statutes [this section and section 278 of this title]; a forest lieu selection right, assertable under the Act of March 3, 1905 (33 Stat. 1264); a lieu selection right conferred by the Act of July 1, 1898 (30 Stat. 597); a bounty land warrant issued under the Act of March 3, 1855 (10 Stat. 701); or any lieu selection or scrip right or bounty land warrant, or right in the nature of scrip issued under any Act of Congress not enumerated herein (except the indemnity selection rights of any State, or the Territory of Alaska), shall, within two years from the effective date of this Act [Aug. 5, 1955], present his holdings or claim for recordation by the Department of the Interior.

"[Sec. 2. Transferred rights, time to record]. In the case of a transfer after the effective date of this Act [Aug. 5, 1955], by assignment, inheritance, operation of law, or otherwise of a holding or claim of any right recorded under this Act, the holding or claim of right so transferred shall be presented to the Department of the Interior within six months after such transfer, for recordation by it; except that where such transfer occurs within the

period of two years from the effective date of this Act [Aug. 5, 1955], and the prior owner has not complied with provisions of this Act, the owner or claimant by transfer shall have the remainder of such period or a period of six months, whichever is the longer, within which to present his claims or holdings for recordation.

"[Sec. 3. Endorsement of recordation]. There shall be endorsed on the evidence of the right or warrant each recordation thereof.

"[Sec. 4. Failure to present for recordation]. Claims or holdings not presented for recordation, as prescribed herein, shall not thereafter be accepted by the Secretary of the Interior for recordation or as a basis for the acquisition of lands.

"[Sec. 5. Publication of recordation requirements]. Within thirty days after the effective date of this Act [Aug. 5, 1955], the Secretary of the Interior shall cause to be published in the Federal Register a notice setting forth the recordation requirements of this Act. Within one year after the effective date of this Act [Aug. 5, 1955] the Secretary shall also cause notices of the recordation requirements of this Act to be published in such newspapers, posted in such public offices, and given publicity by such other means as he deems feasible and appropriate for the dissemination of information concerning the recordation requirements of this Act to persons who may have holdings or claims that are subject to such requirements.

"[Sec. 6. Rules and regulations]. The Secretary of the Interior is authorized to make rules and regulations to carry out the provisions of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 214, 215, 218, 219, 255, 263, 271, 276 of this title.

§ 275. Additional entries invalid; commutation.

Where soldier's additional homestead entries have been made or initiated upon certificate of the Secretary of the Interior or such officer as he may designate of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate. (Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 276. Additional homestead certificates; sale.

All soldiers' additional homestead certificates issued prior to August 18, 1894, under the rules and regulations of the General Land Office under section 274 of this title, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March 10, 1877, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been, prior to August 18, 1894, or may thereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries prior to August 18, 1894, or thereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees. (Aug. 18, 1894, ch. 301, § 1, 28 Stat. 397.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Office of Commissioner of the General Land Office abolished and functions transferred to Secretary of the Interior by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, see note under former section 1 of this title.

§ 277. Entry by agent.

Every soldier, sailor, marine, officer, or other person coming within the provisions of section 271 of this title, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in preemption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law. (R. S. § 2309.)

DERIVATION

Act June 8, 1872, ch. 338, § 5, 17 Stat. 334.

REFERENCES IN TEXT

The reference in the text to section 271 was originally to R. S. § 2304 which is set out, as amended, as section 271. As originally enacted, however, it related only to persons in the Civil War.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 271 of this title.

§ 278. Right of widow of veteran to make entry; rights of children on her death.

In the case of the death of any person who would be entitled to a homestead under the provisions of sections 271 and 272 of this title, his widow, if unmarried and otherwise qualified, may make entry of public lands under the provisions of the homestead laws of the United States and shall be entitled to all the benefits enumerated in said sections subject to the provisions and requirements as to settlement, residence, and improvement therein contained: *Provided*, That in the event of the death of such homestead entrywoman prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law. (R. S. § 2307; Feb. 25, 1919, ch. 37, 40 Stat. 1161; Sept. 21, 1922, ch. 357, 42 Stat. 990.)

DERIVATION

Act June 8, 1872, ch. 338, § 3, 17 Stat. 333.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 184, 191, 201, 211, 255, 278 of this title.

§ 279. Preference right of entry of World War II and Korean conflict veterans.

Any person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged from the military or naval forces and who makes homestead entry subsequent to such discharge shall have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Credit shall be allowed for two years' service to any person who has served in the military or naval forces of the United States during the above period (1) if such person is discharged on account of wounds received or disability incurred during the above period in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability. When the homestead entry is made by a husband or wife whose spouse is entitled to any service credit under this section, such credit shall, with the consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled under this section. No patent shall issue to any such person who has not resided upon his homestead and otherwise complied with the provisions of the homestead laws for a period of at least one year: *Provided,* That such compliance shall include bona fide cultivation of at least one-eighth of the area entered under the homestead laws: *Provided further,* That no person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged shall be disqualified from making homestead entry or from any other benefits of sections 279 to 284 of this title merely by reason of not having reached the age of twenty-one years. (Sept. 27, 1944, ch. 421, § 1, 58 Stat. 747; June 25, 1946, ch. 474, 60 Stat. 308; May 31, 1947, ch. 88, § 1, 61 Stat. 123; June 18, 1954, ch. 306, § 1 (a), (b), 68 Stat. 253.)

AMENDMENTS

1954—Act June 18, 1954, extended application to veterans of the Korean conflict and provided that compliance with the homestead laws for one year shall include bona fide cultivation of at least one-eighth of the area entered into under such laws.

1947—Act May 31, 1947, made preference right run for 90 days following termination of the present war, and provided that where either a husband or wife is entitled to these benefits the period of service of either or both may be considered as the period of service of the spouse making the homestead entry.

1946—Act June 25, 1946, added a proviso which did away with any age qualifications.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CROSS REFERENCES

Preference right of World War I veterans, see section 186 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280, 281, 282, 283, 284 of this title.

§ 280. Same; dependents' rights.

The surviving spouse or the minor children, as hereinafter provided, shall be entitled (1) in case of the death of any person as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States during the period specified in section 279 of this title, to credit for two years' residence and cultivation on a homestead entry, or (2) in the case of the death of any person after performing service that would be a basis for credit under section 279 of this title, to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor children by a guardian duly appointed and officially accredited at the Department of the Interior. An entry made by such surviving spouse or guardian shall be subject to the provisions contained in section 279 of this title respecting compliance with the provisions of the homestead laws for a period of at least one year. (Sept. 27, 1944, ch. 421, § 2, 58 Stat. 748; May 31, 1947, ch. 88, § 2, 61 Stat. 123.)

AMENDMENTS

1947—Act May 31, 1947 extended its application to cases where the service credit is derived from that of a married woman.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 281, 282, 283, 284 of this title.

§ 281. Same; death as affecting minor children's patent rights.

Where a person entitled to the benefits of section 279 or 280 of this title makes homestead entry and dies before completing title, leaving a minor orphan child, or minor orphan children, patent shall issue to such minor or minors upon proof showing such facts, without any proof as to compliance with the law in the matter of residence, cultivation, or improvements. (Sept. 27, 1944, ch. 421, § 3, 58 Stat. 748.)

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952,

ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 282, 283, 284 of this title.

§ 282. Same; rights on revocation of withdrawal order.

For the period of fifteen years following September 27, 1944, on the revocation of any order of withdrawal or the filing of a plat of survey or resurvey opening lands to entry, the order or notice taking such action shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, in which persons of the classes entitled to credit for service, under the provisions of sections 279 to 282 of this title, shall have a preferred right of application under the homestead or desert land laws, or section 682a of this title, subject to the requirements of applicable law, except as against the prior existing valid settlement rights and preference rights conferred by existing laws or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by section 682a of this title. During the same period if the Secretary of the Interior shall, without a prior petition therefor, classify any land as being suitable for disposition under section 682a of this title, the order of classification shall provide a similar preference right of application under section 682a of this title, subject to the exceptions contained in this section. (Sept. 27, 1944, ch. 421, § 4, 58 Stat. 748; May 31, 1947, ch. 88, § 3, 61 Stat. 124; June 18, 1954, ch. 306, § 1(c), 68 Stat. 254.)

AMENDMENTS

1954—Act June 18, 1954 extended the veterans' preference right to apply for public lands for five years.

1947—Act May 31, 1947 extended operation of section to where land is opened by the filing of a plat of survey or resurvey or by the classification of the lands by the Secretary of the Interior.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Preferred right of selection by Alaska over preferred right of application by World War II and Korean conflict veterans but not over other preference rights conferred by law, see section 6(g) of Pub. L. 85-508.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 283, 284, 852 of this title.

§ 283. Same; rules and regulations.

The Secretary of the Interior is authorized to make such rules and regulations as may be necessary to carry the provisions of sections 279 to 283 of this title into full force and effect. (Sept. 27, 1944, ch. 421, § 6, formerly § 5, 58 Stat. 748, renumbered June 3, 1948, ch. 399, 62 Stat. 305.)

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to on sections 279, 284 of this title.

§ 284. Same; definitions.

As used in sections 279 to 283 of this title, the term "homestead" includes land hereafter disposed of under section 461 of Title 48: *Provided,* That nothing in this section shall be construed to extend any cultivation requirements to lands disposed of under section 461 of Title 48. As used in sections 279 to 283 of this title, the words "equitable claims subject to allowance and confirmation" include claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands. (Sept. 27, 1944, ch. 421, § 5, as added June 3, 1948, ch. 399, 62 Stat. 305.)

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

REFERENCES IN TEXT

Section 461 of Title 48, referred to in the text, has been omitted from this Code as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 279 of this title.

STOCK-RAISING HOMESTEAD

§ 291. Entry on unappropriated, unreserved lands; authorization; area; naval petroleum reserves and naval oil State reserves excepted.

From and after December 29, 1916, it shall be lawful for any person qualified to make entry under the homestead laws of the United States to make a stock-raising homestead entry for not exceeding six hundred and forty acres of unappropriated, unreserved public lands in reasonably compact form: *Provided, however,* That the land so entered shall theretofore have been designated by the Secretary of the Interior as "stock-raising lands": *Provided further,* That for the purposes of this section lands withdrawn or reserved solely as valuable for oil or gas shall not be deemed to be appropriated or reserved: *Provided further,* That the provisions of this section shall not apply to naval petroleum reserves and naval oil-shale reserves: *And provided further,* That should said lands be within the limits of the geological structure of a producing oil or gas field entry can only be allowed, in the discretion of the Secretary of the Interior, in the absence of objection

after due notice by the lessee or permittee, and any patent therefor shall contain a reservation to the United States of all minerals in said lands and the right to prospect for, mine, and remove the same. (Dec. 29, 1916, ch. 9, § 1, 39 Stat. 862; Feb. 28, 1931, ch. 328, 46 Stat. 1454; June 9, 1933, ch. 53, 48 Stat. 119.)

AMENDMENTS

1933—Act June 9, 1933, added the last proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 292. Designation of lands subject to entry; applications.

The Secretary of the Interior is authorized, on application or otherwise, to designate as stock-raising lands subject to entry under sections 291 to 301 of this title lands the surface of which is, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of such character that six hundred and forty acres are reasonably required for the support of a family: *Provided,* That where any person qualified to make original or additional entry under the provisions of said sections shall make application to enter any unappropriated public land which has not been designated as subject to entry (provided said application is accompanied and supported by properly corroborated affidavit of the applicant, in duplicate, showing prima facie that land applied for is of the character contemplated by said sections), such application, together with the regular fees and commissions, shall be received by the officer designated by the Secretary of the Interior of the land district in which said land is located and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character. During such suspension the land described in the application shall not be disposed of; and if the said land shall be designated under said sections, then such application shall be allowed, otherwise it shall be rejected, subject to appeal; but no right to occupy such lands shall be acquired by reason of said application until said lands have been designated as stock-raising lands, unless the applicant actually establishes his residence and resides on the land; and until final action on such application, the settler may, if the land be not designated under section 291 to 301 of this title, change his application to one under the enlarged homestead law if such lands be designated thereunder, or to one under the ordinary provisions of the homestead law: *Provided,* That if the settler shall change his application he shall embrace therein the lands upon which his residence and principal improvements are located, and conform to the provisions, limitations, and conditions of the applicable law. (Dec. 29, 1916, ch. 9, § 2, 39 Stat. 862; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; June 6, 1924, ch. 274, 43 Stat. 469; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 293. Persons entitled to make entry; effect of entries.

Any qualified homestead entryman may make entry under the homestead laws of lands so designated by the Secretary of the Interior, according to legal subdivisions, in areas not exceeding six hundred and forty acres, and in compact form so far as may be subject to the provisions of sections 291 to 301 of this title, and secure title thereto by compliance with the terms of the homestead laws: *Provided,* That a former homestead entry of land of the character described in section 292 of this title shall not be a bar to the entry of a tract within a radius of twenty miles from such former entry under the provisions of sections 291 to 301 of this title, which, together with the former entry, shall not exceed six hundred and forty acres, subject to the requirements of law as to residence and improvements, except that no residence shall be required on such additional entry if the entryman owns and is residing on his former entry: *Provided further,* That the entryman shall be required to enter all contiguous areas of the character described in sections 291 to 301 of this title open to entry prior to the entry of any noncontiguous land: *And provided further,* That instead of cultivation as required by the homestead laws the entryman shall be required to make permanent improvements upon the land entered before final proof is submitted tending to increase the value of the same for stock-raising purposes of the value of not less than $1.25 per acre, and at least one-half of such improvements shall be placed upon the land within three years after the date of entry thereof. (Dec. 29, 1916, ch. 9, § 3, 39 Stat. 863; Oct. 25, 1918, ch. 195, 40 Stat. 1016.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 294, 295, 296, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 294. Additional entries; amount.

Any homestead entryman of lands of the character described in sections 291 to 301 of this title, who has not submitted final proof upon his existing entry shall have the right to enter, subject to the provisions of said sections such amount of lands designated for entry under the provisions of said sections within a radius of twenty miles from said existing entry, as shall not, together with the amount embraced in his original entry, exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries, but improvements must be made on the additional entry equal to $1.25 for each acre thereof: *Provided,* That the entryman shall be required to enter all contiguous areas of the character described in said sections open to entry prior to the entry of any noncontiguous land. (Dec. 29,

1916, ch. 9, § 4, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 295, 296, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 295. Same; persons entitled generally.

Persons who have submitted final proof upon, or received patent for, lands of the character described in sections 291 to 301 of this title under the homestead laws, and who own and reside upon the land so acquired, may, subject to the provisions of said sections, make additional entry for and obtain patent to lands designated for entry under the provisions of said sections, within a radius of twenty miles from the lands theretofore acquired under the homestead laws, which, together with the area theretofore acquired under the homestead laws, shall not exceed six hundred and forty acres, on proof of the expenditure required by said sections, on account of permanent improvements upon the additional entry: *Provided,* That the entryman shall be required to enter all contiguous areas of the character described in said sections, open to entry prior to the entry of any noncontiguous land. (Dec. 29, 1916, ch. 9, § 5, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 296, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 296. Same; heads of families, etc.

Any person who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, who has entered or acquired under the homestead laws, prior to December 29, 1916, lands of the character described in sections 291 to 301 of this title, the area of which is less than six hundred and forty acres, and who is unable to exercise the right of additional entry conferred by said sections because no lands subject to entry under said sections adjoin the tract so entered or acquired or lie within the twenty-mile limit provided for in said sections, may, upon submitting proof that he resides upon and has not sold the land so entered or acquired and against which land there are no encumbrances, relinquish or reconvey to the United States the land so occupied, entered, or acquired, and in lieu thereof, within the same land-office district, may enter and acquire title to six hundred and forty acres of the land subject to entry under said sections, but must show compliance with all the provisions of said sections respecting the new entry and with all the provisions of existing homestead laws except as modified in said sections. (Dec. 29, 1916, ch. 9, § 6, 39 Stat. 863.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 297, 298, 299, 300, 301, 302, 315 of this title.

§ 297. Commutation.

The commutation provisions of the homestead laws shall not apply to any entries made under sections 291 to 301 of this title. (Dec. 29, 1916, ch. 9, § 7, 39 Stat. 864.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 296, 298, 299, 300, 301, 302, 315 of this title.

§ 298. Additional entries; preferential rights.

Any homestead entrymen or patentees who shall be entitled to additional entry under sections 291 to 301 of this title shall have, for ninety days after the designation of lands subject to entry under the provisions of said sections and contiguous to these entered or owned and occupied by him, the preferential right to make additional entry as provided in said sections: *Provided,* That where such lands contiguous to the lands of two or more entrymen or patentees entitled to additional entries under this section are not sufficient in area to enable such entrymen to secure by additional entry the maximum amounts to which they are entitled, the Secretary of the Interior is authorized to make an equitable division of the lands among the several entrymen or patentees, applying to exercise preferential rights, such sections to be in tracts of not less than forty acres, or other legal subdivision, and so made as to equalize as nearly as possible the area which such entrymen and patentees will acquire by adding the tracts embraced in additional entries to the lands originally held or owned by them: *Provided further,* That where but one such tract of vacant land may adjoin the lands of two or more entrymen or patentees entitled to exercise preferential right hereunder, the tract in question may be entered by the person who first submits to the local land office his application to exercise said preferential right. (Dec. 29, 1916, ch. 9, § 8, 39 Stat. 864.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 296, 297, 299, 300, 301, 302, 315 of this title.

§ 299. Reservation of coal and mineral rights.

All entries made and patents issued under the provisions of sections 291 to 301 of this title shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by said sections, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages

to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the officer designated by the Secretary of the Interior of the local land office of the district wherein the land is situate, subject to appeal to the Secretary of the Interior or such officer as he may designate: *Provided,* That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of sections 291 to 301 of this title with reference to the disposition, occupancy, and use of the land as permitted to an entryman under said sections. (Dec. 29, 1916, ch. 9, § 9, 39 Stat. 864; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 296, 297, 298, 300, 301, 302, 315 of this title.

§ 300. Reservation of land containing water holes; cattle driveways.

Lands containing water holes or other bodies of water needed or used by the public for watering purposes shall not be designated under sections 291 to 301 of this title but may be reserved under the provisions of sections 141 to 143 of this title and such lands, prior to December 29, 1916, or thereafter reserved shall, while so reserved, be kept and held open to the public use for such purposes under such general rules and regulations as the Secretary of the Interior may prescribe: *Provided,* That the Secretary may, in his discretion, also withdraw from entry lands necessary to insure access by the public to watering places reserved hereunder and needed for use in the movement of stock to summer and winter ranges or to shipping points, and may prescribe such rules and regulations as may be necessary for the proper administration and use of such lands: *Provided further,* That such driveways shall not be of greater number or width than shall be clearly necessary for the purpose proposed and in no event shall be more than one mile in width for a driveway less than twenty miles in length, not more than two miles in width for driveways over twenty and not more than thirty-five miles in length, and not over five miles in width for driveways over thirty-five miles in length: *Provided further,* That all stock so transported over such driveways shall be moved an average of not less than three miles per day for sheep and goats and an average of not less than six miles per day for cattle and horses: *Provided further,* That the withdrawal from entry of lands necessary to insure access by the public to watering places reserved hereunder shall not apply to deposits of coal and other minerals in the lands so withdrawn, and that the provisions of section 299 of this title are made applicable to said deposits in lands embraced in such withdrawals heretofore or hereafter made, but any mineral location or entry made hereunder shall be in accordance with such rules, regulations, and restrictions as may be prescribed by the Secretary of the Interior. (Dec. 29, 1916, ch. 9, § 10, 39 Stat. 865; Jan. 29, 1929, ch. 114, 45 Stat. 1144.)

REFERENCES IN TEXT

Section 143 of this title, referred to in text was repealed by Pub. L. 86-533, § 1(14), June 29, 1960, 74 Stat. 248.

AMENDMENTS

1929—Act Jan. 29, 1929, added last proviso.

CROSS REFERENCES

Land on which oil and gas wells are situated reserved as a water hole under this section, see section 229a (a) of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 229a, 292, 293, 294, 295, 296, 297, 298, 299, 301, 302, 315 of this title.

§ 301. Rules and regulations.

The Secretary of the Interior is authorized to make all necessary rules and regulations in harmony with the provisions and purposes of sections 291 to 301 of this title for the purpose of carrying the same into effect. (Dec. 29, 1916, ch. 9, § 11, 39 Stat. 865.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 292, 293, 294, 295, 296, 297, 298, 299, 300, 302, 315 of this title.

§ 302. Additional entries by entrymen on lands in national forests.

Any homestead entryman of one hundred and sixty acres or less of lands which have been, prior to March 4, 1923, or may thereafter be designated or classified by the Secretary of the Interior as subject to entry under the provisions of sections 291 to 301 of this title, who has not submitted final proof upon his existing entry, and also any homestead entryman who has submitted final proof or received patent, for such an amount of lands that are of the character described as subject to entry under the provisions of said sections, and who owns and resides upon the said homestead entry, where said lands are within a national forest, may make an additional entry for and obtain patent to such an amount of land of that same character, not in a national forest and within a radius of twenty miles from said homestead entry,

as, when the area thereof is added to the area of the original entry, will not exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries; but improvements must be made on the additional entry equal to $1.25 for each acre thereof. For the purposes of this section the Secretary of the Interior is authorized to designate under sections 291 to 301 of this title lands embraced, at the time of such designation, within valid subsisting entries within national forests. (Mar. 4, 1923, ch. 245, § 2, 42 Stat. 1445.)

Chapter 8.—TIMBER AND STONE LANDS

§§ 311 to 313. Repealed. Aug. 1, 1955, ch. 448, 69 Stat. 434.

Section 311, acts June 3, 1878, ch. 151, § 1, 20 Stat. 89; Aug. 4, 1892, ch. 375, § 2, 27 Stat. 348; May 18, 1898, ch. 344, § 1, 30 Stat. 418, authorized the sale of public lands valuable chiefly for timber or stone.

Section 312, acts June 3, 1878, ch. 151, § 2, 20 Stat. 89, Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for applications for purchase of timber and stone lands.

Section 313, act June 3, 1878, ch. 151, § 3, 20 Stat. 90, provided for publication of applications to purchase timber and stone lands, patent and entry.

EXISTING RIGHTS AND CLAIMS

Act Aug. 1, 1955, which repealed sections 311—313 of this title provided in part that the repeal of those sections was subject to valid existing rights and claims.

Chapter 8A.—GRAZING LANDS

SUBCHAPTER I.—GENERALLY

Sec.
315. Grazing districts; establishment; restrictions; prior rights; rights-of-way; hearing and notice; hunting or fishing rights.
315a. Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses.
315b. Grazing permits; fees; vested water rights; permits not to create right in land.
315c. Fences, wells, reservoirs, and other improvements; construction; permits; partition fences.
315d. Grazing stock for domestic purposes; use of natural resources.
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SUBCHAPTER I.—GENERALLY

§ 315. Grazing districts; establishment; restrictions; prior rights; rights-of-way; hearing and notice; hunting or fishing rights.

In order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof, of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California Railroad grant lands, or revested Coos Bay Wagon Road grant lands, and which in his opinion are chiefly valuable for grazing and raising forage crops: *Provided,* That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof. Nothing in this subchapter shall be construed in any way to diminish, restrict, or impair any right which has been heretofore or may be hereafter initiated under existing law validly affecting the public lands, and which is maintained pursuant to such law except as otherwise expressly provided in this subchapter nor to affect any land heretofore or hereafter surveyed which, except for the provisions of this subchapter, would be a part of any grant to any State, nor as limiting or restricting the power or authority of any State as to matters within its jurisdiction. Whenever any grazing district is established pursuant to this subchapter, the Secretary shall grant to owners of land adjacent to such district, upon application of any such owner, such rights-of-way over the lands included in such district for stock-driving purposes as may be necessary for the convenient access by any such owner to marketing facilities or to lands not within such district owned by such person or upon

which such person has stock-grazing rights. Neither this subchapter nor sections 291 to 301 of this title, commonly known as the "Stock Raising Homestead Act", shall be construed as limiting the authority or policy of Congress or the President to include in national forests public lands of the character described in section 471 of Title 16, for the purposes set forth in section 475 of Title 16, or such other purposes as Congress may specify. Before grazing districts are created in any State as herein provided, a hearing shall be held in the State, after public notice thereof shall have been given, at such location convenient for the attendance of State officials, and the settlers, residents, and livestock owners of the vicinity, as may be determined by the Secretary of the Interior. No such district shall be established until the expiration of ninety days after such notice shall have been given, nor until twenty days after such hearing shall be held: *Provided, however,* That the publication of such notice shall have the effect of withdrawing all public lands within the exterior boundary of such proposed grazing districts from all forms of entry of settlement. Nothing in this subchapter shall be construed as in any way altering or restricting the right to hunt or fish within a grazing district in accordance with the laws of the United States or of any State, or as vesting in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district. (June 28, 1934, ch. 865, § 1, 48 Stat. 1269; June 26, 1936, ch. 842, title I, § 1, 49 Stat. 1976; May 28, 1954, ch. 243, § 2, 68 Stat. 151.)

AMENDMENTS

1954—Act May 28, 1954, struck out of first sentence the provision limiting to one hundred and forty-two million acres the area which might be included in grazing districts.

Act June 26, 1936 increased the acreage which could be included in grazing districts from 80 million to 142 million acres.

SHORT TITLE

Sections 315—315g, 315h—315m, 315n and 315o–1, are from act June 28, 1934, and constitute the Taylor Grazing Act. See section 315m–2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315a, 1425 of this title; title 30 section 601.

§ 315a. Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses.

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500. (June 28, 1934, ch. 865, § 2, 48 Stat. 1270.)

CROSS REFERENCES

Petty offense defined, see section 1 (3) of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315b. Grazing permits; fees; vested water rights; permits not to create right in land.

The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners as under his rules and regulations are entitled to participate in the use of the range, upon the payment annually of reasonable fees in each case to be fixed or determined from time to time, and in fixing the amount of such fees the Secretary of the Interior shall take into account the extent to which such districts yield public benefits over and above those accruing to the users of the forage resources for livestock purposes. Such fees shall consist of a grazing fee for the use of the range, and a range-improvement fee which, when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvements. Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such, as required by the naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located. Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water or water rights owned, occupied, or leased by them, except that until July 1, 1935, no preference shall be given in the issuance of such permits to any such owner, occupant, or settler, whose rights were acquired between January 1, 1934, and December 31, 1934, both dates inclusive, except that no permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. Such permits shall be for a period of not more than ten years, subject to the preference right of the permittees to renewal in the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and seasons of use. During periods of range depletion due to severe drought or other natural causes, or in case of a general epidemic of disease, during the life of the permit, the Secretary of the Interior is authorized, in his discretion to remit, reduce, refund in whole or in part, or authorize postponement of payment

of grazing fees for such depletion period so long as the emergency exists: *Provided further,* That nothing in this subchapter shall be construed or administered in any way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacturing, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law. So far as consistent with the purposes and provisions of this subchapter, grazing privileges recognized and acknowledged shall be adequately safeguarded, but the creation of a grazing district or the issuance of a permit pursuant to the provisions of this subchapter shall not create any right, title, interest, or estate in or to the lands. (June 28, 1934, ch. 865, § 3, 48 Stat. 1270; Aug. 6, 1947, ch. 507, § 1, 61 Stat. 790.)

AMENDMENTS

1947—Act Aug. 6, 1947 provided for method to be used by the Secretary of the Interior in fixing the amount of grazing fees and by assessing a separate grazing fee and a range-improvement fee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315 of this title; title 30 section 601.

§ 315c. Fences, wells, reservoirs, and other improvements; construction; permits; partition fences.

Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive. (June 28, 1934, ch. 865, § 4, 48 Stat. 1271.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315d. Grazing stock for domestic purposes; use of natural resources.

The Secretary of the Interior shall permit, under regulations to be prescribed by him, the free grazing within such districts of livestock kept for domestic purposes; and provided that so far as authorized by existing law or laws hereinafter enacted, nothing contained in this subchapter shall prevent the use of timber, stone, gravel, clay, coal, and other deposits by miners, prospectors for mineral, bona fide settlers and residents, for firewood, fencing, buildings, mining, prospecting, and domestic purposes within areas subject to the provisions of such subchapter. (June 28, 1934, ch. 865, § 5, 48 Stat. 1271.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315e. Rights-of-way; development of mineral resources.

Nothing contained in this subchapter shall restrict the acquisition, granting or use of permits or rights of way within grazing districts under existing law; or ingress or egress over the public lands in such districts for all proper and lawful purposes; and nothing contained in this subchapter shall restrict prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of such districts under law applicable thereto. (June 28, 1934, ch. 865, § 6, 48 Stat. 1272.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315f. Homestead entry within district or withdrawn lands; classification; preferences.

The Secretary of the Interior is authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under this subchapter or proper for acquisition in satisfaction of any outstanding lien, exchange or script rights or land grant, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable public-land laws, except that homestead entries shall not be allowed for tracts exceeding three hundred and twenty acres in area. Such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry: *Provided,* That locations and entries under the mining laws including the Act of February 25, 1920, as amended, may be made upon such withdrawn and reserved areas without regard to classification and without restrictions or limitation by any provision of this subchapter. Where such lands are located within grazing districts reasonable notice shall be given by the Secretary of the Interior to any grazing permittee of such lands. The applicant, after his entry, selection, or location is allowed, shall be entitled to the possession and use of such lands: *Provided,* That upon the application of any applicant qualified to make entry, selection, or location, under the public-land laws, filed in the land office of the proper district, the Secretary of the Interior shall cause any tract to be classified, and such application, if allowed by the Secretary of the Interior, shall entitle the applicant to a preference right to enter, select, or locate such lands if opened to entry as herein provided. (June 28, 1934, ch. 865, § 7, 48 Stat. 1272; June 26, 1936, ch. 842, title I, § 2, 49 Stat. 1976.)

REFERENCES IN TEXT

The Act of February 25, 1920, as amended, referred to in the text, is classified to section 181 et seq. of Title 30, Mineral Lands and Mining.

AMENDMENTS

1936—Act June 26, 1936, amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 sections 601, 704.

§ 315g. Acceptance of donations of land; exchange of lands; notice of contemplated exchange; reservation of minerals, easements or rights of use; fee for exchange.

(a) Where such action will promote the purposes of a district or facilitate the administration of the public lands, the Secretary is authorized to accept on behalf of the United States any lands within or without the exterior boundaries of a grazing district as a gift.

(b) When public interests will be benefited thereby the Secretary is authorized to accept on behalf of the United States title to any privately owned lands within or without the boundaries of a grazing district, and in exchange therefor to issue patent for not to exceed an equal value of surveyed grazing district land or of unreserved surveyed public land in the same State or within a distance of not more than fifty miles within the adjoining State nearest the base lands.

(c) Upon application of any State to exchange lands within or without the boundaries of a grazing district the Secretary of the Interior shall, and is directed to proceed with such exchange at the earliest practicable date and to cooperate fully with the State to that end, but no State shall be permitted to select lieu lands in another State. The Secretary of the Interior shall accept on behalf of the United States title to any State-owned lands within or without the boundaries of a grazing district, and in exchange therefor issue patent to surveyed grazing district land not otherwise reserved or appropriated or unappropriated and unreserved surveyed public land; and in making such exchange the Secretary is authorized to patent to such State, land either of equal value or of equal acreage: *Provided,* That no State shall select public lands in a grazing district in furtherance of any exchange unless the lands offered by the State in such exchange lie within such grazing district and the selected lands lie in a reasonably compact body which is so located as not to interfere with the administration or value of the remaining land in such district for grazing purposes as set forth in this subchapter.

When an exchange is based on lands of equal acreage and the selected lands are mineral in character, the patent thereto shall contain a reservation of all minerals to the United States; and in making exchanges of equal acreage the Secretary of the Interior is authorized to accept title to offered lands which are mineral in character, with a mineral reservation to the State.

For the purpose of effecting exchanges based on lands of equal acreage the identification and area of unsurveyed school sections may be determined by protraction or otherwise. The selection by the State of lands in lieu of any such protracted school sections shall be a waiver of all of its right to such sections.

(d) Before any such exchange under this section shall be effected, notice of the contemplated exchange, describing the lands involved, shall be published by the Secretary of the Interior once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in the same manner in some like newspaper published in any county in which may be situated any lands to be given in such exchange; lands conveyed to the United States under this subchapter shall, upon acceptance of title, become public lands, and if located within the exterior boundaries of a grazing district they shall become a part of the district within the boundaries of which they are located: *Provided,* That either party to an exchange based upon equal value under this section may make reservations of minerals, easements, or rights of use. Where reservations are made in lands conveyed either to or by the United States the right to enjoy them shall be subject to such reasonable conditions respecting ingress and egress and the use of the surface of the land as may be deemed necessary. Where mineral reservations are made by the grantor in lands conveyed by the United States, it shall be so stipulated in the patent, and any person who prospects for or acquires the right to mine and remove the reserved mineral deposits may enter and occupy so much of the surface as may be required for all purposes incident to the prospecting for, mining and removal of the minerals therefrom, and may mine and remove such minerals, upon payment to the owner of the surface for damages caused to the land and improvements thereon. No fee shall be charged for any exchange of land made under this subchapter except one-half of the cost of publishing notice of a proposed exchange as herein provided. (June 28, 1934, ch. 865, § 8, 48 Stat. 1272; June 26, 1936, ch. 842, title I, § 3, 49 Stat. 1976; June 19, 1948, ch. 548, § 1, 62 Stat. 533.)

AMENDMENTS

1948—Subsec. (a). Act June 19, 1948 permitted acceptance of lands without boundaries of a grazing district.

1936—Act June 26, 1936, amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315g–1, 315p of this title; title 30 section 601.

§ 315g–1. Addition of lands acquired under exchange provisions of section 315g to national forest.

Lands heretofore or hereafter acquired under section 315g of this title which are within the exterior boundaries of a national forest and which are determined by the Secretary of Agriculture to be suitable for administration as a part of the national forest may be set apart and reserved by the Secretary of the Interior by public land order as a part of such national forest. Lands so set apart and reserved shall be subject to the laws, rules, and regulations applicable to lands set apart and reserved from the public domain within such national forest. (Pub. L. 87–524, July 9, 1962, 76 Stat. 140.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

§ 315h. Cooperation with associations, land officials, and agencies engaged in conservation or propagation of wildlife; local hearings on appeals; acceptance and use of contributions.

The Secretary of the Interior shall provide, by suitable rules and regulations, for cooperation with local associations of stockmen, State land officials, and official State agencies engaged in conservation or propagation of wildlife interested in the use of the

grazing districts. The Secretary of the Interior shall provide by appropriate rules and regulations for local hearings on appeals from the decisions of the administrative officer in charge in a manner similar to the procedure in the land department. The Secretary of the Interior shall also be empowered to accept contributions toward the administration, protection, and improvement of lands within or without the exterior boundaries of a grazing district, moneys, so received to be covered into the Treasury as a special fund, which is appropriated and made available until expended, as the Secretary of the Interior may direct, for payment of expenses incident to said administration, protection, and improvement, and for refunds to depositors of amounts contributed by them in excess of their share of the cost. (June 28, 1934, ch. 865, § 9, 48 Stat. 1273; June 19, 1948, ch. 548, § 2, 62 Stat. 533.)

AMENDMENTS

1948—Act June 19, 1948 substituted "lands within or without the external boundaries of a grazing district" for the "district" in the third sentence, in order to permit acceptance of lands without boundaries of grazing district.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315i, 315m–3 of this title; title 30 section 601.

§ 315i. Disposition of moneys received; availability for improvements.

Except as provided in sections 315h and 315j of this title, all moneys received under the authority of this subchapter shall be deposited in the Treasury of the United States as miscellaneous receipts, but the following proportions of the moneys so received shall be distributed as follows: (a) 12½ per centum of the moneys collected as grazing fees under section 315b of this title during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the grazing districts producing such moneys are situated, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the grazing districts producing such moneys are situated: *Provided,* That if any grazing district is in more than one State or county, the distributive share to each from the proceeds of said district shall be proportional to its area in said district; (b) 25 per centum of all moneys collected under section 315m of this title during any fiscal year when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvements; and 50 per centum of all moneys collected under said section during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the lands producing such moneys are located, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the lands producing such moneys are located: *Provided,* That if any leased tract is in more than one State or county, the distributive share to each from the proceeds of said leased tract shall be proportional to its area in said leased tract. (June 28, 1934, ch. 865, § 10, 48 Stat. 1273; June 26, 1936, ch. 842, title I, § 4, 49 Stat. 1978; Aug. 6, 1947, ch. 507, § 2, 61 Stat. 790.)

AMENDMENTS

1947—Act Aug. 6, 1947 reduced States' share of grazing fees collected under section 315b of this title from 50 to 12½ per centum and provided for distribution of grazing fees collected under section 315m of this title with 25 per centum available for range improvements and 50 per centum paid to the State.

CROSS REFERENCES

Receipts from administration of lands leased from State, county, or private owner, see section 315m–4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315m–1, 315m–4 of this title; title 30 section 601.

§ 315j. Appropriation of moneys received; application of public-land laws to Indian ceded lands; application for mineral title to lands.

When appropriated by Congress, 33⅓ per centum of all grazing fees received from each grazing district on Indian lands ceded to the United States for disposition under the public-land laws during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which said lands are situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such grazing lands are situated. And the remaining 66⅔ per centum of all grazing fees received from such grazing lands shall be deposited to the credit of the Indians pending final disposition under applicable laws, treaties, or agreements. The applicable public land laws as to said Indian ceded lands within a district created under this subchapter shall continue in operation, except that each and every application for nonmineral title to said lands in a district created under this subchapter shall be allowed only if in the opinion of the Secretary of the Interior the land is of the character suited to disposal through the Act under which application is made and such entry and disposal will not affect adversely the best public interest, but no settlement or occupation of such lands shall be permitted until ninety days after allowance of an application. (June 28, 1934, ch. 865, § 11, 48 Stat. 1273; Aug. 6, 1947, ch. 507, § 3, 61 Stat. 791.)

AMENDMENTS

1947—Act Aug. 6, 1947 provided that 33⅓ per centum of grazing fees on certain Indian lands be paid to the States and the remaining 66⅔ per centum of such fees be credited to the Indians.

CROSS REFERENCES

Receipts from administration of lands leased from State, county, or private owner, see section 315m–4 of this title.

Ute Indians, division of trust funds deposited in Treasury pursuant to this section, see section 672 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315i, 315m–1, 315m–4 of this title; title 25 section 672; title 30 section 601.

§ 315k. Cooperation with governmental departments; coordination of range administration.

The Secretary of the Interior is authorized to cooperate with any department of the Government in carrying out the purposes of this subchapter and in the coordination of range administration, particularly where the same stock grazes part time in a

grazing district and part time in a national forest or other reservation. (June 28, 1934, ch. 865, § 12, 48 Stat. 1274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315*l*. Lands under national-forest administration.

The President of the United States is authorized to reserve by proclamation and place under national-forest administration in any State where national forests may be created or enlarged by Executive order any unappropriated public lands lying within watersheds forming a part of the national forests which, in his opinion, can best be administered in connection with existing national-forest administration units, and to place under the Interior Department administration any lands within national forests, principally valuable for grazing, which, in his opinion, can best be administered under the provisions of this subchapter: *Provided,* That such reservations or transfers shall not interfere with legal rights acquired under any public-land laws so long as such rights are legally maintained. Lands placed under the national-forest administration under the authority of this subchapter shall be subject to all the laws and regulations relating to national forests, and lands placed under the Interior Department administration shall be subject to all public-land laws and regulations applicable to grazing districts created under authority of this subchapter. Nothing in this section shall be construed so as to limit the powers of the President (relating to reorganizations in the executive departments) granted by sections 124 to 132 of Title 5. (June 28, 1934, ch. 865, § 13, 48 Stat. 1274.)

REFERENCES IN TEXT

Sections 124—132 of Title 5, referred to in the last sentence of this section, granted power to the President for 2 years only, which have now expired. See, now, section 901 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315m. Lease of isolated or disconnected tracts for grazing; preferences.

The Secretary of the Interior is further authorized, in his discretion, where vacant, unappropriated, and unreserved lands of the public domain are so situated as not to justify their inclusion in any grazing district to be established pursuant to this chapter, to lease any such lands for grazing purposes, upon such terms and conditions as the Secretary may prescribe: *Provided,* That preference shall be given to owners, homesteaders, lessees, or other lawful occupants of contiguous lands to the extent necessary to permit proper use of such contiguous lands, except, that when such isolated or disconnected tracts embrace seven hundred and sixty acres or less, the owners, homesteaders, lessees, or other lawful occupants of lands contiguous thereto or cornering thereon shall have a preference right to lease the whole of such tract, during a period of ninety days after such tract is offered for lease, upon the terms and conditions prescribed by the Secretary: *Provided further,* That when public lands are restored from a withdrawal, the Secretary may grant an appropriate preference right for a grazing lease, license, or permit to users of the land for grazing purposes under authority of the agency which had jurisdiction over the lands immediately prior to the time of their restoration. (June 28, 1934, ch. 865, § 15, 48 Stat. 1275; June 26, 1936, ch. 842, title I, § 5, 49 Stat. 1978; May 28, 1954, ch. 243, § 1, 68 Stat. 151.)

AMENDMENTS

1954—Act May 28, 1954, added the proviso authorizing the Secretary to grant a preference right to users of withdrawn public lands for grazing purposes when the lands are restored from the withdrawal.

1936—Act June 26, 1936, added the first proviso.

CROSS REFERENCES

For authority to issue patents to lands under this section during an adjudication of exchange of lands, see section 315p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315i, 315p of this title; title 16 section 670e; title 30 section 601.

§ 315m–1. Lease of State, county, or privately owned lands; period of lease; rental.

The Secretary of the Interior in his discretion is authorized to lease at rates to be determined by him any State, county, or privately owned lands chiefly valuable for grazing purposes and lying within the exterior boundaries of a grazing district when, in his judgment, the leasing of such lands will promote the orderly use of the district and aid in conserving the forage resources of the public lands therein: *Provided,* That no such leases shall run for a period of more than ten years and in no event shall the grazing fees paid the United States for the grazing privileges on any of the lands leased under the provisions of this section be less than the rental paid by the United States for any of such lands: *Provided further,* That nothing in this section shall be construed as authorizing the appropriation of any moneys except that moneys heretofore or hereafter appropriated for construction, purchase, and maintenance of range improvements within grazing districts, pursuant to the provisions of sections 315i and 315j of this title, may be made additionally available by Congress for the leasing of land under this section and sections 315m–2 to 315m–4 of this title. (June 23, 1938, ch. 603, § 1, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315m–2, 315m–3, 315m–4 of this title.

§ 315m–2. Same; administration of leased lands.

The lands leased under sections 315m–1 to 315m–4 of this title shall be administered under the provisions of this subchapter, commonly known as the Taylor Grazing Act. (June 23, 1938, ch. 603, § 2, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315m–1, 315m–3, 315m–4 of this title.

§ 315m-3. Same; availability of contributions received.

Contributions received by the Secretary of the Interior under section 315h of this title, toward the administration, protection, and improvement of any district shall be additionally available for the leasing of lands under sections 315m-1 to 315m-4 of this title. (June 23, 1938, ch. 603, § 3, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315m-1, 315m-2, 315m-4 of this title.

§ 315m-4. Same; disposition of receipts; availability for leasing of land.

All moneys received by the Secretary of the Interior in the administration of leased lands as provided in section 315m-2 of this title shall be deposited in the Treasury of the United States as miscellaneous receipts, but are made available, when appropriated by the Congress, for the leasing of lands under sections 315m-1 to 315m-4 of this title and shall not be distributed as provided under sections 315i and 315j of this title. (June 23, 1938, ch. 603, § 4, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315m-1, 315m-2, 315m-3 of this title.

§ 315n. State police power not abridged.

Nothing in this subchapter shall be construed as restricting the respective States from enforcing any and all statutes enacted for police regulation, nor shall the police power of the respective States be, by this subchapter, impaired or restricted, and all laws heretofore enacted by the respective States or any thereof, or that may hereafter be enacted as regards public health or public welfare, shall at all times be in full force and effect: *Provided, however,* That nothing in this section shall be construed as limiting or restricting the power and authority of the United States. (June 28, 1934, ch. 865, § 16, 48 Stat. 1275.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315o. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section, act June 28, 1934, ch. 865, § 17, as added June 26, 1936, ch. 842, § 6, 49 Stat. 1978, authorized the President to select a Director of Grazing and the Secretary of the Interior to appoint assistant directors and employees.

§ 315o-1. Board of grazing district advisers; composition; meetings; duties.

In order that the Secretary of the Interior may have the benefit of the fullest information and advice concerning physical, economic, and other local conditions in the several grazing districts, there shall be an advisory board of local stockmen in each such district, the members of which shall be known as grazing district advisers. Each such board shall consist of not less than five nor more than twelve members, exclusive of wildlife representatives, one such representative to be appointed by the Secretary, in his discretion, to membership on each such board. Except for such wildlife representatives, the names of the members of each district advisory board shall be recommended to the Secretary by the users of the range in that district through an election conducted under rules and regulations prescribed by the Secretary. No grazing district adviser so recommended, however, shall assume office until he has been appointed by the Secretary and has taken an oath of office. The Secretary may, after due notice, remove any grazing district adviser from office if in his opinion such removal would be for the good of the service.

(b) Each district advisory board shall meet at least once annually at a time to be fixed by the Secretary of the Interior, or by such other officer to whom the Secretary may delegate the function of issuing grazing permits, and at such other times as its members may be called by such officer. Each board shall offer advice and make a recommendation on each application for such a grazing permit within its district: *Provided,* That in no case shall any grazing district adviser participate in any advice or recommendation concerning a permit, or an application therefor, in which he is directly or indirectly interested. Each board shall further offer advice or make recommendations concerning rules and regulations for the administration of this subchapter, the establishment of grazing districts and the modification of the boundaries thereof, the seasons of use and carrying capacity of the range, and any other matters affecting the administration of this subchapter within the district. Except in a case where in the judgment of the Secretary an emergency shall exist, the Secretary shall request the advice of the advisory board in advance of the promulgation of any rules and regulations affecting the district. (June 28, 1934, ch. 865, § 18, as added July 14, 1939, ch. 270, 53 Stat. 1002, and amended 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior" was substituted for "Director of Grazing" in subsec. (b) by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 601.

§ 315o-2. Animals and equipment for field employees.

The Secretary of the Interior may require field employees of the Bureau of Land Management to furnish horses and miscellaneous equipment necessary for the performance of their official work and may provide at Government expense forage, care, and housing for such animals and equipment. (Dec. 18, 1942, ch. 769, 56 Stat. 1067; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

TRANSFER OF FUNCTIONS

"Bureau of Land Management" was substituted for "Grazing Service" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 315p. Exchange of lands; issuance of patent subject to outstanding lease.

The Secretary of the Interior in adjudicating State exchanges, under section 315g of this title, involving lands embraced in outstanding leases under section 315m of this title issued prior to the filing of the State exchange application, is authorized upon the request of any State to issue patent to the State, subject to such outstanding lease: *Provided*, That the United States shall not by reason of the issuance of any such patents be required to account to the State for any money due and collected prior thereto as rent for any part of the then-current annual rental period except as was, on August 24, 1937, provided by law. (Aug. 24, 1937, ch. 744, 50 Stat. 748.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

§ 315q. Withdrawal of lands for war or national defense purposes; payment for cancellation of permits or licenses.

Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing contained in this section shall be construed to create any liability not now existing against the United States. (July 9, 1942, ch. 500, 56 Stat. 654; May 28, 1948, ch. 353, § 1, 62 Stat. 277.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

AMENDMENTS

1948—Act May 28, 1948 inserted "or national defense" between "war" and "purposes" wherever appearing.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 2 of act May 28, 1948, provided that the amendment of this section by section 1 of act May 28, 1948, should be retroactively effective as of July 25, 1947.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315r of this title.

§ 315r. Same; rental payments in advance.

In administering the provisions of section 315q of this title, payments of rentals may be made in advance. (Oct. 29, 1949, ch. 787, title III, § 301, 63 Stat. 996.)

CODIFICATION

Section was not enacted as a part of the Taylor Grazing Act which comprises this subchapter.

SUBCHAPTER II.—ALASKA

§ 316. Declaration of policy.

It is declared to be the policy of Congress in promoting the conservation of the natural resources of Alaska to provide for the protection and development of forage plants and for the beneficial utilization thereof for grazing by livestock under such regulations as may be considered necessary and consistent with the purposes and provisions of this subchapter. In effectuating this policy the use of these lands for grazing shall be subordinated (a) to the development of their mineral resources, (b) to the protection, development, and utilization of their forests, (c) to the protection, development, and utilization of their water resources, (d) to their use for agriculture, and (e) to the protection, development, and utilization of such other resources as may be of greater benefit to the public. (Mar. 4, 1927, ch. 513, § 1, 44 Stat. 1452.)

§ 316a. Definitions.

As used in this subchapter—

(1) The term "person" means individual, partnership, corporation, or association.

(2) The term "district" means any grazing district established under the provisions of section 316b of this title.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "lessee" means the holder of any lease. (Mar. 4, 1927, ch. 513, § 2, 44 Stat. 1452.)

§ 316b. Grazing districts.

(a) The Secretary may establish grazing districts upon any public lands outside of the Aleutian Islands Reservation, national forests, and other reservations administered by the Secretary of Agriculture and outside of national parks and monuments which, in his opinion, are valuable for the grazing of livestock. Such districts may include such areas of surveyed and unsurveyed lands as he determines may be conveniently administered as a unit, even if such areas are neither contiguous nor adjacent.

(b) The Secretary, after the establishment of a district, is authorized to lease the grazing privileges therein in accordance with the provisions of this subchapter. (Mar. 4, 1927, ch. 513, § 3, 44 Stat. 1452.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 316a of this title.

§ 316c. Alteration of grazing districts.

After any district is established the area embraced therein may be altered in any of the following ways:

(1) The Secretary may add to such districts any public lands which, in his opinion, should be made a part of the district.

(2) The Secretary, subject to existing rights of any lessee, may exclude from such district any lands which he determines are no longer valuable for grazing purposes or are more valuable for other purposes.

(3) The Secretary may enter into cooperative agreement with any person, in respect of the administration, as a part of a district, of lands owned by

such person which are contiguous or adjacent to such district or any part thereof. (Mar. 4, 1927, ch. 513, § 4, 44 Stat. 1452.)

§ 316d. Notice of establishment and alteration of grazing district; hearings.

Before establishing or altering a district the Secretary shall publish once a week for a period of six consecutive weeks in a newspaper of general circulation in each judicial division in which the district proposed to be established or altered is located, a notice describing the boundaries of the proposed district or the proposed alteration, announcing the date on which he proposes to establish such district or make such alteration and the location and date of hearings required under this section. No such alteration shall be made until after public hearings are held with respect to such alteration in each such judicial division after the publishing of such notice. (Mar. 4, 1927, ch. 513, § 5, 44 Stat. 1453; July 18, 1968, Pub. L. 90-403, § 1, 82 Stat. 358.)

AMENDMENTS

1968—Pub. L. 90-403 required publication of notice of alteration of a grazing district in each judicial division in which the district proposed to be altered is located, the notice to describe the boundaries of the proposed alteration and location and date of requisite hearings, and also public hearings with respect to the alteration to be held in each such judicial division prior to making the alteration.

§ 316e. Preferences

In considering applications to lease grazing privileges the Secretary shall, as far as is consistent with the efficient administration of the grazing district, prefer (1) natives, (2) other occupants of the range, and (3) settlers over all other applicants. (Mar. 4, 1927, ch. 513, § 6, 44 Stat. 1453.)

§ 316f. Terms and conditions of leases.

(a) A lease may be made for such term as the Secretary deems reasonable, but not to exceed fifty-five years, taking into consideration all factors that are relevant to the exercise of the grazing privileges conferred.

(b) Leases shall be made for grazing on a definite area except where local conditions or the administration of grazing privileges makes more practicable a lease based on the number of stock to be grazed.

(c) Each lease shall provide that the lessee may surrender his lease, and, if he has complied with the terms and conditions of the lease to the time of surrender, may avoid further liability for fees thereunder by giving written notice to the Secretary of such surrender. The lease shall specify the length of time of notice, which shall not exceed one year.

(d) Each lease shall provide that the lessee may negotiate for renewal of such lease, subject to the provisions of this subchapter, at any time during the final five years of the term of such lease. (Mar. 4, 1927, ch. 513, § 7, 44 Stat. 1453; July 18, 1968, Pub. L. 90-403, § 2, 82 Stat. 358.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-403, § 2(a), substituted provisions for reasonable term of leases, limited to fifty-five years, and based on all factors relevant to exercise of grazing privileges for prior provisions for twenty year leases, except where land may be required for other than grazing purposes within a ten year period, and for shorter term leases as desired by applicant.

Subsec. (b). Pub. L. 90-403, § 2(b), added subsec. (d).

§ 316g. Grazing fees.

(a) The Secretary shall determine for each lease the grazing fee to be paid. Such fee shall—

(1) Be fixed on the basis of the area leased or on the basis of the number and kind of stock permitted to be grazed;

(2) Be fixed, for the period of the lease, as a seasonal or annual fee, payable annually or semi-annually on the date specified in the lease;

(3) Be fixed with due regard to the general economic value of the grazing privileges, and in no case shall exceed such value; and

(4) Be moderate.

(b) If the Secretary determines such action to be for the public interest by reason of (1) depletion or destruction of the range by any cause beyond the control of the lessee, or (2) calamity or disease causing wholesale destruction of or injury to livestock, he may grant an extension of time for making payment of any grazing fee undue any lease, reduce the amount of any such payment, or release or discharge the lessee from making such payment. (Mar. 4, 1927, ch. 513, § 8, 44 Stat. 1453.)

§ 316h. Dispositions of receipts.

All moneys received during any fiscal year on account of such fees in excess of the actual cost of administration of this subchapter shall be paid at the end thereof by the Secretary of the Treasury to the Territory of Alaska, to be expended in such manner as the Legislature of the Territory may direct for the benefit of public education and roads (Mar. 4, 1927, ch. 513, § 9, 44 Stat. 1453.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 316i. Assignment of leases.

The lessee may, with the approval of the Secretary, assign in whole or in part any lease, and to the extent of such assignment be relieved from any liability in respect of such lease, accruing subsequent to the effective date of such assignment. (Mar. 4, 1927, ch. 513, § 10, 44 Stat. 1453.)

§ 316j. Improvements.

(a) The Secretary may authorize a lessee to construct and/or maintain and utilize upon any area included within the provisions of his lease any fence, building, corral, reservoir, well or other improvements needed for the exercise of the grazing privileges of the lessee within such area; but any such fence shall be constructed as to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(b) The lessee shall be given ninety days from the date of termination of his lease for any cause to remove from the area included within the provisions

of his lease any fence, building, corral, or other removable range improvement owned or controlled by him.

(c) If such lessee notifies the Secretary on or before the termination of his lease of his determination to leave on the land any improvements the construction or maintenance of which has been authorized by the Secretary, no other person shall use or occupy under any grazing lease, or entry under any public land law, the land on which any such improvements are located until there has been paid to the person entitled thereto the value of such improvements as determined by the Secretary. (Mar. 4, 1927, ch. 513, § 11, 44 Stat. 1454.)

§ 316k. Penalties.

Within one year from the date of the establishment of any district the Secretary shall give notice by publication in one or more newspapers of general circulation in each judicial division in which such district or any part thereof is located that after the date specified in such notice it shall be unlawful for any person to graze any class of livestock on lands in such district except under authority of a lease made or permission granted by the Secretary; and any person who willfully grazes livestock on such lands after such date and without such authority shall, upon conviction, be punished by a fine of not more than $500. (Mar. 4, 1927, ch. 513, § 12, 44 Stat. 1454.)

§ 316*l*. Stock driveways and free grazing.

(a) The Secretary may establish and maintain, and regulate the use of, stock driveways in districts and may charge a fee for or permit the free use of such driveways.

(b) The Secretary may permit any person, including prospectors and miners, to graze free of charge a small number of livestock upon any land included within any grazing district.

(c) The Secretary may in his discretion grant a permit or lease for a grazing allotment without charge on unallotted public lands to any Eskimo or other native or half-breed. Whenever such native or half-breed grazes his livestock through cooperative agreement on allotment held by other lessee or permittee, any grazing fees charged for said allotment shall be reduced in proportion to the relative number of such native owned livestock to the total number on said allotment. (Mar. 4, 1927, ch. 513, § 13, 44 Stat. 1454.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 316m of this title.

§ 316m. Hearing and appeals.

Any lessee of or applicant for grazing privileges, including any person described in subsection (c) of section 316*l* of this title, may procure a review of any action or decision of any officer or employee of the Interior Department in respect of such privileges, by filing with such officer as the Secretary of the Interior may designate of the local land office an application for a hearing, stating the nature of the action or decision complained of and the grounds of complaint. Upon the filing of any such application such officer of such land office shall proceed to review such action or decision as nearly as may be in accordance with the rules of practice then applicable to applications to contest entries under the public land law. Subject to such rules of practice, appeals may be taken by any party in interest from the decision of such officer to the Secretary.

(b) The Secretary shall take no action which will adversely affect rights under any lease pursuant to this subchapter until notifying the holder of such lease that such action is proposed and giving such holder an opportunity for a hearing. (Mar. 4, 1927, ch. 513, § 14, 44 Stat. 1454; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; July 18, 1968, Pub. L. 90–403, § 3, 82 Stat. 358.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–403 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 90–403 added subsec. (b).

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Commissioner of the General Land Office" and "such officer as the Secretary of the Interior may designate" and "such officer" for "register" on authority of 1946 Reorg. Plan No. 3, and regulations thereunder. See note under former section 1 of this title.

§ 316n. Administration.

(a) The Secretary shall promulgate all rules and regulations necessary to the administration of this subchapter, shall execute its provisions, and may (1) in accordance with the civil-service laws appoint such employees and in accordance with chapter 51 and subchapter III of chapter 53 of Title 5 fix their compensation, and (2) make such expenditures (including expenditures for personal service and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, and for printing and binding) as may be necessary efficiently to execute the provisions of this subchapter.

(b) The Secretary of Agriculture is authorized to continue investigations, experiments and demonstrations for the welfare, improvement, and increase of the reindeer industry in Alaska, and upon the request of the Secretary of the Interior to cooperate in matters pertaining to the care of plant and animal life, including reindeer. (Mar. 4, 1927, ch. 513, § 15, 44 Stat. 1455; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

The civil-service laws referred to in subsec. (a)(1), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923", which for purposes of classification has been translated as "chapter 51 and subchapter III of chapter 53 of Title 55".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in Appendix to Title 5, Government Organization and Employees.

§ 316o. Laws applicable.

Laws now applicable to lands or resources in the Territory of Alaska shall continue in force and effect to the same extent and in the same manner after March 4, 1927, as before, and nothing in this subchapter shall preclude or prevent ingress or egress upon the lands in districts for any purpose authorized by any such law, including prospecting for and extraction of minerals. (Mar. 4, 1927, ch. 513, § 16, 44 Stat. 1455.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Chapter 9.—DESERT-LAND ENTRIES

Sec.
321. Entry right generally; extent of right to appropriate waters.
322. Desert lands defined; question how determined.
323. Application to certain States.
324. Assignment of entries.
325. Resident citizenship of State as qualification for entry.
326. Unsurveyed lands not subject to entry; preferential right of entry after survey.
327. Filing irrigation plan; association of entrymen.
328. Expenditures and cultivation requirements.
329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding.
330. Desert-land entry in addition to homestead entry.
331. Reclamation requirements waived in favor of disabled soldiers, etc.
332. Expenditure and cultivation requirements suspended in favor of officers and enlisted men during war with Germany.
333. Extension of time for completion of irrigation works.
334. Further extension of time for final proofs.
335. Further extension in cases not covered by sections 333 and 334 of this title.
336. Further extension in addition to that authorized by sections 333 to 335 of this title.
336a. Suspension of cultivation and improvement operations during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.
336b. Same; applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.
336c. Same; property right as personal and inheritable; assignment prohibited.
336d. Same; lands to which applicable.
337. Entry, after expenditures, perfected as homestead entry.
338. Election to perfect entry; final proof.
339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338.

§ 321. Entry right generally; extent of right to appropriate waters.

It shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of 25 cents per acre—to file a declaration under oath with the officer designated by the Secretary of the Interior of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one-half section, by conducting water upon the same, within the period of three years thereafter: *Provided, however,* That the right to the use of water by the person so conducting the same, on or to any tract of desert land of three hundred and twenty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said one-half section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation of said tract of land in the manner aforesaid, and upon the payment to such officer of the additional sum of $1 per acre for a tract of land not exceeding three hundred and twenty acres to any one person, a patent for the same shall be issued to him. Except as provided in section 3 of the Act of June 16, 1955, as amended, no person may make more than one entry under sections 321 to 323, 325 and 327 to 329 of this title. However, in that entry one or more tracts may be included, and the tracts so entered need not be contiguous. The aggregate acreage of desert land which may be entered by any one person under this section shall not exceed three hundred and twenty acres, and all the tracts entered by one person shall be sufficiently close to each other to be managed satisfactorily as an economic unit, as determined under rules and regulations issued by the Secretary of the Interior. (Mar. 3, 1877, ch. 107, § 1, 19 Stat. 377; Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100; Aug. 14, 1958, Pub. L. 85–641, § 1, 72 Stat. 596.)

REFERENCES IN TEXT

Section 3 of the act of June 16, 1955, as amended, referred to in the text, is set out as a note under section 83 of Title 30, Mineral Lands and Mining.

CODIFICATION

References to register and receiver were changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for a single officer to be known as register.

The original text provided for the sale of 640 acres. The aggregate quantity which any person could acquire under all the land laws was limited, however, to 320 acres by act Aug. 30, 1890 (set out as section 212 of this title) except in the case of mineral lands.

AMENDMENTS

1958—Pub. L. 85–641 permitted entry on one or more tracts, not contiguous, but sufficiently close to each other to be managed satisfactorily as an economic unit.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers,

agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to register in this section were changed to "officer designated by the Secretary of the Interior" and "such officer" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ARIZONA ENTRIES DEPENDENT UPON PERCOLATING WATERS

Act Aug. 4, 1955, ch. 548, 69 Stat. 491, provided: "The requirement of section 1 of the Desert Land Act of March 3, 1877 (19 Stat. 377) [this section], that the right to the use of water by a desert land entryman 'shall depend upon bona fide prior appropriation' shall be waived in the case of all desert land entries which have heretofore been allowed and are subsisting on the effective date of this Act [Aug. 4, 1955] which are dependent upon percolating waters for their reclamation, and which are situated in the State of Arizona under the laws of which the percolating waters upon which the entries are dependent are not subject to the doctrine of prior appropriation but are usable under State law for irrigation and reclamation purposes."

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Final proofs at any time within 4 years, see section 329 of this title.

No person to hold by assignment or otherwise prior to issue of patent more than 320 acres of arid or desert land, see section 329 of this title.

Sale of isolated or disconnected tracts of public lands notwithstanding this section, see section 1171 of this title.

Unsurveyed lands not subject to entry, see section 326 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 327, 328, 329, 333, 1075, 1171 of this title.

§ 322. Desert lands defined; question how determined.

All lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of sections 321 to 323, 325 and 327 to 329 of this title, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

The determination of what may be considered desert land shall be subject to the decision and regulation of the Secretary of the Interior or such officer as he may designate. (Mar. 3, 1877, ch. 107, §§ 2, 3, 19 Stat. 377; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

The first paragraph of this section is from section 2 of act Mar. 3, 1877.

The second paragraph of this section is from the last clause of section 3 of act Mar. 3, 1877. The first clause of section 3 is incorporated in section 323 of this title.

TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 323, 324, 326, 328, 329, 333, 1075 of this title.

§ 323. Application to certain States.

Sections 321 to 323, 325 and 327 to 329 of this title shall only apply to and take effect in the States of California, Colorado, Oregon, Nevada, Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and North and South Dakota. (Mar. 3, 1877, ch. 107, §§ 3, 8, 19 Stat. 377; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

CODIFICATION

Section is from the first clause of section 3 of act Mar. 3, 1877 and the first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891.

The second clauses of section 3 and 8 of act Mar. 3, 1877 are incorporated in the second paragraph of section 322 and section 325 of this title, respectively.

The first clause of section 3 of act Mar. 3, 1877, provided that "this act shall only apply to and take effect in the States of California, Oregon and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota".

The first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891, provided for the inclusion of Colorado.

The Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota have become States since the enactment of act Mar. 3, 1877, the Territory of Dakota being divided, to form the States of North and South Dakota.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 324, 326, 328, 329, 333, 1075 of this title.

§ 324. Assignment of entries.

No assignment after March 28, 1908, of an entry made under sections 321 to 323, 325 and 327 to 329 of this title shall be allowed or recognized, except it be to an individual who is shown to be qualified to make entry under said sections of the land covered by the assigned entry, and such assignments may include all or part of an entry; but no assignment to or for the benefit of any corporation or association shall be authorized or recognized. (Mar. 28, 1908, ch. 112, § 2, 35 Stat. 52.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 449 of this title.

§ 325. Resident citizenship of State as qualification for entry.

Excepting in the State of Nevada, no person shall be entitled to make entry of desert lands unless he be a resident citizen of the State or Territory in which the land sought to be entered is located. (Mar. 3, 1877, ch. 107, § 8; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

CODIFICATION

Section is comprised of the second clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891. The first clause of section 8 of act Mar. 3, 1877 is incorporated in section 323 of this title.

Act Jan. 6, 1921 provided for the introductory exception phrase.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 328, 329, 333, 1075 of this title.

§ 326. Unsurveyed lands not subject to entry; preferential right of entry after survey.

From and after March 28, 1908, the right to make entry of desert lands under the provisions of sections 321 to 323, 325 and 327 to 329 of this title, shall be restricted to surveyed public lands of the character contemplated by said sections, and no such entries of unsurveyed lands shall be allowed or made of record: *Provided, however,* That any individual qualified to make entry of desert lands under said sections who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith commenced the work of reclaiming the same, shall have the preference right to make entry of such tract under said sections, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office. (Mar. 28, 1908, ch. 112, § 1, 35 Stat. 52.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 331 of this title.

§ 327. Filing irrigation plan; association of entrymen.

At the time of filing the declaration required in section 321 of this title the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections, of desert lands, may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements. (Mar. 3, 1877, ch. 107, § 4, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096.)

EXISTING CLAIMS; REPEALS

Section 6 of act Mar. 3, 1877, as added by act Mar. 3, 1891, § 2, provided that existing claims should not be affected by act Mar. 3, 1891, but might be perfected under sections 321—323 of this title, or under sections 325 and 327—329 of this title, at the option of the claimant, and also repealed all acts and parts of acts in conflict with act Mar. 3, 1891.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 328, 329, 333, 1075 of this title.

§ 328. Expenditures and cultivation requirements.

No land shall be patented to any person under sections 321 to 323, 324, 325 and 327 to 329 of this title unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least $3 per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than $1 per acre for the purposes aforesaid; and he shall in like manner expend the sum of $1 per acre during the second and also during the third year thereafter, until the full sum of $3 per acre is so expended. Said party shall file during each year with the officer designated by the Secretary of the Interior proof, by the affidavits of two or more credible witnesses, that the full sum of $1 per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the 25 cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of $3 per acre: *Provided,* That proof be further required of the cultivation of one-eighth of the land. (Mar. 3, 1877, ch. 107, § 5; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 329, 333, 1075 of this title.

§ 329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding.

At any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to such officer of the additional sum of $1 per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands, but this section shall not apply to entries made or initiated prior to March 3, 1891: *Provided, however,* That additional proofs may be re-

quired at any time within the period prescribed by law, and that the claims or entries made under sections 321 to 323, 325 and 327 to 329 of this title shall be subject to contest, as provided by the law, relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands, and moneys paid therefor, shall be forfeited to the United States. (Mar. 3, 1877, ch. 107, § 7; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

References to register and receiver were changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for a single officer to be known as register.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "receiver" were changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925. See note under former sections 70, 71 of this title. References to "register" were changed to "officer designated by the Secretary of the Interior" and "such officer" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

FIVE YEAR PERIOD

The period of four years prescribed by this section was extended to five years as to pending entries where the time for final proof had not expired prior to Jan. 1, 1894, by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Extension of time for final proofs, see sections 333, 334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 328, 333, 1075 of this title.

§ 330. Desert-land entry in addition to homestead entry.

The right to make a desert-land entry shall not be denied to any applicant therefor who has already made an enlarged homestead entry of three hundred and twenty acres: *Provided,* That said applicant is a duly qualified entryman and the whole area to be acquired as an enlarged homestead entry and under the provisions of this section does not exceed four hundred and eighty acres. (Feb. 27, 1917, ch. 134, 39 Stat. 946.)

§ 331. Reclamation requirements waived in favor of disabled soldiers, etc.

Any entryman under the desert-land laws, or any person entitled to preference right of entry under section 326 of this title, who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided,* That no such patent shall issue prior to the survey of the land. (Mar. 1, 1921, ch. 102, § 2 as added Dec. 15, 1921, ch. 3, 42 Stat. 348.)

CROSS REFERENCES

Disabled veterans excused from fulfilling residence and cultivation requirements, see section 238 of this title.

§ 332. Expenditure and cultivation requirements suspended in favor of officers and enlisted men during war with Germany.

CODIFICATION

Section, act Aug. 7, 1917, ch. 48, 40 Stat. 250, suspended expenditure and cultivation requirements during World War I.

§ 333. Extension of time for completion of irrigation works.

Any entryman under sections 321 to 323, 325 and 327 to 329 of this title who shall show to the satisfaction of the Secretary of the Interior or such officer as he may designate that he has in good faith complied with the terms, requirements, and provisions of said sections, but that because of some unavoidable delay in the construction of the irrigating works intended to convey water to the said lands, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said land, as required by said sections, shall, upon filing his corroborated affidavit with the land office in which said land is located, setting forth said facts, be allowed an additional period of not to exceed three years, within the discretion of the Secretary or such officer, within which to furnish proof as required by said sections of the completion of said work. (Mar. 28, 1908, ch. 112, § 3, 35 Stat. 52; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" and "Secretary or such officer" were substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

OTHER EXTENSION PERIODS

Act June 24, 1921, ch. 28, 42 Stat. 66, provided that desert-land entries in certain townships in Riverside County, California, should not be canceled prior to May 1, 1923, for failure to make annual or final proof, that the requirements of the law should become operative from that date, and that a further extension might be granted.

A further extention of time to make final proof on desert-land entries in the counties of Benton, Yakima, and Klickitat, in the State of Washington, was authorized by act Feb. 28, 1911, ch. 180, 36 Stat. 960.

Previous provisions for extension of time for making final proofs under entries of desert lands in certain cases were made by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 334, 335, 336 of this title.

§ 334. Further extension of time for final proofs.

The Secretary of the Interior may, in his discretion, in addition to the extension authorized by section 333 of this title or other law existing prior to April 30, 1912, grant to any entryman under the desert-land laws a further extension of the time within which he is required to make final proof: *Provided,* That such entryman shall, by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this section shall not affect contests initiated for a valid existing reason: *Provided,* That the total extension of the statutory period for making final proof that may be allowed in any one case under this section, and any other statutes existing prior to April 30, 1912, of either general or local application, shall be limited to six years in the aggregate. (Apr. 30, 1912, ch. 101, 37 Stat. 106.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 335, 336 of this title.

§ 335. Further extension in cases not covered by sections 333 and 334 of this title.

The Secretary of the Interior may, in his discretion, extend the time within which final proof is required to be submitted upon any lawful pending desert-land entry made prior to March 4, 1915, such extension not to exceed three years from the date of allowance thereof: *Provided,* That the entryman or his duly qualified assignee has, in good faith, complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that, if the extension is granted, he will be able to make the final proof of reclamation, irrigation, and cultivation required by law: *Provided further,* That the foregoing shall apply only to cases wherein an extension or further extension of time may not properly be allowed under sections 333 and 334 of this title or other law existing prior to March 4, 1915: *Provided further,* That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof. (Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of second paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5 was classified to section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a), (b), 64 Stat. 583, and is covered by section 481 of Title 40, Public Buildings, Property and Works; third and fourth paragraphs of such section 5 are classified to sections 337 and 338 of this title, respectively.

Act Mar. 21, 1918 extended provisions to include entries made prior to Mar. 4, 1915, and added the last proviso. Act Mar. 4, 1915, related to entries made prior to July 1, 1914.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336, 337 of this title.

§ 336. Further extension in addition to that authorized by sections 333 to 335 of this title.

The Secretary of the Interior may, in his discretion, in addition to the extensions authorized by sections 333 to 335 of this title or other law existing prior to February 25, 1925, grant to any entryman under the desert-land laws of the United States a further extension of time of not to exceed three years within which to make final proof: *Provided,* That such entryman shall, by his corroborated affidavit, filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of the irrigation works intended to convey water to the land embraced in his entry, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor: *And provided further,* That the entryman, his heirs, or his duly qualified assignee, has in good faith complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that if the extension is granted he will be able to make the final proof of reclamation, irrigation, and cultivation required by law. (Feb. 25, 1925, ch. 329, 43 Stat. 982.)

§ 336a. Suspension of cultivation and improvement operations during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.

Any person who holds a homestead entry on public lands which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is granted leave of absence from the lands until March 1, 1959, and any person who holds a homestead or desert land entry which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is granted permission to suspend until March 1, 1959, further operations looking to the cultivation and improvement of the lands: *Provided,* That such entryman shall forfeit no rights and shall not otherwise be excused from full compliance with the applicable public land laws by reason of such absence or of such suspension of cultivation and improvement operations: *And provided further,* That the rights of such entrymen shall not be protected by this section and sections 336b, 336c, and 336d of this title unless they file with the land office having jurisdiction over the area in which the land is located, (a) a notice of their intention to absent themselves from the land or to suspend cultivation and improvement operations and

accompanying such notice information as to location and extent of present cultivation or improvement placed on the entry, and (b) a grant to the United States, for itself and for its lessees, licensees, and permittees, of a right to enter upon and occupy the lands which have not been prepared for cultivation or which have not had improvements placed on them, without recourse, for any purpose authorized by the public land laws, except that such grant need not include a right to construct permanent improvements on the land or to permit a substantial change in its character. (July 30, 1956, ch. 778, § 1, 70 Stat. 715.)

REFERENCES IN TEXT

Date of approval of this Act, referred to in the text, means July 30, 1956, the date of enactment of act July 30, 1956.

CODIFICATION

Section is also set out as section 237f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336c, 336d of this title.

§ 336b. Same; applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.

Any person who on March 1, 1956, had on file a homestead or desert land application which application shall be allowed on its merits subsequent to enactment of this Act and prior to March 1, 1959, shall not be required to enter upon the lands and commence residence thereon, or cultivate and improve the lands prior to March 1, 1959: *Provided,* That said person files with the land offices having jurisdiction over the area in which the land is located, (a) within sixty days after the date of allowance of his entry, a notice of his intention to delay initiation of his residence, cultivation, or improvements, and (b) at least ninety days prior to initiation of his residence, cultivation, or improvements, a notice of his intention to initiate said activity. For the purposes of the homestead and desert land laws, March 1, 1959, may be treated as the date of the entry, if an actual entry has not been made prior to that date. If an actual entry is made prior to March 1, 1959, the date of such actual entry shall be the date of entry for the purposes of the homestead and desert land laws. Until an actual entry by a person subject to the provisions of this section has been made, or until March 1, 1959, whichever first occurs, the United States, for itself and for its lessees, permittees, and licensees, shall retain the right to enter upon and occupy the lands in each such entry, without recourse, for any purpose authorized by the public land laws: *Provided,* That the United States, its lessees, permittees, and licensees, shall not construct permanent improvements on the lands or otherwise substantially change such lands in their character. (July 30, 1956, ch. 778, § 2, 70 Stat. 716.)

REFERENCES IN TEXT

Enactment of this Act, referred to in the text, means July 30, 1956, the date of approval of act July 30, 1956.

CODIFICATION

Section is also set out as section 237g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336a, 336c, 336d of this title.

§ 336c. Same; property right as personal and inheritable; assignment prohibited.

Notwithstanding any other provision of the desert land laws, the property right prior to issuance of patent to the lands in his desert land entry of an entryman who elects to suspend cultivation and improvement operations in accordance with section 336a of this title and of an entryman whose entry is allowed in accordance with section 336b of this title shall be a personal right, inheritable but not assignable. (July 30, 1956, ch. 778, § 3, 70 Stat. 716.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336a, 336d of this title.

§ 336d. Same; lands to which applicable.

This section and sections 336a to 336c of this title shall apply only to applications filed for, or entries made on, public lands in the continental United States, exclusive of Alaska, pursuant to the Act of May 20, 1862 (12 Stat. 392; 43 U. S. C., ch. 7), as amended and supplemented, and pursuant to Act of March 3, 1877 (19 Stat. 377; 43 U. S. C., ch. 9), as amended and supplemented. Nothing in sections 336a to 336d of this title shall apply to applications filed for, or entries made on, public lands pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U. S. C., ch. 12), as amended and supplemented. (July 30, 1956, ch. 778, § 4, 70 Stat. 716.)

REFERENCES IN TEXT

Act of May 20, 1862, as amended and supplemented, referred to in the text, is classified generally to chapter 7 of this title.

Act of Mar. 3, 1877, as amended and supplemented, referred to in the text, is classified generally to this chapter.

Act of June 17, 1902, as amended and supplemented, referred to in the text, is classified generally to chapter 12 of this title.

CODIFICATION

Section is also set out as section 237h of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 336a of this title.

§ 337. Entry, after expenditures, perfected as homestead entry.

Where it shall be made to appear to the satisfaction of the Secretary of the Interior, under rules and regulations to be prescribed by him, with reference to any lawful pending desert-land entry made prior to March 4, 1915, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1915, has, in good faith, expended the sum of $3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that, if the extension allowed by section 335 of this title or any law existing prior to March 4, 1915, were granted, he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee five years from notice within which to perfect the entry in the manner required of a homestead entryman: *Provided,* That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit

hereof. (Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of third paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5 was classified to section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602 (a)(20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a) (b), 64 Stat. 583, and is covered by section 481 of Title 40, Public Buildings, Property and Works; second and fourth pars. of such section 5 are classified to sections 335 and 338 of this title, respectively.

Act Mar. 21, 1918 extended the provisions to include entries made prior to Mar. 4, 1915 and added the last proviso. Act Mar. 4, 1915 related to entries made prior to July 1, 1914.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 338 of this title.

§ 338. Election to perfect entry; final proof.

Any desert-land entryman or his assignee entitled to the benefit of section 337 of this title may, if he shall so elect within sixty days from the notice therein provided, pay to the officer designated by the Secretary of the Interior of the local land office the sum of 50 cents per acre for each acre embraced in the entry, and thereafter perfect such entry upon proof that he has upon the tract permanent improvements conducive to the agricultural development thereof of the value of not less than $1.25 per acre, and that he has, in good faith, used the land for agricultural purposes for three years and the payment to the officer, at the time of final proof, of the sum of 75 cents per acre: *Provided,* That in such case final proof may be submitted at any time within five years from the date of the entryman's election to proceed as provided in this section, and in the event of failure to perfect the entry as herein provided, all moneys theretofore paid shall be forfeited and the entry canceled: *Provided,* That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof. (Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Section is comprised of fourth paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5 was classified to, section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602 (a)(20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a)(b), 64 Stat. 583, and is covered by section 481 of Title 40, Public Buildings, Property and Works; second and third paragraphs of such section 5 are classified to sections 335 and 337 of this title, respectively.

References to receiver were changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for a single officer to be known as register.

Act Mar. 21, 1918 added the last proviso.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "receiver" were changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925, and then to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3. See notes under former sections 1, 70, and 71 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 339 of this title.

§ 339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338.

Where it shall be made to appear to the satisfaction of the Secretary of the Interior with reference to any lawful pending desert-land entry made prior to July 1, 1925, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1929, has in good faith expended the sum of $3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee ninety days from notice within which to pay to the officer designated by the Secretary of the Interior of the United States land office 25 cents an acre for the land embraced in the entry and to file an election to perfect title to the entry under the provisions of this section, and thereafter within one year from the date of filing of such election to pay to such officer the additional amount of 75 cents an acre, which shall entitle him to a patent for the land: *Provided,* That in case the final payment be not made within the time prescribed the entry shall be canceled and all money theretofore paid shall be forfeited. (Mar. 4, 1929, ch. 687, 45 Stat. 1548; Feb. 14, 1934, ch. 9, 48 Stat. 349; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "the officer designated by the Secretary of the Interior" and "such officer" were substituted for "the register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Chapter 10.—UNDERGROUND-WATER RECLAMATION GRANTS

Sec.
351 to 355. Repealed.
356. Extension of time for development of water supply.
357 to 360. Repealed.

§§ 351 to 355. Repealed. Pub. L. 88–417, § 1, Aug. 11, 1964, 78 Stat. 389.

Section 351, act Oct. 22, 1919, ch. 77, § 1, 41 Stat. 293, authorized the Secretary of the Interior to grant permits to explore for underground water.

Sections 352, 353, acts Oct. 22, 1919, ch. 77, §§ 2, 3, 41 Stat. 294; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to designation by the Secretary of lands subject to disposal,

applications covering lands not designated by the Secretary, and to the application for the permit, its accompanying affidavit and its filing fee, respectively.

Sections 354, 355, act Oct. 22, 1919, ch. 77, §§ 4, 5, 41 Stat. 294, related to the conditions of the permit, its cancellation for failure to meet them, and to the issuance of a patent to land upon the development of a water supply, respectively.

SAVINGS PROVISIONS

Section 1 of Pub. L. 88-417 provided: "That, subject to any valid rights and obligations existing on the date of approval of this Act [Aug. 11, 1964], the Act of October 22, 1919 (41 Stat. 293; 43 U.S.C. 351—355, 357—360), is hereby repealed."

PROCESSING OF APPLICATIONS FILED PRIOR TO AUG. 11, 1964

Section 2 of Pub. L. 88-417 provided that: "Any valid application for permit under that Act [this chapter], on file with the Secretary of the Interior on the effective date of this Act [Aug. 11, 1964], may be processed in the same manner as if this Act [repealing sections 351—355 and 357—360 of this title] had not been enacted."

§ 356. Extension of time for development of water supply.

The Secretary of the Interior may, if he shall find that any permittee has been unable, with the exercise of diligence, to begin or continue operations for the development of underground waters within the time prescribed by sections 354 and 355 of this title, extend the time for the beginning, recommencement, or completion of the said operations described in said sections for such time, not exceeding two years, and upon such conditions as he shall prescribe. (Sept. 22, 1922, ch. 400, 42 Stat. 1012.)

REFERENCES IN TEXT

Sections 354 and 355 of this title, referred to in the text, were repealed by Pub. L. 88-417, § 1, Aug. 11, 1964, 78 Stat. 389.

CODIFICATION

Section was not enacted as a part of the Pittman Underground Water Act which comprises this chapter.

§§ 357 to 360. Repealed. Pub. L. 88-417, § 1, Aug. 11, 1964, 78 Stat. 389.

Sections 357, 358, act Oct. 22, 1919, ch. 77, §§ 6, 7, 41 Stat. 294, 295, provided for the disposition of land not included in patents, and for the payment of the proceeds of land sales into the reclamation fund, respectively.

Section 359, acts Oct. 22, 1919, ch. 77, § 8, 41 Stat. 295; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided for the reservation to the United States of coal and mineral rights, and for the disposition of such reserved rights.

Section 360, act Oct. 22, 1919, ch. 77, § 9, 41 Stat. 295, authorized the Secretary to prescribe rules and regulations.

SAVINGS PROVISIONS

Sections repealed subject to valid rights and obligations existing on Aug. 11, 1964, see note under former sections 351—355 of this title.

PROCESSING OF PENDING APPLICATIONS

Processing of applications filed prior to Aug. 11, 1964, to be in same manner as if Pub. L. 88-417 had not been enacted, see section 2 of Pub. L. 88-417, set out as a note under former sections 351—355 of this title.

Chapter 11.—DISCOVERY, DEVELOPMENT, AND MARKING OF WATER HOLES, ETC., BY GOVERNMENT

Sec.
361. Authority to explore for, develop, and mark water holes, etc.
362. Injury to signposts and filling up or fouling water supply.
363. Rules and regulations by Secretary.

§ 361. Authority to explore for, develop, and mark water holes, etc.

The Secretary of the Interior is authorized and empowered, in his discretion in so far as the authorization made herein will permit, to discover, develop, protect, and render more accessible for the benefit of the general public, springs, streams, and water holes on arid public lands of the United States; and in connection therewith to erect and maintain suitable and durable monuments and signboards at proper places and intervals along and near the accustomed lines of travel and over the general area of said desert lands, containing information and directions as to the location and nature of said springs, streams, and water holes, to the end that the same may be more readily traced and found by persons in search or need thereof; also to provide convenient and ready means, apparatus, and appliances by which water may be brought to the earth's surface at said water holes for the use of such persons; also to prepare and distribute suitable maps, reports, and general information relating to said springs, streams, and water holes, and their specific location with reference to lines of travel. (Aug. 21, 1916, ch. 360, § 1, 39 Stat. 518.)

§ 362. Injury to signposts and filling up or fouling water supply.

Whoever shall willfully or maliciously injure, destroy, deface, or remove any of said monuments or signposts, or shall willfully or maliciously fill up, render foul, or in anywise destroy or impair the utility of said springs, streams, or water holes, or shall willfully or maliciously interfere with said monuments, signposts, streams, springs, or water holes, or the purposes for which they are maintained and used, shall be fined not more than $1,000 or imprisoned not more than three years, or both. (Aug. 21, 1916, ch. 360, § 3, 39 Stat. 518.)

CROSS REFERENCES

Felony defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 363. Rules and regulations by Secretary.

The Secretary of the Interior is authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this chapter into full force and effect. (Aug. 21, 1916, ch. 360, § 4, 39 Stat. 518.)

Chapter 11A.—BOARD ON GEOGRAPHIC NAMES

Sec.
364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior.
364a. Board on Geographic Names; establishment and membership; appointment and term of office.
364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board.
364c. Studies, investigations, and records; staff assistance; advisory committees.
364d. Promulgation of decisions; furnishing information.
364e. Standardization of geographic names; abolition of United States Board on Geographical Names in the Department of the Interior; transfer of duties.
364f. Application to naming of offices or establishments.

§ 364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior.

The Secretary of the Interior, hereinafter called the Secretary, conjointly with the Board on Geographic Names, as hereinafter provided, shall provide for uniformity in geographic nomenclature and orthography throughout the Federal Government. The Secretary may exercise his functions through such officials as he may designate, except that such authority as relates to the final approval or review of actions of the Board on Geographic Names shall be exercised by him, or his Under or Assistant Secretaries. (July 25, 1947, ch. 330, § 1, 61 Stat. 456.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

APPROPRIATIONS

Section 8 of act of July 25, 1947, authorized appropriation of such sums as might be necessary to carry out the purposes of this chapter.

§ 364a. Board on Geographic Names; establishment and membership; appointment and term of office.

There is established a Board on Geographic Names, hereinafter called the Board. The membership of the Board shall include one representative from each of the Departments of State, Defense, Interior, Agriculture, and Commerce, and from the Government Printing Office, the United States Postal Service, and the Library of Congress. The Board may also include representatives from such Federal agencies as the Secretary, upon recommendation of the Board, shall from time to time find desirable, even though these agencies are in the departments otherwise represented on the Board. The members of the Board shall be appointed by the respective heads of the departments or independent agencies that they represent. Each member shall be appointed for a two-year term but may be reappointed to successive terms. The members of the Board shall serve without additional compensation. The Board shall nominate a Chairman to be appointed by the Secretary, and shall establish such working committees as are found desirable. (July 25, 1947, ch. 330, § 2, 61 Stat. 456; Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.)

AMENDMENTS

1949—Act Aug. 10, 1949, established the Department of Defense as an Executive Department and reduced the Departments of the Army, Navy, and Air Force to the status of military departments in the Department of Defense.

CHANGE OF NAME

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department have been changed to the United States Postal Service, pursuant to Pub. L. 91-375, § 6(o), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

§ 364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board.

The Board, subject to the approval of the Secretary, shall formulate principles, policies, and procedures to be followed with reference to both domestic and foreign geographic names; and shall decide the standard names and their orthography for official use. The principles, policies, and procedures formulated hereunder shall be designed to serve the interests of the Federal Government and the general public, to enlist the effective cooperation of the Federal departments and agencies most concerned, and to give full consideration to the specific interests of particular Federal and State agencies. Action may be taken by the Secretary in any matter wherein the Board does not act within a reasonable time. The Board may make such recommendations to the Secretary as it finds appropriate in connection with this chapter. (July 25, 1947, ch. 330, § 3, 61 Stat. 456.)

§ 364c. Studies, investigations, and records; staff assistance; advisory committees.

The Secretary shall cause such studies and investigations to be made and such records to be kept as may be necessary or desirable in carrying out the purposes of this chapter, and he shall provide a place of meeting and staff assistance to the Board. The staff shall be responsible to the Secretary, who shall prescribe its relations to the Board and the committees of the Board. The Secretary may establish from time to time, upon recommendation of the Board, advisory committees of United States citizens who are recognized experts in their respective fields to assist in the solution of special problems arising under this chapter. (July 25, 1947, ch. 330, § 4, 61 Stat. 456.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 364d. Promulgation of decisions; furnishing information.

For the guidance of the Federal Government, the Secretary shall promulgate in the name of the Board, from time to time and in such form as will carry out the purposes of this chapter, decisions with respect to geographic names and principles of geographic nomenclature and orthography. The Secretary shall also furnish such additional information with respect to geographic names as will assist in carrying out the purposes of this chapter. (July 25, 1947, ch. 330, § 5, 61 Stat. 457.)

§ 364e. Standardization of geographic names; abolition of United States Board on Geographical Names in the Department of the Interior; transfer of duties.

With respect to geographic names the pertinent decisions and principles issued by the Secretary shall be standard for all material published by the Fed-

eral Government. The United States Board on Geographical Names in the Department of the Interior created by Executive order, is abolished, and the duties of said Board are transferred to the Board herein created, and all departments, bureaus, and agencies of the Federal Government shall refer all geographic names and problems to the said Board for the purpose of eliminating duplication of work, personnel, and authority. (July 25, 1947, ch. 330, § 6, 61 Stat. 457.)

§ 364f. Application to naming of offices or establishments.

Nothing in this chapter shall be construed as applying to the naming of the offices or establishments of any Federal agency. (July 25, 1947, ch. 330, § 7, 61 Stat. 457.)

Chapter 12.—RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT

GENERAL PROVISIONS

Sec.
371. Definitions; "Secretary," "reclamation law," "reclamation fund," "project," and "division of a project".
372. Water right as appurtenant to land and extent of right.
373. General authority of the Secretary of the Interior.
373a. Commissioner of Reclamation; appointment.
373a–1. Repealed.
374. Sale of lands acquired in connection with irrigation project.
375. Sale of land improved at expense of reclamation fund.
375a. Sale under sections 374 and 375 of lands appraised at not exceeding $300.
375b. Disposal of tracts too small to be classed farm units.
375c. Same; sales to resident farm owners and entrymen; price; terms; acreage purchasable.
375d. Same; issuance of patent; reservations.
375e. Same; moneys covered into reclamation fund; credit.
375f. Same; rules and regulations.
376. Return of land donations not needed.
377. General expenses of Bureau of Reclamation chargeable to general reclamation fund.
377a. Limitation on use of funds where organizations or individuals are in arrears on contract charges.
378. Rent of office accommodations in District of Columbia.
379. Purchase of scientific books, law books, etc.
380. Repealed.
380a, 380b. Omitted.
381, 382. Repealed.
383. Vested rights and State laws unaffected by certain sections.
384. Extension of time for payment of charges accrued prior to March 2, 1924, and January 1, 1925.
385. Repealed.
385a. Payments to school districts for education of dependents of construction personnel; cooperative arrangements; chargeable to project.
385b. Repealed.
385c. Tuition charge per pupil.
386. Application of excess-land provisions of reclamation laws to certain lands.
387. Removal of sand, gravel, etc.; leases, easements, etc.
388. Contracts for materials; liability of the United States.
389. Relocation of highways, railroads, transmission lines, etc., exchange of water, water rights or electric energy.
390. Utilization of dams and reservoir projects for irrigation purposes; additional construction; necessity of authorization; apportionment of cost; limitation.
390a. Conditions precedent for construction of dams, reservoir, or water supply.
390b. Development of water supplies for domestic, municipal, industrial, and other purposes.
(a) Declaration of policy.
(b) Storage in reservoir projects; agreements for payment of cost of construction or modification of projects.
(c) Application to other laws.
(d) Approval of Congress of modifications of reservoir projects.
390c. Water reservoirs; interests of States and local agencies in storage space.
390d. Dams and reservoirs wherein costs thereof, or rights thereto, have been acquired by local interests.
390e. Rights, acquisition and availability of; obligation for operation and maintenance; costs for reconstruction, rehabilitation, or replacement; use during Government operation or by contract.
390f. Revision of leases or agreements to evidence conversion of rights to use of storage rights.

RECLAMATION FUND GENERALLY

391. Establishment of "reclamation fund".
391a. Advances to reclamation fund.
391a–1. Increase in reclamation fund; reimbursement of advances from Treasury.
391b. Reimbursement of moneys advanced to fund.
392. Payments into reclamation fund of moneys received from entrymen and water-right applicants.
392a. Same; receipts from irrigation projects; transfer of power revenues to General Treasury after repayment of construction costs.
393. Proceeds from sale of materials, etc.
394. Proceeds from sale of products of or leases of withdrawn or reserved lands.
395. Contributions by State, municipality, etc.
396. Return of contributions to cooperative investigations of projects.
397. Advances by Government for completion of projects initiated prior to June 25, 1910.
397a. Advances for operation and maintenance of projects.
398. Sales of Government certificates to obtain funds for advances.
399. Repayment of advances.
400. Advances as item of cost of construction and maintenance of project.
401. Amounts collected from defaulting contractors and their sureties.
402. Reimbursement of moneys advanced under sections 391a and 397.
403, 404. Repealed.

INSTITUTION AND CONSTRUCTION OF PROJECTS

411. Surveys for, location, and construction of irrigation works generally.
411a. Repealed.
411a–1. Appropriations for investigations of feasibility of reclamation projects.
411b. Employment of engineers, geologists, appraisers, and economists for reclamation consultation work; compensation; retired Army and Navy officers as consulting engineers.
412. Prerequisites to initiation of project or division of project.
413. Approval of project by President.
414. Appropriation for projects essential.
415. Receipts applicable to project generally.
416. Withdrawal of lands to be irrigated from and restoration to entry.
417. Reservation of easements in public lands for reclamation projects.

Sec.
418. Private lands within project; agreement as to disposal of excess over farm unit.
419. Contract for irrigation project; notice as to lands irrigable, unit of entry, and construction charges.
420. Use of earth, timber, etc., from other public lands.
421. Acquisition of lands for irrigation project; eminent domain.
421a. Construction of irrigation distribution systems by irrigation districts or public agencies.
421b. Same; loans for construction; repayment contract; definition.
421c. Same; conditions of loan; land transfers to United States; rights-of-way; restrictions.
421d. Effect on existing laws.
422. Construction of dams across Yellowstone River.

CONSTRUCTION OF SMALL PROJECTS

422a. Declaration of purpose.
422b. Definitions.
422c. Proposals; submission; payment for cost of examination.
422d. Contents of proposals.
(a) Plans and estimates; review by States; allocation of capital costs.
(b) Lands and water rights; ownership; financing.
(c) Transmittal of findings and approval to Congress; reservation of land.
(d) Appropriation; nonapplicability.
(e) Consideration of financial feasibility, emergency, or urgent need; jurisdiction and control of project works and facilities.
422e. Contract requirements.
422f. Proposals for projects previously authorized; waiver of requirements; approval; negotiation of contract.
422g. Information from Federal agencies; costs.
422h. Planning and construction.
422i. Rules and regulations.
422j. Appropriations; notice to Congress of receipt of proposal; funds to initiate proposal; availability of appropriations; reimbursement.
422k. Supplement to Federal reclamation laws; short title.
422l. Application of sections 422a to 422k to Hawaii.

ADMINISTRATION OF EXISTING PROJECTS

423. Permanently unproductive lands; exclusion from project; disposition of water right.
423a. Same; construction charges already paid; disposition.
423b. Same; suspension of payment of construction charges.
423c. Exchange of unpatented entries; entries, farms or private lands, eliminated from project; rights not assignable; rights of lienholders; preference to ex-service men.
423d. Amendment of existing water-right contracts by the Secretary of the Interior.
423e. Completion of new projects or new division; execution of contract with district as condition precedent to delivery of water; contents of contract; cooperation of States with United States; limitations on sale of land.
423f. Purpose of sections 423 to 423g.
423g. Adjustment of water-right charges as final adjudication on projects and divisions named.
423h. Delivery of water to excess lands upon death of spouse.
424. Disposal of lands classified as temporarily or permanently unproductive; persons who may take.
424a. Same; sale; terms; area purchasable; tracts included.
424b. Same; application of certain statutes to lands sold.
424c. Same; issuance of patents; recitals in patents; reservations.
424d. Same; use of moneys collected from sales, project construction charges and water rentals.
424e. Same; authority of the Secretary of the Interior; rules and regulations.
425. Exemption of lands owned by States, etc., from acreage limitation on receipt of irrigation benefits; determination of exempt status.
425a. Eligibility of transferred lands owned by States, etc., for receipt of water from a Federal reclamation project, division, or unit; conditions of eligibility; purchase price.
425b. Receipt of project water by lessees of irrigable lands owned by States, etc.; time limitation; applicability of acreage limitations.

WATER-RIGHT APPLICATIONS AND LAND ENTRIES

431. Limitation as to amount of water; qualifications of applicant.
432. Entry under homestead laws generally.
433. Character and capital qualification of entrymen.
433a. Preference of needy families.
434. Amount of land for which entry may be made; farm unit; subdivision of lands.
435. Entries in excess of farm unit.
436. Time when entry may be made generally.
437. Lands as to which entries made prior to June 25, 1910, have been relinquished.
438. Repealed.
439. Cultivation requirement as to entrymen.
440. Regulations as to use of water and requirements as to cultivation and reclamation of land; cancellation for noncompliance with requirements.
441. Assignment of entries generally.
442. Assignment between June 23, 1910, and January 1, 1913, confirmed.
443. Limitation of amount of land holdable under assignment of entry.
444, 445. Omitted.
446. Right to make entry on relinquishment of former entry under land laws.
447. Relinquishment of homestead entry and making new entry.
448. Desert-land entries within reclamation project generally.
449. Assignment of desert-land entry within project.

EXCHANGE AND AMENDMENT OF FARM UNITS

451. Conditions necessary for exchange; terms; credits; rights nonassignable.
451a. Persons eligible for benefits.
451b. Irrigation construction charges.
(a) Credits to entryman.
(b) Credits to district; reduction of costs.
(c) Extension of benefits to districts.
451c. Cancellation of charges or liens; credits.
451d. Disposal of improvements; water rights; revertibility of relinquished land.
451e. Amendment of farm unit; application; amount of land; exchange; waiver.
451f. Exchanges subject to mortgage contracts.
451g. Preferences; veterans; timely applicants.
451h. Establishment of farm units; size; contiguous or noncontiguous.
451i. Definitions.
451j. Rules and regulations.
451k. Availability of appropriations; expenses as nonreimbursable.

TAXATION

455. State taxation; lands of homestead entrymen.
455a. Same; lands of desert-land entrymen.
455b. Same; tax as lien upon lands; prior lien of United States; rights of holder of tax title.
455c. Same; reversion of lands to United States; extinguishment of liens and tax titles.

CONSTRUCTION CHARGES

461. Determination of construction charges generally.
462. Classification of irrigable lands and equitable apportionment of charges.
463. Repealed.
464. Increases of charges on failure to make water-right application.

Sec.
465. Charges for water service prior to notice of construction charge.
466. Surveys to correct errors or inequalities in original basis of project.
467. Repealed.
468. Withdrawal of notice given and modification of applications and contracts made prior to February 13, 1911.
469. Increase in construction charges.
470. When work increasing construction charge may be undertaken.
471. Initial payment and annual installments of charges generally.
472. Installments on entries or applications made after August 13, 1914, and prior to December 5, 1924.
473, 474. Repealed.
475. Annual installments on entries and contracts prior to August 13, 1914.
476. Repealed.
477. Association or irrigation district as fiscal agent of Government.
478. Pecuniary penalty for nonpayment of installments of construction charges.
479. Shutting off water for nonpayment of construction charge.
480. Cancellation of water right or entry for nonpayment of construction charge.
481. Action to recover construction charges and penalties.
482. Extension of time for payment of construction charges by irrigation district; authority of Secretary; interest.

PAYMENT OF CONSTRUCTION CHARGES

485. Declaration of policy.
485a. Definitions.
485b. Amendment of existing repayment contracts.
485b-1. Deferment of installments under repayment contracts; determination of undue burden; conditions; supplemental contract; report to Congress.
485c. Repealed.
485d. Time of payments to the United States.
485e. Maintenance and operation of project works; delinquency penalties.
485f. Negotiation of equitable contracts by Secretary.
(a) Existing project contract unit.
(b) New projects or projects under construction; public lands; development periods.
(c) Report of proposed contracts to Congress; approval; amendment after approval.
485g. Classification of lands.
(a) Generally.
(b) Necessity for request.
(c) Furnishing data.
(d) Primary determination.
(e) Probable justification.
(f) Report to Congress.
(g) Expenses.
(h) Classification as prerequisite to contract.
(i) Modification of existing obligations.
485h. New projects; sale of water and electric power; lease of power privileges.
(a) Findings of Secretary.
(b) Allocation of part of cost to flood control or navigation.
(c) Furnishing water to municipalities; sale of electric power; lease of power privileges.
(d) Delivery of water for irrigation; repayment contract prerequisites.
(e) Contracts to furnish water.
485h-1. Administration of repayment contracts and long-term contracts to furnish water; renewal and conversion; credit for payments; right to available water supply; rates; construction component.
485h-2. Same; amendments to existing contracts.
485h-3. Same; definition of long-term contract.
485h-4. Same; effect on State laws; right to use of water.
485h-5. Same; supplement to Federal reclamation laws.
485h-6. Repayment contracts; amendment for provision, addition or modification of irrigation blocks.
485h-7. Same; amendment for payment of annual installments in two parts.
485i. Rules and regulations.
485j. Effect on existing laws.
485k. Short title.

MAINTENANCE AND OPERATION OF WORKS GENERALLY

491. Authority of Secretary to operate works.
492. Operation and maintenance charges generally.
493. Operation charges; date of payment; discount; advance payment.
493a. Extension of time for payment of charges; authority of Secretary; interest.
494. Pecuniary penalty for nonpayment of operation charge.
495. Shutting off water for nonpayment of operation charge.
496. Cancellation of entry or water right for nonpayment of operation charge.
497. Action to recover operation charge and penalty.
498. Transfer of management and operation of works to water users generally.
499. Discretionary power to transfer management.
499a. Transfer of title to movable property; use of appropriations.
499b. Transfer to municipal corporations or other organizations of care, operation, and maintenance of work supplying water for municipal, domestic, or industrial use.
500. Duty of association or district to take over management.
501. Disposition of profits of project taken over by water users.
502. Emergency fund to assure continuous operation of irrigation and power systems maintained by Bureau of Reclamation.
503. Same; definition of "unusual or emergency conditions".
504. Rehabilitation and betterment of Federal reclamation projects; return of costs; definitions; performance of work.
505. Drainage facilities and minor construction in irrigation works; contracts with repayment organizations; limitation on costs; submission of contract to Congress.

CONTRACTS WITH STATE IRRIGATION DISTRICTS FOR PAYMENT OF CHARGES

511. Authority to contract with irrigation district.
512. Release of Government liens after contract with irrigation districts.
513. Lands in project subject to provisions of chapter; after contract with irrigation district.

SALE OR LEASE OF SURPLUS WATERS, WATER POWER, STORAGE CAPACITY, AND WATER TRANSPORTATION FACILITIES

521. Sale of surplus waters generally.
522. Lease of water power.
523. Storage and transportaton of water for irrigation districts, etc.
524. Cooperation with irrigation districts, etc., in construction of reservoirs and canals.
525. Covering proceeds into reclamation fund.
526. Credit of proceeds to particular project.

PATENTS AND FINAL WATER-RIGHT CERTIFICATES

541. When patent or final certificate issued.
542. Reservation of lien for charges; enforcement of lien; redemption.
543. Certificate of final payment and release of lien.
544. Limitation as to holdings prior to final payment of charges; forfeiture of excess holding.

Sec.
545. Appointment of agents to receive payments; record of payments and amounts owing.
546. Jurisdiction of district court for enforcement of sections 541 to 545.
547. Patent to desert-land entryman.

TOWN SITES, PARKS, PLAYGROUNDS, AND SCHOOL SITES

561. Withdrawal of land for town sites; reservation for public purposes.
562. Appraisal and sale of town lots.
563. Disposal of town sites set apart prior to June 27, 1906.
564. Reappraisal of town lots for sale.
565. Terms of sale of town lots; installments of price.
566. Maintenance of public reservations and conveyance to municipality.
567. Water rights for towns and cities; charges.
568. Use of reclamation fund for expenses of and disposal of proceeds of sale of town sites.
569. Reservation of land for park, playground, or community center.
(a) Authority for reservation.
(b) Water service.
(c) Contract for maintenance and use.
(d) Disposition of land not contracted for.
569a. Extension of section 569 to tract of land in Idaho.
570. Conveyance of land to school district.
571. Sale of unplatted portions of Government town sites; authorization.
572. Same; disposition of net proceeds; fixing project construction charges.
573. Expenses of appraisement and sale; rules and regulations.

REFUNDS TO WAR VETERANS

581 to 586. Omitted.

LEGISLATION APPLICABLE TO PARTICULAR PROJECTS GENERALLY

591. Extension of time for payment of charges.
591a. Boise project, Idaho; Arrowrock Dam; installment payments of costs of repairs, resurfacing, improvement, etc.
592. Castle Peak project, Utah; leave of absence to entrymen.
593. Flathead irrigation project, Montana.
593a. Construction, operation, and maintenance of Hungry Horse Dam.
593b. Construction of additional works for irrigation purposes.
594. Heyburn and Rupert project, Idaho; rights of settlers on town site; size of town site.
595. King Hill project, Idaho.
596. North Platte irrigation project, Nebraska-Wyoming; aid of ex-service men whose entries were defeated.
597. Riverton project, Wyoming.
597a. Easements for Bull Lake Dam and Reservoir.
597b. Same; compensation for lands.
597c. Same; reservation of Indians' right to use lands.
597d. Same; regulations.
598. Salt River project, Arizona; sale of water power.
599. Yuma project, Arizona; entries by residents on lands withdrawn for project.
600. Minidoka project, Idaho; sales of water from American Falls Reservoir.
600a. Arch Hurley Conservancy District project, New Mexico.
600b. Canadian River project, Texas.
600c. Same; nonreimbursable costs; conditions precedent to construction; repayment contract.
600d. Same; public recreation facilities; allocation of water, reservoir capacity, or joint project costs of the Canadian River project; municipal water use priorities; agreements for operation, maintenance, or additional development of project lands or facilities; disposal of project lands or facilities; nonreimbursable costs; cognizance of executive fish and wildlife plan.
600e. Same; authorization of appropriations for public recreation facilities.

KLAMATH PROJECT, OREGON-CALIFORNIA

Sec.
601. Change of level of lakes and subjection of lands to reclamation law.
602 to 609. Repealed.
610. Reclassification of lands.
611. Availability of revenues from lease of Tule Lake marginal lands for refunds.
612. Lands subject to reclamation laws; application of net revenues.

GILA PROJECT, ARIZONA

613. Reduction in area; substitution of land; diversion of waters; maximum acreage.
613a. Acquisition of property; limitation on price; liquidation of indebtedness.
613b. Disposition of lands; sales contracts; reclamation fund.
613c. Regulations of Secretary; control under State law; assessment or taxation; priority of federal liens and obligations.
613d. Repayment of costs in installments; apportionment of repayment obligations; variable payments.
613e. Powers of Secretary and authorized representatives.

WASHOE PROJECT, NEVADA-CALIFORNIA

614. Authorization for construction, operation, and maintenance.
614a. Law governing; repayment of construction costs; contracts for supplemental water supply; net revenues from sale of commercial power; Alpine County water users; waters of Little Truckee River.
614b. Facilities for access, public health and safety, and protection of public property; withdrawal of lands from entry; nonreimbursable costs.
614c. Facilities for development of fish and wildlife resources; minimum water releases; cost.
614d. Authorization of appropriations.

WASHITA RIVER BASIN PROJECT, OKLAHOMA

615. Authorization for construction, operation, and maintenance.
615a. Allocation of costs; adjustments; limitations; repayment of construction costs.
615b. Construction in units or stages.
615c. Public park and recreational facilities; cost of facilities.
615d. Expenditures for Foss and Fort Cobb Reservoirs.
615e. Authorization of appropriations.

CROOKED RIVER PROJECT, OREGON

615f. Authorization for construction, operation, and maintenance.
615f-1. Supplemental power for irrigation water pumping.
615g. Law governing; repayment of construction costs; construction charge obligation of Ochoco Irrigation District; costs allocated to irrigation; commencement of new works; nonreimbursable costs.
615h. Public recreational facilities; arrangements for operation and maintenance; costs of facilities.
615i. Preservation and propagation of fish and wildlife; screen and fish ladder; minimum release.
615j. Authorization of appropriations.
615j-1. Authorization of appropriations for new works in project extension.

LITTLE WOOD RIVER PROJECT, IDAHO

615k. Authorization for enlargement of reservoir; operation and maintenance; repayment of construction costs.
615l. Public recreational facilities; arrangements for operation and maintenance; cost of facilities.
615m. Preservation and propagation of fish and wildlife; nonreimbursable costs; hunting and fishing; operation of reservoir in accord with water rights.
615n. Authorization of appropriations.

SAN ANGELO PROJECT, TEXAS

Sec.
615o. Authorization of project; purposes and features.
615p. Construction, operation, and maintenance.
(a) Laws governing.
(b) Requirement for contract for payment of costs allocated to irrigation and water.
(c) Water rates; right to storage space after reimbursement.
(d) Repayment contract prerequisites; restriction on delivery of water for production of excessive basic commodities.
(e) Contracts relating to municipal, domestic and industrial water supply.
(f) Transfer of care, operation, and maintenance of project works; return of works.
615q. Recreational facilities; nonreimbursable allocations.
615r. Authorization of appropriations.

SPOKANE VALLEY PROJECT, WASHINGTON AND IDAHO

615s. Authorization of project; purposes and features.
615t. Construction, operation, and maintenance; law governing; interest on unpaid balance of allocations; accounting for remaining reimbursable cost; power for irrigation pumping; collection of repayments.
615u. Authorization of appropriations.

DALLES PROJECT, OREGON

615v. Authorization for construction, operation, and maintenance.
615w. Construction, operation, and maintenance.
(a) Law governing.
(b) Extension of period for repayment of construction costs; repayment from surplus revenues derived from disposition of power; construction costs defined.
(c) Rates for power and energy.
(d) Nonreimbursable costs.
615x. Authorization of appropriations.

NORMAN PROJECT, OKLAHOMA

615aa. Authorization for construction, operation, and maintenance; contracts and advances.
615bb. Allocation of costs; conditions.
615cc. Contracts with water users' organization.
615dd. Transfer of care, operation, and maintenance of works.
615ee. Construction in units or stages.
615ff. Public park and recreational facilities; cost of facilities.
615gg. Expenditures for Norman Reservoir.
615hh. Authorization of appropriations.

NAVAJO IRRIGATION PROJECT, NEW MEXICO; SAN JUAN-CHAMA PROJECT, COLORADO-NEW MEXICO

615ii. Congressional declaration of purpose; participating projects of Colorado River storage project.
615jj. Navajo Indian irrigation project; construction, operation and maintenance; average annual diversion; repayment of construction costs.
615kk. Same; lands susceptible to irrigation or necessary for location of works or canals of projects; payment of appraised value for federal lands; conveyance of Indian lands and acquisition of other lands; United States trusteeship of such lands; permits: term, annual renewals, cancellation, notice, finality, compensation for permanent range improvements; reduction of payments to United States by amount of compensation to permittees.
615ll. Same; contractual assurance of repayment of costs and interest for construction of additional capacity.
615mm. Same; payment of operation and maintenance charges; transfers of project works and title to property.
615nn. Same; restriction on delivery of water for production of excessive basic commodities.
Sec.
615oo. Same; authorization of appropriations.
615pp. San Juan-Chama Reclamation Project, Initial Stage; construction, operation and maintenance; purposes; construction and operation of diversion facilities; principal engineering works; construction of recreation facilities; conditions.
615qq. Same; restriction on delivery of water for production of excessive basic commodities.
615rr. Same; appropriations.
615ss. Navajo Reservoir, San Juan River and tributary waters.
(a) Contracts for water use; sharing of available waters; diversion requirements of Navajo Indian irrigation project and San Juan-Chama project; long term contracts; temporary supply contracts in San Juan River Basin.
(b) Other water delivery contracts subject to sharing provisions in event of shortage.
(c) Provisions inapplicable to water requirements of certain Indian irrigation projects.
615tt. New Mexico and Arizona compact water use rights and allocation unaffected by preferential right of United States or any Indian tribe or excessive water diversion.
615uu. Water use controlled by compacts, laws and treaties.
(a) New Mexico water use limitation unaffected; contract recitals.
(b) Works, personnel, permittees, licensees and contractees subject to compacts, laws and treaties in diversion, delivery and use of Colorado River system waters; convenant in law.
(c) Colorado River system water use unaffected; provisions of compacts, laws and treaties not construed.
615vv. Compliance with compacts, laws and treaties concerning storage and release of water from reservoirs in Colorado River Basin; enforcement; consent to suits.
615ww. Studies of quality of water of Colorado River system; reports to Congress.
615xx. Compact obligations of "States of the upper division" concerning flow depletion at Lee Ferry; share of Mexican Treaty burden.
615yy. Applicable appropriation.
615zz. Water quality standards; operation of project without violation of standards.

FRYINGPAN-ARKANSAS PROJECT, COLORADO

616. Authorization of project.
(a) Purposes; construction, operation and maintenance; modification of plans; exportation of water from the Colorado River system; law governing.
(b) Reservoir sites; report to President and Congress on feasibility of reservoir near Ashcroft site; completion of report on Basalt project, Colorado.
(c) Construction of water supply works prohibited unless communities are incapable; contract for repayment of costs; conditions.
616a. Project repayment.
(a) Irrigation repayment contracts; period for repayment; eligible organizations.
(b) Rates for power and water designed to repay costs within fifty years; aid in repayment of irrigation costs.
(c) Interest rates; basis for determination by Secretary of the Treasury.
616b. Operation of project.
(a) Principles governing direction by Secretary.
(b) Appointment of representatives to Commission; adoption of modifications to operating principles.
(c) Rights of western Colorado water users protected.

Sec.
616b. Operation of project—Continued
(d) Prohibition against eminent domain for acquisition of River Basin Water for use outside Basin; use of project works for transportation of such water.
616c. Public recreational facilities; conservation; public use and enjoyment; conservation and development of fish and wildlife; acquisition and withdrawal of public lands; nonreimbursable costs; availability of funds.
616d. Rights of States of the Colorado River Basin under compacts, statutes, and treaty, protected.
(a) Use of diverted water.
(b) Works and persons subject to compacts, statutes, and treaty.
(c) Exportation of water from system; obligations under Arkansas River compact.
(d) Rights to waters unaffected; Congressional construction of compacts, statutes, or treaty.
(e) Compliance with compacts, statutes, and treaty; action to enforce; joinder of United States.
616e. Studies of water quality and means of improvement thereof to continue; reports to Congress.
616f. Authorization of appropriations.

MANN CREEK PROJECT, IDAHO

616g. Authorization for construction, operation, and maintenance; law governing.
616h. Repayment of construction costs; costs allocated to irrigation.
616i. Public recreational facilities; arrangements for operation and maintenance; irrigation costs; fish and wildlife conservation; nonreimbursable costs; operation of works for benefit of fish and wildlife.
616j. Authorization of appropriations.

ARBUCKLE PROJECT, OKLAHOMA

616k. Authorization of project; law governing; purposes and functions.
616*l*. Construction, operation, and maintenance; allocation of costs among different functions.
(a) Flood control, recreation, conservation of fish and wildlife; nonreimbursable costs.
(b) Municipal water supply; repayment contracts; water revenues to retire debt, pay interest, and operation and maintenance costs; basis of interest rates.
(c) Water users' rights; conditions; annual charge for operation and maintenance; title to pipelines and facilities.
616m. Contracts with water users' organization; law governing.
616n. Transfer of care, operation and maintenance to water users' organization; adjustment of water users' obligation; criteria for operation of works.
616*o*. Stages of construction; terms and conditions of repayment contracts.
616p. Recreational facilities; construction and operation; law governing use; nonreimbursable costs.
616q. Provisions for conservation and development of fish and wildlife.
616r. Expenditures for reservoir and aqueduct system.
616s. Authorization of appropriations.

BAKER PROJECT, OREGON

616t. Authorization for construction, operation, and maintenance.
616u. Extension of period for repayment of construction costs; repayment from revenues derived from disposition of power; excess lands defined; conditions for furnishing water to excess lands; computation of acreage.
616v. Operation of project.
(a) Public recreation facilities; arrangements for operation and maintenance; cost of facilities.

Sec.
616v. Operation of project—Continued
(b) Conservation of fish and wildlife; nonreimbursable costs; transfer of works; agreement for satisfactory operation; return of works upon noncompliance.
(c) Operation of works for flood control; regulations.
616w. Authorization of appropriations.

DIXIE PROJECT, UTAH

616aa. Authorization for construction, operation, and maintenance; purposes and scope; coordination with Cedar City water development program.
616aa–1. Reauthorization for construction; integration and participation in Lower Colorado River Basin Development Fund.
616bb. Protection of downstream water users against impairment of water quality from operations of project; indemnification.
616cc. Law governing.
616dd. Conservancy district or similar organization; establishment prerequisite to construction of project; powers of district.
616ee. Interest rate; basis for determination by the Secretary of the Treasury; repayment of construction costs; period for repayment.
616ff. Public recreation facilities; nonreimbursable costs; limitation of authority under existing provisions of law.
616gg. Water use controlled by compact, law, and treaty.
616hh. Authorization of appropriations.

SAVERY-POT HOOK PROJECT, COLORADO-WYOMING; BOSTWICK PARK AND FRUITLAND MESA PROJECTS, COLORADO

616ii. Construction and operation; engineering plans; acreage modification.
616jj. Provisions applicable to the projects; acreage limitation in single ownership for reception of project water.
616kk. Recreational and fish and wildlife facilities.
(a) Nonreimbursable costs; provisions for reimbursement, contributions by non-Federal interests, and reallocation of joint costs; methods deemed appropriate by Secretary of Interior.
(b) Transfer of lands by Secretary of Interior for administration as national forest; jurisdiction and operational control of project lands within national forests.
(c) Allocation of fish and wildlife damage-mitigation costs among other project functions.
616*ll*. Restriction on delivery of water for production of excessive basic commodities.
616mm. Appropriations.

LOWER TETON DIVISION OF TETON BASIN PROJECT, IDAHO

616nn. Authorization for construction, operation, and maintenance; purposes; principal engineering features; law governing; operation consistent with storage rights agreements.
616*oo*. Extension of period for repayment of construction costs; repayment from revenues derived from disposition of power.
616pp. Public recreation facilities; nonreimbursable costs; limitation of authority under existing provisions of law.
616qq. Water users contracts; amendment; new contracts; power operations to absorb cost of reduction of annual obligations for winter water power replacements; conditions for construction of facilities; subscription of conservation capacity in Fremont reservoir, negotiations, and reports to President and Congress.
616rr. Authorization of appropriations.

WHITESTONE COULEE UNIT, CHIEF JOSEPH DAM PROJECT, WASHINGTON

Sec.
616ss. Authorization for construction, operation, and maintenance.
616tt. Application of other laws; construction costs.
616uu. Recreational facilities; construction and operation; agreements with Federal agencies, State, or local public bodies; nonreimbursable costs; project costs.
616vv. Authorization of appropriations.
616vv–1. Manson unit; authorization for construction, operation, and maintenance; purposes; principal works.
616vv–2. Same; irrigation repayment contracts; period for repayment; repayment from revenues derived from disposition of power; construction costs defined; charges for power and energy for irrigation water pumping.
616vv–3. Same; conservation and development of fish and wildlife and enhancement of recreation.
616vv–4. Same; restriction on delivery of water for production of excessive basic commodities.
616vv–5. Same; authorization of appropriations.

AUBURN–FOLSOM SOUTH UNIT; SAN FELIPE DIVISION: CENTRAL VALLEY PROJECT, CALIFORNIA

616aaa. Authorization for construction, operation, and maintenance; purpose; principal works.
616bbb. Financial and operational integration and coordination of unit and project; flood control.
616ccc. Public outdoor recreation and fish and wildlife facilities.
(a) Construction, operation, and maintenance; acquisition of and inclusion of lands in unit area; allocation of water; public use and enjoyment; agreements with Federal agencies, State, or local public bodies; transfers of lands and facilities for development and operation.
(b) Sugar Pine Reservoir recreation facilities; nonreimbursable provisions inapplicable.
(c) Non-Federal administration of unit land and water areas; costs; preconstruction agreement; nonreimbursable costs; absence of agreement; public health and safety requirement of minimum facilities at access points and allocation of unit costs.
(d) Non-Federal share of costs.
(e) Preservation of recreation and fish and wildlife enhancement potential; execution of agreements within ten year period; disposition of lands in absence of such agreements; prohibition against uses conflicting with project purposes, and preference to uses promoting and not detracting from such potential.
(f) Nonreimbursable costs.
(g) Allocation of fish and wildlife damage-mitigation among all unit purpose.
(h) Interpretation of "nonreimbursable".
616ddd. Consideration of State water plan reports; consultation of local interests: public hearings or other expression of views.
616eee. Allocation of water; limitation.
616fff. Authorization of appropriations.
616fff–1. San Felipe division; authorization for construction, operation, and maintenance; purposes; principal works; service contract with local public or private agency.
616fff–2. Same; application of other laws.
616fff–3. Same; contract for delivery of water through State facilities.
616fff–4. Same; consideration of State water plan reports; consultation with local interests; public hearings or other expression of local views.
616fff–5. Same; nonapplication of other laws.
616fff–6. Same; restriction on delivery of water for production of excessive basic commodities.
616fff–7. Same; authorization of appropriations.

SOUTHERN NEVADA PROJECT, NEVADA

Sec.
616ggg. Authorization for construction, operation, and maintenance of project; distribution of water within Clark County, Nevada.
616hhh. Allocation of project costs.
(a) Allocation to municipal and industrial water supply; fish, wildlife, and recreation.
(b) Repayment of allocated project costs; interest.
616iii. Commencement of construction.
(a) Contract with Nevada or Nevada state agency.
(b) Execution of contract prerequisite to commencement of project.
(c) Impairment of efficiency of project for irrigation purposes.
(d) Transfer of project to state agency.
(e) Permanent use of project facilities by Nevada.
616jjj. Construction costs allocated to defense installations.
616kkk. Control of diverted waters.
616lll. Contract provisions for subordination of rights of contracting party to those of Basic Management, Inc., or its assignees.
616mmm. Authorization of appropriations.

TUALATIN PROJECT, OREGON

616nnn. Authorization for construction, operation, and maintenance; purposes; principal features.
616ooo. Irrigation repayment contracts; repayment period; repayment from revenues derived from disposition of power; charges for power and energy.
616ppp. Conservation and development of fish and wildlife resources and enhancement of recreation.
616qqq. Project repayment.
(a) Water users' contracts; period for repayment; interest.
(b) Interest rate; basis for determination by Secretary of Treasury.
(c) Nonreimbursable costs.
616rrr. Restriction on delivery of water for production of excessive basic commodities.
616sss. Authorization of appropriations.

MISSOURI RIVER BASIN PROJECT, SOUTH DAKOTA

616ttt. Authorization for construction, operation, and maintenance; purposes; principal features.
616uuu. Conservation and development of fish and wildlife resources and enhancement of recreation; commencement of construction upon elimination of State prohibition against hunting by nonresidents in waterfowl enhancement areas.
616vvv. Physical and financial integration with other Federal works.
616www. Restriction on delivery of water for production of excessive basic commodities.
616xxx. Interest rate; basis for determination by Secretary of Treasury.
616yyy. Authorization of appropriations.

MOUNTAIN PARK PROJECT, OKLAHOMA

616aaaa. Authorization for construction, operation, and maintenance.
616bbbb. Repayment of costs; interest rate.
616cccc. Transfer of operation to water users' organization.
616dddd. Soil survey and land classification.
616eeee. Conservation; recreation opportunities.
616ffff. Authorization of appropriations.

PALMETTO BEND PROJECT, TEXAS

616gggg. Authorization for construction, operation, and maintenance.
616hhhh. Repayment of costs.
616iiii. Transfer of project care and operation to contractor; permanent usage rights.

Sec.
616jjjj. Conservation; development of fish and wildlife resources; recreation.
616kkkk. Authorization of appropriations for construction, operation, and maintenance of first stage.
616*llll*. Authorization of appropriations for acquisition of land for second stage.

MERLIN DIVISION; ROGUE RIVER BASIN PROJECT, OREGON

616mmmm. Authorization for construction, operation, and maintenance; purpose; principal works.
616nnnn. Irrigation repayment contracts; assessment and collection of service charges.
616*oooo*. Conservation of fish and wildlife and enhancement of recreation.
616pppp. Authority to transfer and repossess works; compliance with regulations.
616qqqq. Power for irrigation water pumping.
616rrrr. Restriction on delivery of water for production of excessive basic commodities.
616ssss. Authorization of appropriations.

TOUCHET DIVISION; WALLA WALLA PROJECT, OREGON-WASHINGTON

616tttt. Authorization for construction, operation, and maintenance.
(a) Purposes; principal works.
(b) Construction of Dayton Dam and Reservoir; payment of costs.
(c) Maintenance of streamflow to insure fish and wildlife conservation.
616uuuu. Irrigation repayment contracts; repayment of construction costs.
616vvvv. Conservation of fish and wildlife and enhancement of recreation; reimbursement of costs allocated to enhancement of anadromous fish species.
616wwww. Interest rate; basis for determination by Secretary of the Treasury.
616xxxx. Restriction on delivery of water for production of excessive basic commodities.
616yyyy. Authorization of appropriations.
(a) Separable and joint construction costs allocable to enhancement of anadromous fish.
(b) Construction of works involved in Touchet division.
(c) Adjustment of appropriated amounts.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 sections 5902–8, 5902–11.

GENERAL PROVISIONS

§ 371. Definitions; "Secretary," "reclamation law," "reclamation fund," "project," and "division of a project."

When used in this section and sections 376, 377, 412, 417, 433, 462, 466, 472, 478, 493, 494, 500, 501 and 526 of this title—

(a) The word "Secretary" means the Secretary of the Interior.

(b) The words "reclamation law" mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

(c) The words "reclamation fund" mean the fund provided by the reclamation law.

(d) The word "project" means a Federal irrigation project authorized by the reclamation law.

(e) The words "division of a project" mean a substantial irrigable area of a project designated as a division by order of the Secretary. (Dec. 5, 1924, ch. 4, § 4, subsec. A, 43 Stat. 701; Feb. 21, 1925, ch. 277, § 1, 43 Stat. 956.)

REFERENCES IN TEXT

The Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 417, 493, 500 of this title.

§ 372. Water right as appurtenant to land and extent of right.

The right to the use of water acquired under the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right. (June 17, 1902, ch. 1093, § 8, 32 Stat. 390.)

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes under this section and sections 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title, see section 406d–5 of Title 16, Conservation.

Reclamation law defined, see section 371 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 373, 383, 390b, 391, 411, 416, 420, 421, 421c, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 373. General authority of the Secretary of the Interior.

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title into full force and effect. (June 17, 1902, ch. 1093, § 10, 32 Stat. 390; Aug. 13, 1914, ch. 247, § 15, 38 Stat. 690.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Delegation of powers and duties of Secretary of Interior under reclamation laws, see section 590z–11 of Title 16, Conservation.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes under this section and sections 372, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 372, 383, 391, 411, 416, 420, 421, 432, 465, 475, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 373a. Commissioner of Reclamation; appointment.

Under the supervision and direction of the Secretary of the Interior, the reclamation of arid lands, under the Act of June 17, 1902 and Acts amendatory thereof and supplementary thereto, shall be administered by a Commissioner of Reclamation who shall be appointed by the President. (May 26, 1926, ch. 401, 44 Stat. 657.

REFERENCES IN TEXT

Act of June 17, 1902, and acts amendatory thereof or supplementary thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

CODIFICATION

Provisions of this section which prescribed the basic compensation of the Commissioner were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5316 of Title 5, Government Organization and Employees.

REPEALS

Act Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, formerly set out in the credit to this section, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out as in the Appendix to Title 5, Government Organization and Employees.

COMPENSATION OF COMMISSIONER

Compensation of Commissioner, see section 5316 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 833a.

§ 373a-1. Repealed. Pub. L. 88-426, title III, § 305(35), Aug. 14, 1964, 78 Stat. 426.

Section, Pub. L. 87-880, title II, § 200, Oct. 24, 1962, 76 Stat. 1223, prescribed the compensation of the Commissioner of Reclamation, and is now covered by section 5101 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on the first day of the first pay period which begins on or after July 1, 1964, see section 501 of Pub. L. 88-426.

§ 374. Sale of lands acquired in connection with irrigation project.

Whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the Act of June 17, 1902 (32 Stat. 388), commonly called the "Reclamation Act" or under the provisions of any act amendatory thereof or supplementary thereto, for any irrigation works contemplated by the reclamation law, are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land.

Upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided,* That not over one hundred and sixty acres shall be sold to any one person.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired. (Feb. 2, 1911, ch. 32, §§ 1—3, 36 Stat. 895.)

REFERENCES IN TEXT

The act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

CROSS REFERENCES

Sale of lands appraised at not exceeding $300, see section 375a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 375a of this title.

§ 375. Sale of land improved at expense of reclamation fund.

Whenever in the opinion of the Secretary of the Interior any public lands which have been withdrawn for or in connection with construction or operation of reclamation projects under the provisions of the Act of June 17, 1902, known as the Reclamation Act, and acts amendatory thereof and supplementary thereto, which are not otherwise reserved and which have been improved by and at the expense of the reclamation fund for administration or other like purposes, are no longer needed for the purposes for which they were withdrawn and improved, the Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons to be appointed by him, and thereafter sell the same, for not less than the appraised value, at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land; not less than one-fifth the purchase price shall be paid at the time of sale, and the remainder in not more than four annual payments with interest at 6 per centum per annum, payable annually, on deferred payments.

Upon payment of the purchase price the Secretary of the Interior is authorized, by appropriate patent, to convey all the right, title, and interest of the United States in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided,* That not over one hundred and sixty acres shall be sold to any one person, and if said lands are irrigable under the project in which located they shall be sold subject to compliance by the purchaser with all the terms, conditions, and limitations of the reclamation law applicable to lands of that character: *Provided,* That the accepted bidder must, prior to issuance of patent, furnish satisfactory evidence that he or she is a citizen of the United States.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been withdrawn. (May 20, 1920, ch. 192, §§ 1—3, 41 Stat. 605, 606.)

REFERENCES IN TEXT

The Act of June 17, 1902, 32 Stat. 288, and acts amendatory thereof and supplementary thereto, referred to in

the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 375a of this title.

§ 375a. Sale under sections 374 and 375 of lands appraised at not exceeding $300.

The Secretary in his discretion, in any instances where property to be sold under section 374 or 375 of this title, is appraised at not to exceed $300, may sell said property at public or private sale without complying with the provisions of said sections as to notice, publication, and mode of sale. (Aug. 4, 1939, ch. 418, § 11, 53 Stat. 1197.)

CODIFICATION

Section was part of "Reclamation Project Act of 1939". See sections 387—389 and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 375b. Disposal of tracts too small to be classed farm units.

In accordance with the provisions of sections 375b to 375f of this title and notwithstanding the provisions of any other law, the Secretary of the Interior, hereinafter styled the Secretary, is authorized, in connection with any Federal irrigation project for which water is available, and after finding that such action will be in furtherance of the irrigation project and the Act of June 17, 1902 (32 Stat. 388) and Acts amendatory thereof or supplemental thereto, hereinafter styled the Reclamation Act, to dispose of any tract of withdrawn public land which, in the opinion of the Secretary, has less than sufficient acreage reasonably required for the support of a family and is too small to be opened to homestead entry and classed as a farm unit under the Reclamation Act. (Mar. 31, 1950, ch. 78, § 1, 64 Stat. 39.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375c, 375f of this title.

§ 375c. Same; sales to resident farm owners and entrymen; price; terms; acreage purchasable.

The Secretary is authorized to sell such land to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided*, That such resident farm landowner or resident entryman shall be permitted to purchase under sections 375b to 375f of this title not more than one hundred and sixty acres of such land, or an area which, together with land already owned or entered on such project shall not exceed one hundred and sixty irrigable acres. (Mar. 31, 1950, ch. 78, § 2, 64 Stat. 39.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375b, 375f of this title.

§ 375d. Same; issuance of patent; reservations.

After the purchaser has paid to the United States all the amount on the purchase price of such land, a patent shall be issued. Such patents shall contain a reservation of a lien for water charges when deemed appropriate by the Secretary, and reservations of coal or other mineral rights to the same extent as patents issued under the homestead laws and also other reservations, limitations, or conditions as now provided by law. (Mar. 31, 1950, ch. 78, § 3, 64 Stat. 40.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375b, 375c, 375f of this title.

§ 375e. Same; moneys covered into reclamation fund; credit.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project on which such lands are located. (Mar. 31, 1950, ch. 78, § 4, 64 Stat. 40.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375b, 375c, 375f of this title.

§ 375f. Same; rules and regulations.

The Secretary of the Interior is authorized to perform any and all acts and to make rules and regulations necessary and proper for carrying out the purposes of sections 375b to 375f of this title. (Mar. 31, 1950, ch. 78, § 5, 64 Stat. 40.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375b, 375c of this title.

§ 376. Return of land donations not needed.

Where real property or any interest therein heretofore has been, or hereafter shall be, donated and conveyed to the United States for use in connection with a project, and the Secretary decides not to utilize the donation, he is authorized without charge to reconvey such property or any part thereof to the donating grantor, or to the heirs, successors, or assigns of such grantor. (Dec. 5, 1924, ch. 4, § 4, subsec. Q, 43 Stat. 704.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500 of this title.

§ 377. General expenses of Bureau of Reclamation chargeable to general reclamation fund.

The cost and expense after June 30, 1945, of the office of the Commissioner in the District of Columbia, and, except for such cost and expense as are incurred on behalf of specific projects, of general investigations and of nonproject offices outside the District of Columbia, shall be charged to the reclamation fund and shall not be charged as a part of the reimbursable construction or operation and maintenance costs. (Dec. 5, 1924, ch. 4, § 4, subsec. O, 43 Stat. 704; Apr. 19, 1945, ch. 80, 59 Stat. 54.)

AMENDMENTS

1945—Act Apr. 19, 1945, amended section generally and made it applicable after June 30, 1945.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500 of this title.

§ 377a. Limitation on use of funds where organizations or individuals are in arrears on contract charges.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefit of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual, when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation. (Pub. L. 91-439, title III, § 300, Oct. 7, 1970, 84 Stat. 899.)

SIMILAR PROVISIONS

The text of this section was taken from the Interior Department Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Dec. 11, 1969, Pub. L. 91-144, title III, § 300, 83 Stat. 332
1968—Aug. 12, 1968, Pub. L. 90-479, title II, § 200, 82 Stat. 711
1967—Nov. 20, 1967, Pub. L. 90-147, title II, § 200, 81 Stat. 478
1966—Oct. 15, 1966, Pub. L. 89-689, title II, § 201, 80 Stat. 1009
1965—Oct. 28, 1965, Pub. L. 89-299, title II, § 200, 79 Stat. 1104
1964—Aug. 30, 1964, Pub. L. 88-511, title II, § 200, 78 Stat. 689
1963—Dec. 31, 1963, Pub. L. 88-257, title II, § 200, 77 Stat. 850.
1962—Oct. 24, 1962, Pub. L. 87-880, title II, § 200, 76 Stat. 1222.
1961—Sept. 30, 1961, Pub. L. 87-330, title II, § 200, 75 Stat. 727.
1960—Sept. 2, 1960, Pub. L. 86-700, title II, § 200, 74 Stat. 748.
1959—Sept. 10, 1959, Pub. L. 86-254, title II, § 200, 73 Stat. 497.
1958—Sept. 2, 1958, Pub. L. 85-863, title II, § 200, 72 Stat. 1577.
1957—Aug. 26, 1957, Pub. L. 85-167, title II, § 200, 71 Stat. 421.
1956—July 2, 1956, ch. 490, title II, § 200, 70 Stat. 478.
1955—July 15, 1955, ch. 370, title II, § 200, 69 Stat. 359.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 368.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 268.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 453.
1951—Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 258.
1950—Sept. 6, 1950, ch. 896, ch. VII, title I, § 101, 64 Stat. 688.

§ 378. Rent of office accommodations in District of Columbia.

CODIFICATION

Section, act June 30, 1906, ch. 3912, § 1, 34 Stat. 663, authorized the Secretary of the Interior to contract for office accommodations for the Bureau of Reclamation in the city of Washington. Construction of a building to afford office space for the bureau was authorized by act Mar. 4, 1913, ch. 147, § 9, 37 Stat. 880.

§ 379. Purchase of scientific books, law books, etc.

The Secretary of the Interior may authorize the purchase of such law books, books of reference, peare needed in carrying out the surveys and examinations authorized by the reclamation law. (May 27, 1908, ch. 200, § 1, 35 Stat. 350.)

§ 380. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, act July 1, 1918, ch. 113, § 1, 40 Stat. 675, authorized purchases and the procurement of services without advertising and formal contract. See sections 5 and 252 of Title 41, Public Contracts.

§§ 380a, 380b. Omitted.

CODIFICATION

Section 380a, acts Aug. 4, 1939, ch. 418, § 13, 53 Stat. 1197; Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111, authorized purchases by Bureau of Reclamation without compliance with former section 16 of Title 41, Public Contracts.

Section 380b, act July 9, 1952, ch. 597, title 1, § 101, 66 Stat. 453, which authorized the transfer of surplus aircraft parts and equipment to the Bureau of Reclamation was from the Interior Department Appropriation Act, 1953, and was not repeated in subsequent appropriation acts.

SIMILIAR PROVISIONS

Similar provisions to those contained in section 380b of this title were in act Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 257.

§ 381. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 639.

Section, acts June 17, 1903, ch. 1093, § 5, 32 Stat. 389; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for commissions of registers and receivers of land offices.

§ 382. Repealed. Pub. L. 87-304, § 9(a)(3), Sept. 26, 1961, 75 Stat. 664.

Section, act May 27, 1908, ch. 200, § 1, 35 Stat. 350, related to the assignment of pay by employees of the Bureau of Reclamation. See section 5525 of Title 5, Government Organization and Employees.

§ 383. Vested rights and State laws unaffected by certain sections.

Nothing in sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of such sections, shall proceed in conformity with such laws, and nothing in such sections shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof. (June 17, 1902, ch. 1093, § 8, 32 Stat. 390.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes under this section and sections 372, 373, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, 498, of this title, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 390b, 391, 411, 416, 420, 421, 421c, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5, title 30 section 125.

§ 384. Extension of time for payment of charges accrued prior to March 2, 1924, and January 1, 1925.

(a) The Secretary of the Interior is authorized and empowered, in his discretion, to defer the dates of payments of any charges, rentals, and penalties which have accrued prior to the 2d day of March, 1924, under the Act of June 17, 1902 (32 Stat. 388), and amendatory and supplemental Acts or prior to that date, as against water users on any irrigation project being constructed or operated and maintained under the direction of the Commissioner of Indian Affairs, as may, in his judgment, be necessary in or concerning any irrigation project in existence on May 9, 1924, under said law: *Provided,* That no payment shall be deferred under this section in any particular case beyond March 1, 1927: *Provided,* That upon such adjustment being made, any penalties or interest which may have accrued in connection with such unpaid construction and operation and maintenance charges shall be canceled, and in lieu thereof the amount so due, and the payment of which is hereby extended, shall draw interest at the rate of 5 per centum per annum, paid annually from the time said amount became due to date of payment: *And provided further,* That in case the principal and interest herein provided for are not paid in the manner and at the time provided by this section, any penalty provided by the law in effect on May 9, 1924, shall thereupon attach from the date of such default.

(b) Where an individual water user, or individual applicant for a water right under a Federal irrigation project constructed or being constructed under the Act of June 17, 1902 (32 Stat. 388), or any Act amendatory thereof or supplementary thereto, makes application prior to January 1, 1925, alleging that he will be unable to make the payments as required in subsection (a) of this section, the Secretary of the Interior is authorized in his discretion prior to March 1, 1925, to add such accrued and unpaid charges to the construction charge of the land of such water user or applicant, and to distribute such accumulated charges equally over each of the subsequent years, beginning with the year 1925, or, in the discretion of the Secretary, distribute a total of one-fourth over the first half of the remaining years of the 20-year period beginning with the year 1925, and three-fourths over the second half of such period, so as to complete the payment during the remaining years of the 20-year period of payment of the original construction charge: *Provided,* That upon such adjustment being made, any penalties or interest which may have accrued in connection with such unpaid construction and operation and maintenance charges shall be canceled, and in lieu thereof the amount so due, and the payment of which is extended, shall draw interest at the rate of 5 per centum per annum, paid annually from the time said amount became due to the date of payment: *Provided further,* That the applicant for the extension shall first show to the satisfaction of the Secretary of the Interior detailed statement of his assets and liabilities and probable inability to make payment at the time required in subsection (a) of this section: *And provided further,* That in case the principal and interest herein provided for are not paid in the manner and at the time provided by this section, any penalty provided by law, prior to May 9, 1924, shall thereupon attach from the date of such default: *And provided further,* That similar relief in whole or in part may be extended by the Secretary of the Interior to a legally organized group of water users of a project, upon presentation of a sufficient number of individual showings made in accordance with the foregoing proviso to satisfy the Secretary of the Interior that such extension is necessary. (May 9, 1924, ch. 150, §§ 1, 2, 43 Stat. 116.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388), and amendatory or supplemental acts, referred to in the text, are classified generally to this title. See Tables for distribution.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 385. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section, act Aug. 9, 1937, ch. 570, § 1, 50 Stat. 592, related to contracts for medical attention and service for employees.

Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 647—649, also repealed acts Jan. 12, 1927, ch. 27, 44 Stat. 957; Mar. 7, 1928, ch. 137, 45 Stat. 227; Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1589; May 14, 1930, ch. 273, § 1, 46 Stat. 306; Feb. 14, 1931, ch. 187, § 1, 46 Stat. 1142; Apr. 22, 1932, ch. 125, § 1, 47 Stat. 114; Feb. 17, 1933, ch. 98, § 1, 47 Stat. 842; Mar. 2, 1934, ch. 38, § 1, 48 Stat. 380; May 9, 1935, ch. 101, § 1, 49 Stat. 197, and June 22, 1936, ch. 691, § 1, 49 Stat. 1781, which contained similar provisions.

§ 385a. Payments to school districts for education of dependents of construction personnel; cooperative arrangements; chargeable to project.

The Secretary of the Interior, giving due consideration to the temporary nature of the requirements therefor, is authorized to make such provision as he deems to be necessary and in the public interest for the education of dependents of persons employed on the actual construction of projects or features of projects, by the Bureau of Reclamation, in any cases in which he finds that by reason of such construction activity, an undue burden is, or will be cast upon the facilities of the public-school districts serving the areas in which construction is being undertaken, and to pay for the same from any funds available for the construction of said projects: *Provided,* That the Secretary of the Interior shall enter into cooperative arrangements with local school districts wherein such features are situated to contribute toward covering the cost of furnishing the educational services required for such dependents, or for the operation by those school districts of Government facilities, or for the expansion of local school facilities. Such cost incurred hereunder shall be charged to the project concerned and shall be

repayable in the same manner and to the same extent as are its other costs of construction. (June 29, 1948, ch. 733, § 1, 62 Stat. 1108.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 385b. Repealed. Pub. L. 86-533, § 1(18), June 29, 1960, 74 Stat. 248.

Section, act June 29, 1948, ch. 733, § 2, 62 Stat. 1108, related to reports to the Congress of all activities undertaken pursuant to the provisions of section 385a of this title.

§ 385c. Tuition charge per pupil.

CODIFICATION

Section was from the Interior Department Appropriation Act, 1949, act June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1125, and has not been repeated in subsequent appropriation acts.

§ 386. Application of excess-land provisions of reclamation laws to certain lands.

The excess-land provisions of the Federal reclamation laws shall not be applicable to lands which on June 16, 1938, had an irrigation water supply from sources other than a Federal reclamation project and which will receive a supplemental supply from the Colorado-Big Thompson project. (June 16, 1938, ch. 485, 52 Stat. 764.)

§ 387. Removal of sand, gravel, etc.; leases, easements, etc.

The Secretary, in his discretion, may (a) permit the removal, from lands or interests in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project, of sand, gravel, and other minerals and building materials with or without competitive bidding: *Provided,* That removals may be permitted without charge if for use by a public agency in the construction of public roads or streets within any project or in its immediate vicinity; and (b) grant leases and licenses for periods not to exceed fifty years, and easements or rights-of-way with or without limitation as to period of time affecting lands or interest in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project: *Provided,* That, if a water users' organization is under contract obligation for repayment on account of the project or division involved, easements or rights-of-way for periods in excess of twenty-five years shall be granted only upon prior written approval of the governing board of such organization. Such permits or grants shall be made only when, in the judgment of the Secretary, their exercise will not be incompatible with the purposes for which the lands or interests in lands are being administered, and shall be on such terms and conditions as in his judgment will adequately protect the interests of the United States and the project for which said lands or interests in lands are being administered. (Aug. 4, 1939, ch. 418, § 10, 53 Stat. 1196; Aug. 18, 1950, ch. 752, 64 Stat. 463.)

AMENDMENTS

1950—Act Aug. 18, 1950 permitted Secretary to grant permanent easements or rights-of-way provided that no easement or right-of-way in excess of 25 years be granted unless there has been prior written approval by the governing board of that water users' organization as may be under contract obligation for repayment on account of the project involved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title and title 16 sections 90c, 460q-5.

§ 388. Contracts for materials; liability of the United States.

When appropriations have been made for the commencement or continuation of construction or operation and maintenance of any project, the Secretary may, in connection with such construction or operation and maintenance, enter into contracts for miscellaneous services, for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor. (Aug. 4, 1939, ch. 418, § 12, 53 Stat. 1197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 389. Relocation of highways, railroads, transmission lines, etc., exchange of water, water rights or electric energy.

The Secretary is authorized, in connection with the construction or operation and maintenance of any project, (a) to purchase or condemn suitable lands or interests in lands for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which in the judgment of the Secretary is necessitated by said construction or operation and maintenance, and to perform any or all work involved in said relocations on said lands or interests in lands, other lands or interests in lands owned and held by the United States in connection with the construction or operation and maintenance of said project, or properties not owned by the United States; (b) to enter into contracts with the owners of said properties whereby they undertake to acquire any or all property needed for said relocation, or to perform any or all work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey or exchange Government properties acquired or improved under (a) above, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary without regard to provisions of law governing the patenting of public lands.

The Secretary is further authorized, for the purpose of orderly and economical construction or

operation and maintenance of any project, to enter into such contracts for exchange or replacement of water, water rights, or electric energy or for the adjustment of water rights, as in his judgment are necessary and in the interests of the United States and the project. (Aug. 4, 1939, ch. 418, § 14, 53 Stat. 1197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 390. Utilization of dams and reservoir projects for irrigation purposes; additional construction; necessity of authorization; apportionment of cost; limitation.

Whenever the Secretary of the Army determines, upon recommendation by the Secretary of the Interior that any dam and reservoir project operated under the direction of the Secretary of the Army may be utilized for irrigation purposes, the Secretary of the Interior is authorized to construct, operate, and maintain, under the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto), such additional works in connection therewith as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and findings thereon have been made by the Secretary of the Interior as provided in said sections and after subsequent specific authorization of the Congress by an authorization Act; and, within the limits of the water users' repayment ability such report may be predicated on the allocation to irrigation of an appropriate portion of the cost of structures and facilities used for irrigation and other purposes. Dams and reservoirs operated under the direction of the Secretary of the Army may be utilized after December 22, 1944, for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing: *Provided,* That this section shall not apply to any dam or reservoir heretofore constructed in whole or in part by the Army engineers, which provides conservation storage of water for irrigation purposes. (Dec. 22, 1944, ch. 665, § 8, 58 Stat. 891.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

SECRETARY OF THE AIR FORCE

For transfer of certain real property and functions relating to real property, insofar as they pertain to the Air Force, from the Secretary of the Army and Department of the Army to the Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 14, eff. July 1, 1948, and 40 [App. B(133)], July 22, 1949.

EXTENSION OF VARIABLE PAYMENT PLAN

Authority of Secretary to extend benefits of variable payment plan to organizations with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts for the storage of water or for the use of stored water under this section, see section 2 of Pub. L. 85-611, Aug. 8, 1958, 72 Stat. 542, set out as a note under section 485h of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390b of this title.

§ 390a. Conditions precedent for construction of dams, reservoir, or water supply.

No part of any appropriation shall be available for the initiation of construction under the terms of reclamation law of any dam or reservoir or water supply, or any tunnel, canal or conduit for water, or water distribution system related to such dam or reservoir until the Secretary shall certify to the Congress that an adequate soil survey and land classification has been made and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. (July 31, 1953, ch. 298 title I, § 1, 67 Stat. 266.)

CODIFICATION

Section is from the Interior Department Appropriation Act, 1954, act July 31, 1953. Similar provisions were contained in act July 9, 1952, ch. 597, title 1, § 101, 66 Stat. 451.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615g, 615gg, 616r, 616iiii of this title.

§ 390b. Development of water supplies for domestic, municipal, industrial, and other purposes.

(a) Declaration of policy.

It is declared to be the policy of the Congress to recognize the primary responsibilities of the States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes and that the Federal Government should participate and cooperate with States and local interests in developing such water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation, or multiple purpose projects.

(b) Storage in reservoir projects; agreements for payment of cost of construction or modification of projects.

In carrying out the policy set forth in this section, it is provided that storage may be included in any reservoir project surveyed, planned, constructed or to be planned, surveyed and/or constructed by the

Corps of Engineers or the Bureau of Reclamation to impound water for present or anticipated future demand or need for municipal or industrial water, and the reasonable value thereof may be taken into account in estimating the economic value of the entire project: *Provided,* That the cost of any construction or modification authorized under the provisions of this section shall be determined on the basis that all authorized purposes served by the project shall share equitably in the benefits of multiple purpose construction, as determined by the Secretary of the Army or the Secretary of the Interior, as the case may be: *Provided further,* That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And provided further,* That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project: *And provided further,* That the entire amount of the construction costs, including interest during construction, allocated to water supply shall be repaid within the life of the project but in no event to exceed fifty years after the project is first used for the storage of water for water supply purposes, except that (1) no payment need be made with respect to storage for future water supply until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue. The provisions of this subsection insofar as they relate to the Bureau of Reclamation and the Secretary of the Interior shall be alternative to and not a substitute for the provisions of the Reclamation Projects Act of 1939 relating to the same subject.

(c) Application to other laws.

The provisions of this section shall not be construed to modify the provisions of section 701-1 of Title 33 and section 390 of this title, as amended and extended, or the provisions of sections 372 and 383 of this title.

(d) Approval of Congress of modifications of reservoir projects.

Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include storage as provided in subsection (b) of this section which would seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed, or which would involve major structural or operational changes shall be made only upon the approval of Congress as now provided by law. (Pub. L. 85-500, title III, § 301, July 3, 1958, 72 Stat. 319; Pub. L. 87-88, § 10, July 20, 1961, 75 Stat. 210.)

REFERENCES IN TEXT

The Reclamation Projects Act of 1939, referred to in subsec. (b), is classified to sections 375a, 387—389, 485—485h and 485i—485k of this title.

AMENDMENTS

1961—Subsec. (b). Pub. L. 87-88 substituted provisions permitting not more than 30 per centum of the total estimated cost of any project to be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project for provisions which permitted not more than 30 per centum of the total estimated cost of any project to be allocated to anticipated future demands where States or local interests give reasonable assurance that they will contract for the use of storage for anticipated future demands within a period of time which will permit paying out the costs allocated to water supply within the life of the project.

SHORT TITLE

Section 302 of Pub. L. 85-500 provided that this section should be popularly known as the "Water Supply Act of 1958".

§ 390c. Water reservoirs; interests of States and local agencies in storage space.

Cognizant that many States and local interests have in the past contributed to the Government, or have contracted to pay to the Government over a specified period of years, money equivalent to the cost of providing for them water storage space at Government-owned dams and reservoirs, constructed by the Corps of Engineers of the United States Army, and that such practices will continue, and, that no law defines the duration of their interest in such storage space, and realizing that such States and local interests assume the obligation of paying substantially their portion of the cost of providing such facilities, their right to use may be continued during the existence of the facility as hereinafter provided. (Pub. L. 88-140, § 1, Oct. 16, 1963, 77 Stat. 249.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390d, 390f of this title.

§ 390d. Dams and reservoirs wherein costs thereof, or rights thereto, have been acquired by local interests.

Sections 390c to 390f of this title are applicable to all dams and reservoirs heretofore or hereafter constructed by the United States Government (acting through the Corps of Engineers of the United States Army) wherein either a part of the construction cost thereof shall have been contributed or may be contributed by States or local interests (hereinafter called "local interests") or local interests have acquired or may acquire rights to utilize certain storage space thereof by making payments during the period of such use as specified in the agreement with the Government and wherein the amount of money paid, exclusive of interest, is equivalent to the

cost of providing that part of such dam and reservoir which is allocated to such use, whether such share of cost shall have been determined by the "incremental cost" method or by the "separable costs-remaining benefits" method or by any other method. Included among the dams and reservoirs affected by sections 390c to 390f of this title are those constructed by the Corps of Engineers of the Department of the Army, but nothing in sections 390c to 390f of this title shall be construed to affect or modify section 390 of this title. (Pub. L. 88–140, § 2, Oct. 16, 1963, 77 Stat. 249.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390e. Rights, acquisition and availability of; obligation for operation and maintenance; costs for reconstruction, rehabilitation, or replacement; use during Goverment operation or by contract.

The right thus acquired by any such local interest is hereby declared to be available to the local interest so long as the space designated for that purpose may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, and not limited to the term of years which may be prescribed in any lease agreement or other agreement with the Government, but the enjoyment of such right will remain subject to performance of its obligations prescribed in such lease agreement or agreement executed in reference thereto. Such obligations will include continued payment of annual operation and maintenance costs allocated to water supply. In addition, local interests shall bear the costs allocated to the water supply of any necessary reconstruction, rehabilitation, or replacement of project features which may be required to continue satisfactory operation of the project. Any affected local interest may utilize such facility so long as it is operated by the Government. In the event that the Government concludes that it can no longer usefully and economically maintain and operate such facility, the responsible department or agency of the Government is authorized to negotiate a contract with the affected local interest under which the local interest may continue to operate such part of the facility as is necessary for utilization of the storage space allocated to it, under terms which will protect the public interest and provided that the Government is effectively absolved from all liability in connection with such operation. (Pub. L. 88–140, § 3, Oct. 16, 1963, 77 Stat. 249.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390d, 390f of this title.

§ 390f. Revision of leases or agreements to evidence conversion of rights to use of storage rights.

Upon application of any affected local interest its existing lease or agreement with the Government will be revised to evidence the conversion of its rights to the use of the storage as prescribed in sections 390c to 390f of this title. (Pub. L. 88–140, § 4, Oct. 16, 1963, 77 Stat. 250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390d of this title.

RECLAMATION FUND GENERALLY

§ 391. Establishment of "reclamation fund."

All moneys received from the sale and disposal of public lands in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming, beginning with the fiscal year ending June 30, 1901, including the surplus of fees and commissions in excess of allowances to officers designated by the Secretary of the Interior, and excepting the 5 per centum of the proceeds of the sales of public lands in the above States set aside by law for educational and other purposes, shall be, and the same are, reserved, set aside, and appropriated as a special fund in the Treasury to be known as the "reclamation fund", to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, and in the State of Texas, and for the payment of all other expenditures provided for in sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title. (June 17, 1902, ch. 1093, § 1, 32 Stat. 388; June 12, 1906, ch. 3288, 34 Stat. 259; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

References to register and receiver were changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for a single officer to be known as register.

Act June 12, 1906, extended the provisions of act June 17, 1902 to the State of Texas.

SHORT TITLE

Sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title are popularly known as the Reclamation Act or National Irrigation Act of 1902.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officers designated by the Secretary of the Interior" were substituted for "registers" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

All fees and commissions to be covered into the Treasury, see section 79c of this title.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391a, 391a–1, 397, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 391a. Advances to reclamation fund.

The Secretary of the Treasury is authorized, upon request of the Secretary of the Interior and upon approval of the President, to transfer from time to time to the credit of the reclamation fund created by section 391 of this title, such sum or sums, not exceeding in the aggregate $5,000,000, as the Secretary of the Interior may deem necessary for the construction and operation of reclamation projects authorized under sections 391 and 411 of this title, and under way on March 3, 1931. (Mar. 3, 1931, ch. 435, § 1, 46 Stat. 1507.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 391a–1 of this title.

§ 391a–1. Increase in reclamation fund; reimbursement of advances from Treasury.

The Secretary of the Treasury is authorized and directed to transfer to the credit of the reclamation fund, created by section 391 of this title, a sum equal to the difference between (1) 52½ per centum of the moneys which the Secretary of the Treasury shall determine to have accrued to the United States from lands within the naval petroleum reserves, except those in Alaska, from February 25, 1920, to June 30, 1938, inclusive, and (2) the total of all sums advanced to the reclamation fund under the provisions of sections 397 and 398 to 400 of this title, and under the provisions of sections 391a and 391b of this title, and not reimbursed by transfer from the reclamation fund to the general funds in the Treasury. The transaction provided for in this section shall be deemed to have effected a complete reimbursement to the general funds in the Treasury of all sums advanced to the reclamation fund under the provisions of such sections 391a, 391b, 397, and 398 to 400 of this title. (May 9, 1938, ch. 187, § 1, 52 Stat. 322.)

REFERENCES IN TEXT

Sections 391b and 399 of this title, referred to in the text, were omitted from the Code and are now covered by this section.

§ 391b. Reimbursement of moneys advanced to fund.

CODIFICATION

Section, act Mar. 3, 1931, ch. 435, § 2, 46 Stat. 1507, related to reimbursement of the general fund for moneys advanced under section 391a of this title. That reimbursement is now covered by section 391a–1 of this title.

§ 392. Payments into reclamation fund of moneys received from entrymen and water-right applicants.

All moneys received from entrymen or applicants for water rights shall be paid into the reclamation fund. (June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

CODIFICATION

Section is comprised of fourth sentence of section 5 of act June 17, 1902. First, second and fifth sentences of such section 5 are classified to sections 439, 431 and former section 381 of this title, respectively; part of third sentence was classified to former section 476 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 392a. Same; receipts from irrigation projects; transfer of power revenues to General Treasury after repayment of construction costs.

All moneys received by the United States in connection with any irrigation projects, including the incidental power features thereof, constructed by the Secretary of the Interior through the Bureau of Reclamation, and financed in whole or in part with moneys heretofore or hereafter appropriated or allocated therefor by the Federal Government, shall be covered into the reclamation fund, except in cases where provision has been made by law or contract for the use of such revenues for the benefit of users of water from such project: *Provided,* That after the net revenues derived from the sale of power developed in connection with any of said projects shall have repaid those construction costs of such project allocated to power to be repaid by power revenues therefrom and shall no longer be required to meet the contractual obligations of the United States, then said net revenues derived from the sale of power developed in connection with such project shall, after the close of each fiscal year, be transferred to and covered into the General Treasury as "miscellaneous receipts": *Provided further,* That nothing in this section shall be construed to amend the Boulder Canyon Project Act (45 Stat. 1057), as amended, or to apply to irrigation projects of the Office of Indian Affairs. (May 9, 1938, ch. 187, § 1, 52 Stat. 322.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in the text, is classified to subchapter I of chapter 12A of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 393. Proceeds from sale of materials, etc.

There shall be covered into the reclamation fund the proceeds of the sales of material utilized for temporary work and structures in connection with the operations under the Act of June 17, 1902, known as the Reclamation Act, as well as of the sales of all other condemned property which had been purchased under the provisions thereof, and also any moneys refunded in connection with the operations under the Reclamation Act. (Mar. 3, 1905, ch. 1459, 33 Stat. 1032.)

REFERENCES IN TEXT

The Act of June 17, 1902, known as the Reclamation Act, thereto, referred to in the text, is classified generally to this title. See Tables for distribution.

§ 394. Proceeds from sale of products of or leases of withdrawn or reserved lands.

The proceeds heretofore or hereafter received from the lease of any lands reserved or withdrawn

under the reclamation law or from the sale of the products therefrom shall be covered into the reclamation fund; and where such lands are affected by a reservation or withdrawal under some other law, the proceeds from the lease of land and the sale of products therefrom shall likewise be covered into the reclamation fund in all cases where such lands are needed for the protection or operation of any reservoir or other works constructed under the reclamation law, and such lands shall be and remain under the jurisdiction of the Secretary of the Interior. (July 19, 1919, ch. 24, § 1, 41 Stat. 202.)

REFERENCES IN TEXT

The reclamation law, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

§ 395. Contributions by State, municipality, etc.

All moneys received after March 4, 1921, from any State, municipality, corporation, association, firm, district, or individual for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes. (Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1404.)

REFERENCES IN TEXT

The reclamation law, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

§ 396. Return of contributions to cooperative investigations of projects.

The Secretary of the Interior is authorized to receive moneys from any State, municipality, irrigation district, individual, or other interest, public or private, expend the same in connection with moneys appropriated by the United States for any cooperative investigation of the feasibility of reclamation projects, and return to the contributor any moneys so contributed in excess of the actual cost of that portion of the work properly chargeable to the contribution. (Dec. 5, 1924, ch. 4, § 1, 43 Stat. 685.)

§ 397. Advances by Government for completion of projects initiated prior to June 25, 1910.

To enable the Secretary of the Interior to complete Government reclamation projects begun prior to June 25, 1910, the Secretary of the Treasury is authorized, as of June 25, 1910, upon request of the Secretary of the Interior, to transfer from time to time to the credit of the reclamation fund created by section 391 of this title, such sum or sums, not exceeding in the aggregate $20,000,000, as the Secretary of the Interior may deem necessary to complete the said reclamation projects, and such extensions thereof as he may deem proper and necessary to the successful and profitable operation and maintenance thereof or to protect water rights pertaining thereto claimed by the United States, provided the same shall be approved by the President of the United States; and such sum or sums as may be required to comply with the foregoing authority are appropriated, as of June 25, 1910, out of any money in the Treasury not otherwise appropriated: *Provided*, That the sums authorized to be transferred to the reclamation fund shall be so transferred only as such sums shall be actually needed to meet payments for work performed under existing law: *And provided further*, That all sums so transferred shall be reimbursed to the Treasury from the reclamation fund, as hereinafter provided: *And provided further*, That no part of this appropriation shall be expended upon any project existing June 25, 1910, until it shall have been examined and reported upon by a board of engineer officers of the Army, designated by the President of the United States, and until it shall be approved by the President as feasible and practicable and worthy of such expenditure; nor shall any portion of this appropriation be expended upon any project initiated after June 25, 1910. (June 25, 1910, ch. 407, § 1, 36 Stat. 835.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 391a–1, 398, 400 of this title.

§ 397a. Advances for operation and maintenance of projects.

Any moneys which may have been heretofore or may be hereafter advanced for operation and maintenance of any project or any division of a project shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which advanced in like manner as if said funds had been specifically appropriated for said purposes. (Jan. 12, 1927, ch. 27, § 1, 44 Stat. 957.)

§ 398. Sales of Government certificates to obtain funds for advances.

For the purpose of providing the Treasury with funds for the advances to the reclamation fund, provided for in section 397 of this title, the Secretary of the Treasury is authorized to issue certificates of indebtedness of the United States in such form as he may prescribe and in denominations of $50, or multiples of that sum; said certificates to be redeemable at the option of the United States at any time after three years from the date of their issue and to be payable five years after such date, and to bear interest, payable semiannually, at not exceeding 3 per centum per annum; the principal and interest to be payable in gold coin of the United States. The certificates of indebtedness herein authorized may be disposed of by the Secretary of the Treasury at not less than par, under such rules and regulations as he may prescribe, giving all citizens of the United States an equal opportunity to subscribe therefor, but no commission shall be allowed and the aggregate issue of such certificates shall not exceed the amount of all advances made to said reclamation fund, and in no event shall the same exceed the sum of $20,000,000. The certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under State, municipal, or local authority; and a sum not exceeding one-tenth of 1 per centum of the amount of the certificates of indebtedness issued under this section is appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same. (June 25, 1910, ch. 407, § 2, 36 Stat. 835.)

CROSS REFERENCES

Gold coinage discontinued and gold coin withdrawn from circulation, see section 315b of Title 31, Money and Finance.

Provisions for payment in gold declared against public policy, and all obligations to be discharged upon payment, dollar for dollar, in any coin or currency which is legal tender for payment of debts, see section 463 of Title 31, Money and Finance.

Repeal of provisions inconsistent with Gold Reserve Act of 1934, see section 446 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 391a–1, 400 of this title.

§ 399. Repayment of advances.

CODIFICATION

Section, acts June 25, 1910, ch. 407, § 3, 36 Stat. 836; June 12, 1917, ch. 27, § 1, 40 Stat. 149, related to repayment of advances made under sections 397 and 398 of this title, and is now covered by section 391a–1 of this title.

§ 400. Advances as item of cost of construction and maintenance of project.

All money placed to the credit of the reclamation fund in pursuance of section 397 to 399 of this title shall be devoted exclusively to the completion of work on reclamation projects begun prior to June 25, 1910, as hereinbefore provided, and the same shall be included with all other expenses in future estimates of construction, operation, or maintenance. (June 25, 1910, ch. 407, § 4, 36 Stat. 836.)

REFERENCES IN TEXT

Section 399 of this title, referred to in the text, was omitted from the Code and is now covered by section 391a—1 of this title.

CODIFICATION

Section is comprised of first clause of section 4 of act June 25, 1910. Second clause of such section 4 is classified to section 413 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 391a–1 of this title.

§ 401. Amounts collected from defaulting contractors and their sureties.

Any amounts collected from defaulting contractors or their sureties, including collections heretofore made, in connection with contracts entered into under the reclamation law, either collected in cash or by deduction from amounts otherwise due such contractors, shall be covered into the reclamation fund and shall be credited to the project or operation for or on account of which such contract was made. (June 6, 1930, ch. 410, 46 Stat. 522.)

REFERENCES IN TEXT

The reclamation law, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

§ 402. Reimbursement of moneys advanced under sections 391a and 397.

CODIFICATION

Section, acts Apr. 1, 1932, ch. 95, § 10, 47 Stat. 78; Mar. 3, 1933, ch. 200, § 2, 47 Stat. 1427, related to repayment of advances under sections 391a and 397 of this title. More recent provisions on this subject are contained in section 391a–1 of this title.

§§ 403, 404. Repealed. June 30, 1947, ch. 166, title II, § 206 (c), 61 Stat. 208.

Section 403, acts May 12, 1933, ch. 25, title II, § 36, 48 Stat. 49; June 16, 1933, ch. 101, § 19, 48 Stat. 308; June 19, 1934, ch. 653, § 11, 48 Stat. 1110; June 27, 1934, ch. 851, 48 Stat. 1269, related to refinancing agricultural improvement districts.

Section 404, act May 12, 1933, ch. 25, title II, § 37, 48 Stat. 50, related to advances by the former Reconstruction Finance Corporation.

INSTITUTION AND CONSTRUCTION OF PROJECTS

§ 411. Surveys for, location, and construction of irrigation works generally.

The Secretary of the Interior is authorized and directed to make examinations and surveys for, and to locate and construct, as provided in sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title, irrigation works for the storage, diversion, and development of waters, including artesian wells. (June 17, 1902, ch. 1093, § 2, 32 Stat. 388; Aug. 7, 1946, ch. 770, § 1(7), 60 Stat. 867.)

PRIOR LAW

This section superseded the previous similar provisions for investigations and surveys by the Geological Survey and for reports thereof by the Director of the Geological Survey, contained in acts Mar. 2, 1889, ch. 411, § 1, 25 Stat. 960; Oct. 2, 1888, ch. 1069, § 1, 25 Stat. 526.

AMENDMENTS

1946—Act Aug. 7, 1946 repealed provisions requiring annual reports to Congress as to the results of those examinations and surveys.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 391a, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 411a. Repealed. Feb. 28, 1929, ch. 374, § 2, 45 Stat. 1406.

Section, act June 28, 1926, ch. 704, 44 Stat. 776, authorized the employment of engineers for consultation.

§ 411a–1. Appropriations for investigations of feasibility of reclamation projects.

The sum of $125,000 annually is authorized to be appropriated for cooperative and miscellaneous investigations of the feasibility of reclamation projects. (Feb. 21, 1963, ch. 101, 42 Stat. 1281.)

§ 411b. Employment of engineers, geologists, appraisers and economists for reclamation consultation work; compensation; retired Army and Navy officers as consulting engineers.

The Secretary of Interior is authorized, in his judgment and discretion, to employ for consultation purposes on important reclamation work ten consulting engineers, geologists, appraisers, and economists, at rates of compensation to be fixed by him, but not to exceed $50 per day for any engineer, geologist, appraiser, or economist so employed: *Provided*, That the total compensation paid to any engineer, geologist, appraiser, or economist during any fiscal year shall not exceed $5,000: *Provided further*, That notwithstanding the provisions of any other Act, retired officers of the Army or Navy may

be employed by the Secretary of the Interior as consulting engineers in accordance with the provisions of this section. (Feb. 28, 1929, ch. 374, § 1, 45 Stat. 1406; Apr. 22, 1940, ch. 125, 54 Stat. 148; Dec. 23, 1944, ch. 708, 58 Stat. 915; Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 652.)

AMENDMENTS

1966—Pub. L. 89-554 eliminated provisions which authorized employment of retired personnel of the Department of Interior as consultants.

1944—Act Dec. 23, 1944, added third proviso.

1940—Act Apr. 22, 1940 provided for employment of appraisers and increased the number to be employed from five to ten.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 412. Prerequisites to initiation of project or division of project.

After December 5, 1924, no new project or new division of a project shall be approved for construction or estimates submitted therefor by the Secretary until information in detail shall be secured by him concerning the water supply, the engineering features, the cost of construction, land prices, and the probable cost of development, and he shall have made a finding in writing that it is feasible, that it is adaptable for actual settlement and farm homes, and that it will probably return the cost thereof to the United States. (Dec. 5, 1924, ch. 4, § 4, subsec. B, 43 Stat. 702.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500, 600a of this title.

§ 413. Approval of project by President.

No irrigation project shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States. (June 25, 1910, ch. 407, § 4, 36 Stat. 836.)

CODIFICATION

Section is comprised of second clause of section 4 of act June 25, 1910. First clause of such section 4 is classified to section 400 of this title.

§ 414. Appropriation for projects essential.

Expenditures shall not be made for carrying out the purposes of the reclamation law except out of appropriations made annually by Congress therefor, and there shall annually, in the Budget, be submitted to Congress estimates of the amount of money necessary to be expended for carrying out any or all of the purposes authorized by the reclamation law, including the extension and completion of existing projects and units thereof and the construction of new projects. The annual appropriations made hereunder by Congress for such purposes shall be paid out of the reclamation fund provided for by the reclamation law. (Aug. 13, 1914, ch. 247, § 16, 38 Stat. 690.)

REFERENCES IN TEXT

The reclamation law, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

CODIFICATION

Words "there shall annually, in the Budget, be submitted to Congress" were substituted for "the Secretary of the Interior shall annually in the regular Book of Estimates, submit to Congress" in view of the Budget and Accounting Act, 1921, act June 10, 1921, ch. 18, title I, § 1, 42 Stat. 20, classified to chapter 1 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 415. Receipts applicable to project generally.

All moneys heretofore or hereafter refunded or received in connection with operations under the reclamation law, except repayments of construction and operation and maintenance charges, shall be a credit to the appropriation for the project or operation from or on account of which the collection is made and shall be available for expenditure in like manner as if said sum had been specifically appropriated for said project or operation. (June 12, 1917, ch. 27, § 1, 40 Stat. 149.)

REFERENCES IN TEXT

The reclamation law, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

§ 416. Withdrawal of lands to be irrigated from and restoration to entry.

The Secretary of the Interior shall, before giving the public notice provided for in section 419 of this chapter, withdraw from public entry the lands required for any irrigation works contemplated under the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of such sections; and the Secretary of the Interior is authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works: *Provided*, That all lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of said sections; that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable, and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry. (June 17, 1902, ch. 1093, § 3, 32 Stat. 388.)

CODIFICATION

Section is comprised of part of section 3 of act June 17, 1902. Remainder of such section 2 is classified to sections 432 and 434 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Entry upon unreserved public lands withdrawn or classified as coal lands or valuable as coal, see section 83 of Title 30, Mineral Lands and Mining.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

Lands improved at expense of reclamation fund and not needed for reclamation projects to be appraised and sold at public auction for not less than appraised value, see section 375 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 sections 83, 84, 125.

§ 417. Reservation of easements in public lands for reclamation projects.

Where, in the opinion of the Secretary, a right of way or easement of any kind over public land is required in connection with a project the Secretary may reserve the same to the United States by filing in the Bureau of Land Management and in the appropriate local land office copies of an instrument giving a description of the right of way or easement and notice that the same is reserved to the United States for Federal irrigation purposes under sections 371, 376, 377, 412, 417, 433, 462, 466, 478, 493, 494, 500, 501 and 526 of this title, in which event entry for such land and the patent issued therefor shall be subject to the right of way or easement so described in such instrument; and reference to each such instrument shall be made in the appropriate tract books and also in the patent. (Dec. 5, 1924, ch. 4, § 4, subsec. P, 43 Stat. 704; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 493, 500 of this title.

§ 418. Private lands within project; agreement as to disposal of excess over farm unit.

Before any contract is let or work begun for the construction of any reclamation project adopted after August 13, 1914, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at not to exceed such price as the Secretary of the Interior may designate; and if any landowner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction. (Aug. 13, 1914, ch. 247, § 12, 38 Stat. 689.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 419. Contract for irrigation project; notice as to lands irrigable, unit of entry, and construction charges.

Upon the determination that any irrigation project is practicable, the Secretary of the Interior may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing the necessary funds for such portions or sections are available, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project, and the number of annual installments in which such charges shall be paid and the time when such payments shall commence: *Provided,* That in all construction work eight hours shall constitute a day's work. (June 17, 1902, ch. 1093, § 4, 32 Stat. 389; May 10, 1956, ch. 256, 70 Stat. 151.)

CODIFICATION

Section is comprised of part of section 4 of act June 17, 1902. Remainder of such section 4 is classified to section 461 of this title.

AMENDMENTS

1956—Act May 10, 1956 substituted a period for the comma after the word "work" in the proviso, and eliminating the words "and no Mongolian labor shall be employed thereon.".

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified, or repealed by the Submerged Land Act, see section 1303 of this title.

CROSS REFERENCES

Construction charges to be paid in annual installments, see section 461 et seq. of this title.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 464, 468, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 420. Use of earth, timber, etc., from other public lands.

In carrying out the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title, and in constructing works thereunder, the Secretary of the Interior is authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is authorized to permit the use of earth, stone, and timber from the national forests of the United States for the same purpose, under rules and regulations to be prescribed by him. (Feb. 8, 1905, ch. 552, 33 Stat. 706; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

CODIFICATION

Act Mar. 4, 1907 redesignated the "forest reserves" as "national forests."

§ 421. Acquisition of lands for irrigation project; eminent domain.

Where, in carrying out the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title, it becomes necessary to acquire any rights or property, the Secretary of the Interior is authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose, and it shall be the duty of the Attorney General of the United States upon every application of the Secretary of the Interior, under such sections, to cause proceedings to be commenced for condemnation within thirty days from the receipt of the application at the Department of Justice. (June 17, 1902, ch. 1093, § 7, 32 Stat. 389.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified, or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 421a. Construction of irrigation distribution systems by irrigation districts or public agencies.

Irrigation distribution systems authorized to be constructed under the Federal reclamation laws may, in lieu of construction by the Secretary of the Interior (referred to in sections 421a to 421d of this title as the "Secretary"), be constructed by irrigation districts or other public agencies according to plans and specifications approved by the Secretary as provided in sections 421a to 421d of this title. (July 4, 1955, ch. 271, § 1, 69 Stat. 244.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, refer to act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto, which are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421c of this title.

§ 421b. Same; loans for construction; repayment contract; definition.

To assist financially in the construction of the local irrigation distribution systems by irrigation districts and other public agencies the Secretary is authorized, on application therefor by such irrigation districts or other public agencies, to make funds available on a loan basis from moneys appropriated for the construction of such distribution systems to any irrigation district or other public agency in an amount equal to the estimated construction cost of such system, contingent upon a finding by the Secretary that the loan can be returned to the United States in accordance with the general repayment provisions of sections 485a (d) and 485h (d) of this title, and upon a showing that such district or agency already holds or can acquire all lands and interests in land (except public and other lands or interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) necessary for the construction, operation, and maintenance of the project. The Secretary shall, upon approval of the loan, enter into a repayment contract which includes such provisions as the Secretary shall deem necessary and proper to provide assurance of prompt repayment of the loan. The term "irrigation district or other public agency" shall for the purposes of sections 421a to 421d of this title mean any conservancy district, irrigation district, water users' organization, or other organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws. (July 4, 1955, ch. 271, § 2, 69 Stat. 245.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, refer to act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto, which are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 421a, 421c of this title.

§ 421c. Same; conditions of loan; land transfers to United States; rights-of-way; restrictions.

The Secretary shall require, as conditions to any loan specified in section 421b of this title, that the borrower contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion, not in excess of 10 per centum, of the construction cost of the distribution system (including all costs of acquiring lands and interests in land), that the plans for the system be in accord with sound engineering practices and be such as will achieve the purposes for which the system was authorized, and that the borrower agree to account in full in regard to all disbursements of borrowed funds and to return at once for application toward amortization of the loan all funds which are not expended in the construction of the distribution system. Prior to the consummation of any loan under sections 421a to 421d of this title the borrower shall also be required to transfer to the United States any lands or interests in land which it then holds and which the Secretary finds are required for the construction, operation, and maintenance of the distribution system and to agree to transfer to the United States any lands or interests in land which it may thereafter acquire and which the Secretary may find are required for this purpose and distribution works constructed, in whole or in part, with moneys lent under said sections for the construction thereof. Title to all such lands, interests in land and distribution works shall remain in the United States until the loan is repaid. Every organization contracting for repayment of a loan under said sections shall operate and maintain its distribution works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States. When full repayment has been made to the United States, the Secretary shall relinquish all claims under said contracts and shall retransfer to the borrower title to

the works and all lands and interests in land which were transferred by it to the United States. The head of any department or agency of the Government within whose administrative jurisdiction are lands owned by the United States the use of which is reasonably necessary for the construction, operation, and maintenance of distribution works under said sections may grant to a borrower or prospective borrower under said sections revocable permission for the use thereof in like manner as under sections 79, 522 and 524 of Title 16, section 11i of Title 38, sections 323 to 328 of Title 25, or sections 931a to 931d, 946—950, 956, and 959 of this title, or any other similar Act which is applicable to the lands involved: *Provided,* That no such permission shall be granted in the case of lands being administered for national park, national monument, or wildlife purposes. No benefits or privileges under the Federal reclamation laws, including repayment provisions, shall be denied an irrigation distribution system because such system has been constructed pursuant to sections 421a to 421d of this title. The provisions of sections 421a to 421d of this title shall apply only to irrigation purposes, including incidental domestic and stock water, and loans hereunder shall be interest free. Nothing in sections 421a to 421d of this title shall be construed to repeal or limit the procedural and substantive requirements of sections 372 and 383 of this title. (July 4, 1955, ch. 271, § 3, 69 Stat. 245; May 14, 1956, ch. 268, 70 Stat. 155.)

REFERENCES IN TEXT

Section 11i of title 38, referred to in the text, refers to act May 31, 1947, ch. 89, 61 Stat. 124, which was repealed by Pub. L. 85–56, title XXII, § 2202(196), June 17, 1957, 71 Stat. 171, eff. Jan. 1, 1958, and is now covered by section 5014 of Title 38, Veterans' Benefits.

Section 931b of this title, included within sections 931a–931d, referred to in the text, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See section 2668 of Title 10, Armed Forces.

The Federal reclamation laws (act June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), are classified generally to this title. See Tables for distribution.

AMENDMENTS

1956—Act May 14, 1956 provided that the Secretary, as conditions to loan, require borrower to account for disbursements of borrowed funds and return for application toward amortization of the loan all funds not expended in the construction of the distribution system, required, prior to the consummation of any loan, the transfer to the United States of titles to lands or interests in lands held by the borrower, and that titles to such lands, interests, and distribution works remain in United States until repayment, and provided for issuance of revocable permits for the use of lands owned by United States, in lieu of the formerly authorized actual conveyance to the districts of the rights-of-way.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421a of this title.

§ 421d. Effect on existing laws.

Except as otherwise provided in sections 421a to 421d of this title, the provisions of the Federal reclamation laws, and Acts amendatory thereto, are continued in full force and effect. (July 4, 1955, ch. 271, § 4, 69 Stat. 245.)

REFERENCES IN TEXT

The Federal reclamation laws, and Acts amendatory thereto, referred to in the text, refer to act June 17, 1902, ch. 1093, 32 Stat. 388 and Acts amendatory thereto, which are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 421a, 421c of this title.

§ 422. Construction of dams across Yellowstone River.

Where, in carrying out projects under the provisions of the reclamation law, it shall be necessary to construct dams in or across the Yellowstone River in the State of Montana, the Secretary of the Interior is authorized to construct and use and operate the same in the manner and for the purposes contemplated by said reclamation law. (Mar. 3, 1905, ch. 1476, 33 Stat. 1045.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442d, 422f of this title.

CONSTRUCTION OF SMALL PROJECTS

§ 422a. Declaration of purpose.

The purpose of sections 422a to 422 of this title is to encourage State and local participation in the development of projects under the Federal reclamation laws and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations. (Aug. 6, 1956, ch. 972, § 1, 70 Stat. 1044.)

SEPARABILITY OF PROVISIONS

Section 12 of act Aug. 6, 1956, provided that: "If any provisions of this Act [sections 422a—422k of this title] or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act [sections 422a—422k of this title] and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422b, 422c, 422d, 422e, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422b. Definitions.

As used in sections 422a to 422k of this title—

(a) The term "construction" shall include rehabilitation and betterment.

(b) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(c) The term "organization" shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users' association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.

(d) The term "project" shall mean (i) any complete irrigation undertaking, including incidental features thereof, or distinct unit of such an undertaking or a rehabilitation and betterment program for an existing irrigation project, authorized to be constructed pursuant to the Federal reclamation laws and (ii) any similar undertaking proposed to be constructed by an organization. The term "project" shall not include any such undertaking unit, or program the cost of which exceeds $10,000,000, and no loan, grant, or combination thereof for any project shall be in excess of $6,500,000: *Provided,* That nothing contained in sections 422a to 422k of

this title shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

(e) The term "Secretary" shall mean the Secretary of the Interior. (Aug. 6, 1956, ch. 972, § 2, 70 Stat. 1044; Sept. 2, 1966, Pub. L. 89-553, § 1(1), 80 Stat. 376.)

REFERENCES IN TEXT

The act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, referred to in subsec. (b), are classified generally to this title. See Tables for distribution.

AMENDMENTS

1966—Subsec. (d). Pub. L. 89-553 raised from $5,000,000 to $6,500,000 the maximum amount for a loan or grant for a particular project.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Section 2 of Pub. L. 89-553 provided that: "Nothing contained in this Act [amending subsec. (d) of this section and sections 422d, 422e, 422h, and 422j of this title] shall be applicable to or affect in any way the terms on which any loan or grant has been made prior to the effective date of this Act [Sept. 2, 1966]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422c, 422d, 422e, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422c. Proposals; submission; payment for cost of examination.

Any organization desiring to avail itself of the benefits provided in sections 422a to 422k of this title shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of $1,000 to defray, in part, the cost of examining the proposal. (Aug. 6, 1956, ch. 972, § 3, 70 Stat. 1044.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422d, 422e, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422d. Contents of proposals.

(a) Plans and estimates; review by States; allocation of capital costs.

Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in section 701-1(c) of Title 33, except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

(b) Lands and water rights; ownership; financing.

Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant under sections 422a—422k of this title such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in section 422(e)(b)(2) of this title as the Secretary shall have advised is proper in the circumstances.

(c) Transmittal of findings and approval to Congress; reservation of land.

At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of sections 422a to 422k of this title, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of sections 422a to 422k of this title, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 422a of this title shall have been executed.

(d) Appropriation; nonapplicability.

No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution. The provisions of this subsection (d) shall not be applicable to proposals made under section 422f of this title.

(e) Consideration of financial feasibility, emergency, or urgent need; jurisdiction and control of project works and facilities.

The Secretary shall give due consideration to financial feasibility emergency, or urgent need for the project, whether the proposal involves furnishing supplemental irrigation water for an existing

irrigation project, whether the proposal involves rehabilitation of existing irrigation project works, and whether the proposed project is primarily for irrigation. All project works and facilities constructed under section 422a to 422k of this title shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract. (Aug. 6, 1956, ch. 972, § 4, 70 Stat. 1044; June 5, 1957, Pub. L. 85–47, § 1 (a), (b), 71 Stat. 48; Sept. 2, 1966, Pub. L. 89–553, § 1(2), (3), 80 Stat. 376.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (a), are defined in section 422b (b) of this title. See also, note under such section 422b.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–553, § 1(2), extended project costs to include the cost of means and measures to prevent loss of and damage to fish and wildlife resources and authorized allocation of such costs as may be appropriate among project functions.

Subsec. (b). Pub. L. 89–553, § 1(3), substituted "cost of the project" for "cost of construction" in the provision requiring that the organization be ready, able, and willing to finance by other than loan or grant whatever costs the Secretary advises, inserted reference to section 422e(b)(2) of this title as an exception to the costs which the organization must be able to finance other than by loan or grant, and struck out proviso that the contribution by the applicant organization shall not be required in excess of 25 per centum of the costs of the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects.

1957—Subsec. (c). Pub. L. 85–47, § 1 (a), changed language generally, and eliminated provisions which authorized Secretary to negotiate a contract as provided in section 422e of this title, with the provision that no such contract be executed by him prior to sixty days from date project proposal was submitted to both branches of Congress for committee consideration, and then only if neither committee disapproved proposal within the period, but that if both committees approved he could execute contract, and that if either committee disapproved, he could not proceed unless Congress approved.

Subsec. (d). Pub. L. 85–47, § 1 (b) added subsec. (d). Former subsec. (d) redesignated (e).

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 89–553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89–553, Sept. 2, 1966, see section 2 of Pub. L. 89–553, set out as a note under section 422b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422e, 422f, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422e. Contract requirements.

Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) $6,500,000 or (2) the estimated total cost of the project minus the contribution of the local organization as provided in section 422d(b) of this title and the amount of the grant approved;

(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation; (2) one-half the costs of acquiring lands or interests therein for a reservoir or other area to be operated for fish and wildlife enhancement or public recreation purposes; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; and (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement, which are nonreimbursable under general provisions of law applicable to such projects;

(c) a plan of repayment by the organization of (1) the sums lent to it in not more than fifty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum, on that portion of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres; and (3) in the case of any project involving an allocation to domestic, industrial, or municipal water supply, or commercial power, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above;

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of noncompliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to sections 422a to 422k of this title shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 485h (c) of this title, if the project produces electric power for sale. (Aug. 6, 1956, ch. 972, § 5, 70 Stat. 1046; June 5, 1957, Pub. L. 85–47, § 1 (c), 71 Stat. 49; Sept. 2, 1966, Pub. L. 89–553, § 1(4), 80 Stat. 376.)

AMENDMENTS

1966—Pub. L. 89-553 substituted the lesser of $6,500,000 or the estimated total cost of the project minus the contribution of the local organization as provided in section 442d(b) of this title and the amount of the grant for the portion of the estimated cost of constructing the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects as the maximum amount of the loan, struck out the time and method of paying a grant to an organization from the list of contract terms, added factors involving fish and wildlife enhancement and public recreation to the factors adding up to the figure comprising the maximum allowable grant, and altered the requirements of the interest term by substituting the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue for the estimate of the average annual yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May preceding the fiscal year in which the loan is made, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from May 1 of the year.

1957—Pub. L. 85-47 substituted "Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which" for the words "Any contract authorized to be negotiated under the provisions of subsection (c) of section 422d of this title".

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment of section by Pub. L. 89-553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89-553, Sept. 2, 1966, see section 2 of Pub. L. 89-553, set out as a note under section 422b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422f. Proposals for projects previously authorized; waiver of requirements; approval; negotiation of contract.

Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 422d of this title, but the Secretary may waive such requirements of subsections (a) and (b) of section 422d of this title as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 422 of this title. (Aug. 6, 1956, ch. 972, § 6, 70 Stat. 1046.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are defined in section 422b (b) of this title. See also, note under such section 422b.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422g, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422g. Information from Federal agencies; costs.

Upon request of an organization which has made or intends to make a proposal under sections 422a to 422k of this title, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under sections 422a to 422k of this title shall, to the extent that they would not be nonreimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract entered into under section 422e of this title unless they are otherwise paid for by the organization. (Aug. 6, 1956, ch. 972, § 7, 70 Stat. 1047.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are defined in section 422b (b) of this title. See also, note under such section 422b.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422h, 422i, 422j, 422k, 422*l* of this title.

§ 422h. Planning and construction.

The planning and construction of projects undertaken pursuant to sections 422a to 422k of this title shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act, as amended. (Aug. 6, 1956, ch. 972, § 8, 70 Stat. 1047; Sept. 2, 1966, Pub. L. 89-553, § 1(5), 80 Stat. 377.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, as amended, referred to in text, is act Mar. 10, 1934, b. 55, 48 Stat. 401, as amended, which is classified to section 661 et seq. of Title 16, Conservation.

AMENDMENTS

1966—Pub. L. 89-553 substituted "the Fish and Wildlife Coordination Act, as amended" for "the Act of Aug. 14, 1946 (60 Stat. 1080)", which, for purposes of classification, had been changed to "sections 661—665, and 666—666c of Title 16".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422g, 422i, 422j, 422k, 422*l* of this title.

§ 422i. Rules and regulations.

The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of sections 422a to 422k of this title. (Aug. 6, 1956, ch. 972, § 9, 70 Stat. 1047.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422g, 422h, 422j, 422k, 422*l* of this title.

§ 422j. Appropriations; notice to Congress of receipt of proposal; funds to initiate proposal; availability of appropriations; reimbursement.

There are authorized to be appropriated, such sums as may be necessary, but not to exceed $200,000,000, to carry out the provisions of sections 422a to 422k of this title: *Provided,* That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 422b of this title, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans

made under sections 422a to 422k of this title, be reimbursable in the manner hereinabove provided. (Aug. 6, 1956, ch. 972, § 10, 70 Stat. 1047; Sept. 2, 1966, Pub. L. 89-553, § 1(6), 80 Stat. 377.)

AMENDMENTS

1966—Pub. L. 89-553 substituted "$200,000,000" for "$100,000,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422g, 422h, 422i, 422k, 422*l* of this title.

§ 422k. Supplement to Federal reclamation laws; short title.

Sections 422a to 422k of this title shall be a supplement to the Federal reclamation laws and may be cited as the Small Reclamation Projects Act of 1956. (Aug. 6, 1956, ch. 972, § 11, 70 Stat. 1047.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are defined in section 422b (b) of this title. See, also, note under such section 422b.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422a, 422b, 422c, 422d, 422e, 422g, 422h, 422i, 422j, 422*l* of this title.

§ 422*l*. Application of sections 422a to 422k to Hawaii.

Sections 422a to 422k of this title, as heretofore and hereafter amended, shall apply to the State of Hawaii. (Pub. L. 86-624, § 31, July 12, 1960, 74 Stat. 421.)

ADMINISTRATION OF EXISTING PROJECTS

§ 423. Permanently unproductive lands; exclusion from project; disposition of water right.

All lands found by the classification made under the supervision of the Board of Survey and Adjustments (House Document 201, 69th Congress, 1st Session, checked and modified as outlined in General Recommendations numbered 2 and 4, Page 60 of said document), to be permanently unproductive shall be excluded from the project and no water shall be delivered to them after the date of such exclusion unless and until they are restored to the project. Except as herein otherwise provided, the water right formerly appurtenant to such permanently unproductive lands shall be disposed of by the United States under the reclamation law: *Provided,* That the water users on the projects shall have a preference right to the use of the water: *And provided further,* That any surplus water temporarily available may be furnished upon a rental basis for use on lands excluded from the project under this section, on terms and conditions to be approved by the Secretary of the Interior. (May 25, 1926, ch. 383, §§ 40, 41, 44 Stat. 647.)

SECTIONS 423—423g AND 610 UNAFFECTED BY SECTIONS 451—451k OF THIS TITLE

Section 10 of act Aug. 13, 1953, ch. 428, 67 Stat. 568, provided in part that: "Nothing contained in this Act [sections 451—451k of this title] shall be held to repeal, supersede, or supplement the provisions for exchange and matters related thereto contained in the Act of May 25, 1926 (44 Stat. 636), as amended and supplemented [sections 423—423g and 610 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423d, 423f, 424, 424b, 424c, 424d of this title.

§ 423a. Same; construction charges already paid; disposition.

The construction charges prior to May 25, 1926, paid on permanently unproductive lands excluded from the project shall be applied as a credit on charges due or to become due on any remaining irrigable land covered by the same water-right contract or land taken in exchange as provided in section 423c of this title. If the charges so paid exceed the amount of all water-right charges due and unpaid, plus the construction charges not yet due, the balance shall be paid in cash to the holder of the water-right contract covering the land so excluded or to the irrigation district affected; which in turn shall be charged with the responsibility of making suitable adjustment with the landowners involved. Should all the irrigable lands of a water-right applicant be excluded from the project as permanently unproductive, and no exchange be made as provided in said section, the total construction charges paid before May 25, 1926, less any accrued charges on account of operation and maintenance, shall be refunded in cash, the water-right contract shall be canceled, and all liens on account of water-right charges shall be released. (May 25, 1926, ch. 383, § 42, 44 Stat. 647.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423c, 423d, 423f, 424d of this title.

§ 423b. Same; suspension of payment of construction charges.

The payment of all construction charges against said areas temporarily unproductive shall remain suspended until the Secretary of the Interior shall declare them to be possessed of sufficient productive power properly to be placed in a paying class, whereupon payment of construction charges against such areas shall be resumed or shall begin, as the case may be. Any payments made on such areas shall be credited to the unpaid balance of the construction charge on the productive area of each unit. Such credit shall be applied on and after April 23, 1930, which shall not be construed to require revision of accounts adjusted before April 23, 1930, under the provisions of this section as originally enacted. While said lands so classified as temporarily unproductive and the construction charges against them are suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges, or such other charges as may be fixed by the Secretary of the Interior the advance payment of which may be required, in the discretion of the said Secretary. Should said lands temporarily classed as unproductive, or any of them, in the future be found by the Secretary of the Interior to be permanently unproductive, the charges against them shall be charged off as a permanent loss to the reclamation fund and they shall thereupon be treated in the same manner as other permanently unproductive lands as provided in sections 423 to 423g of this title except that no refund shall be made of the construction charges paid on such unproductive areas and applied as a credit on productive areas as herein authorized. (May 25, 1926, ch. 383, § 43, 44 Stat. 647; Apr. 23, 1930, ch. 205, 46 Stat. 249.)

AMENDMENT

Act Apr. 23, 1930, provided that the credit shall be applied on or after April 23, 1930, and was not to be construed as requiring revision of accounts adjusted before such date, and that no refund shall be made of the charges on unproductive areas and applied as a credit on productive areas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423d, 423f, 424, 424b, 424d of this title.

§ 423c. Exchange of unpatented entries; entries, farms or private lands, eliminated from project; rights not assignable; rights of lienholders; preference to ex-service men.

Settlers who have unpatented entries under any of the public land laws embracing lands which have been eliminated from the project, or whose entries under water rights have been so reduced that the remaining area is insufficient to support a family, shall be entitled to exchange their entries for other public lands within the same project or any other existing Federal reclamation project, with credit under the homestead laws for residence, improvement, and cultivation made or performed by them upon their original entries and with credit upon the new entry for any construction charges paid upon or in connection with the original entry: *Provided,* That when satisfactory final proof has been made on the original entry it shall not be necessary to submit final proof upon the lieu entry. Any entryman whose entry or farm unit is reduced by the elimination of permanently unproductive land shall be entitled to enter an equal amount of available public land on the same project contiguous to or in the vicinity of the farm unit reduced by elimination, with all credits in this section hereinbefore specified in lieu of the lands eliminated. Owners of private lands so eliminated from the project may, subject to the approval of the Secretary of the Interior, and free from all encumbrances, relinquish and convey to the United States lands so owned and held by them, not exceeding an area of one hundred and sixty acres, and select an equal area of vacant public land within the irrigable area of the same or any other Federal reclamation project, with credit upon the construction costs of the lands selected to the extent and in the amount paid upon or in connection with their relinquished lands, and the Secretary of the Interior is authorized to revise and consolidate farm units, so far as this may be made necessary or advisable, with a view to carrying out the provisions of this section: *Provided further,* That the rights extended under this section shall not be assignable: *And provided further,* That in administering the provisions of this section and section 423a of this title, the Secretary of the Interior shall take into consideration the rights and interests of lien holders, as to him may seem just and equitable: *Provided further,* That where two entrymen apply for the same farm unit under the exchange provisions of this section, only one whom [1] is an ex-service man, as defined by section 438 of this title, the ex-service man shall have a preference in making such exchange. (May 25, 1926, ch. 383, § 44, 44 Stat. 648.)

[1] So in original. Probably should be "one of whom".

REFERENCES IN TEXT

The homestead laws, referred to in text, are classified generally to section 161 et seq. of this title.

Section 438 of this title, referred to in Text, was repealed by act Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568. Provision giving preference to ex-servicemen is now covered by section 451g of this title.

CROSS REFERENCES

Exchange provisions of this section not applicable to land purchased under section 424a of this title, see section 424b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423a, 423b, 423d, 423f, 424b, 424d of this title.

§ 423d. Amendment of existing water-right contracts by the Secretary of the Interior.

The Secretary of the Interior is authorized, in his discretion, to amend any existing water-right contract to the extent necessary to carry out the provisions of sections 423 to 423g of this title, upon request of the holder of such contract. The Secretary of the Interior, as a condition precedent to the amendment of any existing water-right contract, shall require the execution of a contract by a water-users' association or irrigation district whereby such association or irrigation district shall be required to pay to the United States, without regard to default in the payment of charges against any individual farm unit or tract of irrigable land, the entire charges against all productive lands remaining in the project after the permanently unproductive lands shall have been eliminated and the charges against temporarily unproductive areas shall have been suspended in the manner and to the extent authorized and directed by sections 423 to 423g of this title.

The Secretary is authorized, in his discretion, upon request of individual water users or districts, and upon performance of the condition precedent above set forth, to amend any existing water-right contract to provide for increase in the time for payment of construction charges, which have not been accrued, to the extent that may be necessary under the conditions in each case, subject to the limitation that there shall be allowed for repayment not more than forty years from the date the first payment matured under the original contract, and also to extend the time for payment of operation and maintenance or water-rental charges due and unpaid for such period as in his judgment may be necessary not exceeding five years, the charges so extended to bear interest payable annually at the rate of 6 per centum per annum until paid, and to contract for the payment of the construction charges then due and unpaid within such term of years as the Secretary may find to be necessary, with interest payable annually at the rate of 6 per centum per annum until paid.

The Secretary of the Interior is authorized to complete and execute the supplemental contract, being negotiated on May 25, 1926, and which had, on that date, been approved as to form by the Secretary, between the United States and the Belle Fourche Irrigation District and at the expiration of said supplemental contract to enter into a permanent contract on behalf of the United States with said

District in accordance with the terms of said supplemental contract. (May 25, 1926, ch. 383, § 45, 44 Stat. 648.)

CODIFICATION

Section constitutes a part of section 45 of act May 25, 1926. The remainder of said section 45 (the third par. and the fourth par., except the final proviso, which is classified as the last par. of this section) has been omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423f, 424d of this title.

§ 423e. Completion of new projects or new division; execution of contract with district as condition precedent to delivery of water; contents of contract; cooperation of States with United States; limitations on sale of land.

No water shall be delivered upon the completion of any new project or new division of a project initiated after May 25, 1926, until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts with irrigation districts hereinbefore referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sale is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided, however,* That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor: *Provided further,* That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment. (May 25, 1926, ch. 383, § 48, 44 Stat. 650; July 11, 1956, ch. 563, § 1, 70 Stat. 524.)

AMENDMENTS

1956—Act July 11, 1956 authorized delivery of water for not more than five years to excess lands acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise.

AMENDMENT OF EXISTING CONTRACTS

Section 3 of act July 11, 1956, provided that: "The Secretary of the Interior is authorized, upon request of any holder of an existing contract under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to amend the contract to conform to the provisions of sections 1 and 2 of this Act [amending this section and section 544 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423d, 423f, 423h, 424d, 614a, 616u, 616fff–5 of this title.

§ 423f. Purpose of sections 423 to 423g.

The purpose of sections 423 to 423g of this title is the rehabilitation of the several reclamation projects and the insuring of their future success by placing them upon a sound operative and business basis, and the Secretary of the Interior is directed to administer said sections to those ends. (May 25, 1926, ch. 383, § 48, 44 Stat. 650.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423d, 424d of this title.

§ 423g. Adjustment of water-right charges as final adjudication on projects and divisions named.

The adjustments under sections 1 to 40, inclusive, of the Act of Congress of May 25, 1926, 44 Statutes 636, are declared to be an incident of the operation of the "reclamation law," a final adjudication on the projects and divisions named in such sections under the authority contained in section 466 of this title, and shall not after May 25, 1926, be construed to be the basis of reimbursement to the "reclamation fund" from the general fund of the Treasury or by the diversion to the "reclamation fund" of revenue of the United States not on May 25, 1926, required by law to be credited to such "reclamation fund." (May 25, 1926, ch. 383, § 50, 44 Stat. 650.)

REFERENCES IN TEXT

The act of May 25, 1926, ch. 383, 44 Stat. 636, to which reference is made in this section was entitled "An act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other

purposes." Sections 1—40 thereof were not general in nature and are not carried in the Code. This section was taken from section 50 of that act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 423b, 423d, 423f, 424d of this title.

§ 423h. Delivery of water to excess lands upon death of spouse.

Where the death of a husband or wife causes lands in private ownership to become excess lands, as that term is used in section 423e of this title, and those lands had theretofore been eligible to receive water from a project under the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereto) without execution of a recordable contract under section 423e of this title, the Secretary of the Interior is authorized to furnish water to them, without requiring execution of such a contract, so long as they remain in the ownership of the surviving spouse: *Provided,* That in the event of the remarriage of the surviving spouse, such lands shall be governed by applicable law without regard to the provisions of this section. (Pub. L. 86-684, Sept. 2, 1960, 74 Stat. 732.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

§ 424. Disposal of lands classified as temporarily or permanently unproductive; persons who may take.

The Secretary of the Interior is authorized in connection with Federal irrigation projects to dispose of vacant public lands designated under sections 423 and 423b of this title, as temporarily unproductive or permanently unproductive to resident farm owners, and resident entrymen on Federal irrigation projects, in accordance with the provisions of sections 424a to 424e of this title. (May 16, 1930, ch. 292, § 1, 46 Stat. 367.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424a, 424d, 424e of this title.

§ 424a. Same; sale; terms; area purchasable; tracts included.

The Secretary is authorized to sell such lands to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided,* That no such resident farm owner or resident entryman shall be permitted to purchase under this section and section 424 of this title more than one hundred and sixty acres of such land, or an area which, together with land already owned on such Federal irrigation project, shall exceed three hundred and twenty acres: *And provided further,* That the authority given hereunder shall apply not only to tracts wholly classified as temporarily or permanently unproductive, but also to all tracts of public lands within Federal irrigation projects which by reason of the inclusion of lands classified as temporarily or permanently unproductive are found by the Secretary to be insufficient to support a family and to pay water charges. (May 16, 1930, ch. 292, § 2, 46 Stat. 367.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424b, 424d, 424e of this title.

§ 424b. Same; application of certain statutes to lands sold.

All "permanently unproductive" and "temporarily unproductive" land now or hereafter designated under section 423 of this title, shall, when sold, remain subject to sections 423 and 423b of this title. The exchange provisions of section 423c of this title, shall not be applicable to the land purchased under section 424a of this title. (May 16, 1930, ch. 292, § 3, 46 Stat. 367.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424, 424d, 424e of this title.

§ 424c. Same; issuance of patents; recitals in patents; reservations.

After the purchaser has paid to the United States all amounts due on the purchase price of said land, a patent shall issue which shall recite that the lands so patented have been classified in whole or in part as temporarily or permanently unproductive, as the case may be, under section 423 of this title. Such patents shall also contain a reservation of a lien for water charges when deemed appropriate by the Secretary and reservations of coal or other mineral rights to the same extent as patents issued under the homestead laws. (May 16, 1930, ch. 292, § 4, 46 Stat. 367.)

REFERENCES IN TEXT

The homestead laws, referred to in the text, are classified generally to section 161 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424, 424d, 424e of this title.

§ 424d. Same; use of moneys collected from sales, project construction charges and water rentals.

In the absence of a contrary requirement in the contracts between the United States and the water users organization or district assuming liability for the payment of project construction charges, all sums collected under sections 424 to 424e of this title from the sale of lands, from the payment of project construction charges on "temporarily unproductive" or "permanently unproductive" lands so sold, and (except as stated in this section) from water rentals, shall inure to the Reclamation Fund as a credit to the construction charge payable on May 16, 1930, by the water users under their present contracts, to the extent of the additional expense, if any, incurred by such water users in furnishing water to the unproductive area, while still in that status, as approved by the Commissioner of Reclamation and the balance as a credit to the sums heretofore written off in accordance with sections 423 to 423g of this title. Where water rental collections under sections 424 to 424e of this title are in excess of the current operation and maintenance charges, the excess as determined by the Secretary, shall, in the absence of such contrary contract provision, inure to the Reclamation Fund as above provided, but in all other cases the water rentals collected under this section and

sections 424a to 424c of this title shall be turned over to or retained by the operating district or association, where the project or part of the project from which the water rentals were collected is being operated and maintained by an irrigation district or water users association under contract with the United States. (May 16, 1930, ch. 292, § 5, 46 Stat. 368.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424, 624e of this title.

§ 424e. Same; authority of the Secretary of the Interior; rules and regulations.

The Secretary of the Interior is authorized to perform any and all acts and to make all rules and regulations necessary and proper for carrying out the purposes of sections 424 to 424d of this title. (May 16, 1930, ch. 292, § 6, 46 Stat. 368.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424, 424d of this title.

§ 425. Exemption of lands owned by States, etc., from acreage limitation on receipt of irrigation benefits; determination of exempt status.

The provisions of Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto) which limit the acreage of irrigable land which may receive irrigation benefits from, through, or by means of Federal reclamation works, shall not be applicable to lands owned by States, political subdivisions, and agencies thereof, so long as such lands are farmed, primarily in the direct furtherance of a non-revenue-producing public function, as determined by the Secretary of the Interior; and to the extent that such lands continue to qualify for the exempted status afforded by this section they shall not be deemed to be excess lands for any purposes whatsoever under said reclamation laws. (Pub. L. 91–310, § 1, July 7, 1970, 84 Stat. 411.)

REFERENCES IN TEXT

The provisions of Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), referred to in text, are classified generally to this title. See Tables Volume for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 425a of this title.

§ 425a. Eligibility of transferred lands owned by States, etc., for receipt of water from a Federal reclamation project, division, or unit; conditions of eligibility; purchase price.

Irrigable lands owned by States, political subdivisions, and agencies thereof which do not fall within the provisions of section 425 of this title may receive water from a Federal reclamation project, division, or unit if a valid recordable contract for the sale of such lands within ten years of the date of said contract has been executed under terms and conditions satisfactory to the Secretary of the Interior but without limitation upon selling price.

The purchasers of lands sold under the provisions of this section, or the heirs and devisees of such purchasers, if otherwise eligible under reclamation law to receive project water for the lands purchased, shall not be disqualified for delivery of water by reason of the amount of the purchase price paid for said lands. (Pub. L. 91–310, § 2, July 7, 1970, 84 Stat. 411.)

§ 425b. Receipt of project water by lessees of irrigable lands owned by States, etc.; time limitation; applicability of acreage limitations.

Lessees of irrigable lands owned by States, political subdivisions, and agencies thereof which are held to be subject to the acreage limitation provisions of Federal reclamation law and for which recordable contracts to sell have not been made may receive project water for a period not to exceed twenty-five years from July 7, 1970, subject to the same acreage limitation provisions of Federal reclamaton law as private landowners. (Pub. L. 91–310, § 3, July 7, 1970, 84 Stat. 411.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is classified generally to this title.

WATER-RIGHT APPLICATIONS AND LAND ENTRIES

§ 431. Limitation as to amount of water; qualifications of applicant.

No right to the use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such right shall permanently attach until all payments therefor are made. (June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125; title 50 section 568.

§ 432. Entry under homestead laws generally.

Public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry only under the provisions of the homestead laws, and shall be subject to the limitations, charges, terms, and conditions herein provided: *Provided,* That the commutation provisions of the homestead laws shall not apply to entries made under sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 434, 439, 461, 491 and 498 of this title. (June 17, 1902, ch. 1093, § 3, 32 Stat. 388.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 491, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 433. Character and capital qualification of entrymen.

The Secretary is authorized, under regulations to be promulgated by him, to require of each applicant including preference right ex-service men for entry to public lands on a project, such qualifications as to industry, experience, character, and capital, as in his opinion are necessary to give reasonable assurance of success by the prospective settler. The Secretary is authorized to appoint boards in part composed of private citizens, to assist in determining such qualifications. (Dec. 5, 1924, ch. 4, § 4, subsec. C, 43 Stat. 702.)

ADVANCES BY FARM SECURITY ADMINISTRATION AS CAPITAL

Act Aug. 7, 1939, ch. 509, 53 Stat. 1238, as amended June 17, 1940, ch. 390, 54 Stat. 402, provided the Secretary of Interior is authorized during fiscal year 1941 to consider money made available to settlers by the former Farm Security Administration to be all or part of the capital required under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500, 617h of this title; title 16 section 835c.

§ 433a. Preference of needy families.

It is declared to be the policy of the Congress that, in the opening to entry of newly irrigated public lands, preference shall be given to families who have no other means of earning a livelihood, or who have been compelled to abandon, through no fault of their own, other farms in the United States, and with respect to whom it appears after careful study, in the case of each such family, that there is a probability that such family will be able to earn a livelihood on such irrigated lands. (June 18, 1940, ch. 395, § 1, 54 Stat. 439.)

§ 434. Amount of land for which entry may be made; farm unit; subdivision of lands.

Public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry in tracts of not less than forty nor more than one hundred and sixty acres: *Provided,* That whenever, in the opinion of the Secretary of the Interior, by reason of market conditions and the special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family on lands to be irrigated under the provisions of the reclamation law, he may fix a lesser area than forty acres as the minimum entry and may establish farm units of not less than ten nor more than one hundred and sixty acres. Wherever it may be necessary, for the purpose of accurate description, to further subdivide lands to be irrigated under the provisions of said reclamation law, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the Bureau of Reclamation, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivision surveys shall be noted upon the tract books in the Bureau of Land Management, and they shall be paid for from the reclamation fund: *Provided,* That an entryman may elect to enter under said reclamation law a lesser area than the minimum limit in any State or Territory. (June 17, 1902, ch. 1093, § 3, 32 Stat. 388; June 27, 1906, ch. 3559, § 1, 34 Stat. 519; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use of reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 435. Entries in excess of farm unit.

All entries under reclamation projects containing more than one farm unit shall be reduced in area and conformed to a single farm unit within two years after making proof of residence, improvement, and cultivation, or within two years after the issuance of a farm-unit plat for the project, if the same issues subsequent to the making of such proof: *Provided,* That such proof is made within four years from the date as announced by the Secretary of the Interior that water is available for delivery for the land. Any entryman failing within the period herein provided to dispose of the excess of his entry above one farm unit, in the manner provided by law, and to conform his entry to a single farm unit shall render his entry subject to cancellation as to the excess above one farm unit: *Provided,* That upon compliance with the provisions of law such entryman shall be entitled to receive a patent for that part of his entry which conforms to one farm unit as established for the project. (Aug. 13, 1914, ch. 247, § 13, 38 Stat. 690.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238, 465, 475 of this title.

§ 436. Time when entry may be made generally.

After June 25, 1910, no entry shall be made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage per entry, and water is ready to be delivered for the land in such unit or some part thereof and such fact has been announced by the Secretary of the Interior. (June 25, 1910, ch. 407, § 5, 36 Stat. 836; Feb. 18, 1911, ch. 111, 36 Stat. 917; Aug. 13, 1914, ch. 247, § 10, 38 Stat. 689.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 465 of this title.

§ 437. Lands as to which entries made prior to June 25, 1910, have been relinquished.

Where entries made prior to June 25, 1910, have been or may be relinquished, in whole or in part, the lands so relinquished shall be subject to settlement and entry under the reclamation law. (June 25, 1910, ch. 407, § 5, 36 Stat. 836; Feb. 18,

1911, ch. 111, 36 Stat. 917; Aug. 13, 1914, ch. 247, § 10, 38 Stat. 689.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 438. Repealed. Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568.

Section, acts Feb. 14, 1920, ch. 76, 41 Stat. 434; Jan. 21, 1922, ch. 32, § 1, 42 Stat. 358; Dec. 5, 1924, ch. 4, § 4 (m), 43 Stat. 7031, related to exchange of farm unit, and is now covered by sections 451—451k of this title.

§ 439. Cultivation requirement as to entrymen.

The entryman upon lands to be irrigated shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes. (June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 440. Regulations as to use of water and requirements as to cultivation and reclamation of land; cancellation for noncompliance with requirements.

The Secretary of the Interior is authorized to make general rules and regulations governing the use of water in the irrigation of the lands within any project, and may require the reclamation for agricultural purposes and the cultivation of one-fourth the irrigable area under each water-right application or entry within three full irrigation seasons after the filing of water-right application or entry, and the reclamation for agricultural purposes and the cultivation of one-half the irrigable area within five full irrigation seasons after the filing of the water-right application or entry, and shall provide for continued compliance with such requirements. Failure on the part of any water-right applicant or entryman to comply with such requirements shall render his application or entry subject to cancellation. (Aug. 13, 1914, ch. 247, § 8, 38 Stat. 688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 441. Assignment of entries generally.

From and after the filing with the Secretary of the Interior or such officer as he may designate of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the reclamation law, may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said law, may receive from the United States a patent for the lands: *Provided,* That all assignments made under the provisions of this section shall be subject to the limitations, charges, terms, and conditions of the reclamation law. (June 23, 1910, ch. 357, 36 Stat. 592; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to Flathead irrigation project in Montana, see section 593 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 455b, 593, 626 of this title.

§ 442. Assignment between June 23, 1910, and January 1, 1913, confirmed.

In the absence of any intervening valid adverse interests any assignment made between June 23, 1910, and January 1, 1913, of land upon which the assignor has submitted satisfactory final proof and the assignee purchased with the belief that the assignment was valid and under section 441 of this title, is confirmed, and the assignee shall be entitled to the land assigned as under section 441 of this title, notwithstanding that said original entry was conformed to farm units and that the part assigned was canceled and eliminated from said entry prior to the date of final proof: *Provided,* That all entries so assigned shall be subject to the limitations, terms, and conditions of the reclamation law, and all of said assignees whose entries are confirmed shall, as a condition to receiving patent, make the proof required, prior to May 8, 1916, of assignees. (June 23, 1910, ch. 357, 36 Stat. 592; May 8, 1916, ch. 114, 39 Stat. 65.)

CROSS REFERENCES

Application of this section to Flathead irrigation project in Montana, see section 593 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 593 of this title.

§ 443. Limitation of amount of land holdable under assignment of entry.

No person shall hold by assignment more than one farm unit prior to final payment of all charges for all the land held by him subject to the reclamation law, except operation and maintenance charges not then due. (Aug. 13, 1914, ch. 247, § 13, 38 Stat. 690.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238, 465, 475 of this title.

§§ 444, 445. Omitted.

CODIFICATION

Sections, acts June 25, 1910, ch. 432, 36 Stat. 864; Apr. 30, 1912, ch. 100, 37 Stat. 105, excused entrymen from residence requirements on land to be irrigated, located prior to June 25, 1910, prior to time when water became available for irrigation.

§ 446. Right to make entry on relinquishment of former entry under land laws.

Wherever the Secretary of the Interior, in carrying out the provisions of the reclamation law, shall acquire by relinquishment lands covered by a bona

fide unperfected entry under the land laws of the United States, the entryman upon such tract may make another and additional entry, as though the entry thus relinquished had not been made. (June 27, 1906, ch. 3559, § 2, 34 Stat. 519.)

§ 447. Relinquishment of homestead entry and making new entry.

Any person who prior to March 4, 1915, made homestead entry under the reclamation law, for land believed to be susceptible of irrigation which at the time of said entry was withdrawn for any contemplated irrigation project, may relinquish the same, provided that it has since been determined that the land embraced in such entry or all thereof in excess of twenty acres is not or will not be irrigable under the project, and in lieu thereof may select and make entry for any farm unit included within such irrigation project as finally established, notwithstanding the provisions of section 436 of this title: *Provided,* That such entrymen shall be given credit on the new entry for the time of bona fide residence maintained on the original entry. (Mar. 4, 1915, ch. 182, 38 Stat. 1215.)

§ 448. Desert-land entries within reclamation project generally.

Where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the Act of June 17, 1902, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: *Provided,* That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements theretofore made on any such desert-land entry of which proof has been or may be filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry the entryman shall thereupon comply with all the provisions of the Act of June 17, 1902, and shall relinquish within a reasonable time after notice as the Secretary may prescribe and not less than two years all land embraced within his desert-land entry in excess of one farm unit, as determined by the Secretary of the Interior, and as to such retained farm unit he shall be entitled to make final proof and obtain patent upon compliance with the regulations of said Secretary applicable to the remainder of the irrigable land of the project and with the terms of payment prescribed in said Act of June 17, 1902,and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said Reclamation Act. (June 27, 1906, ch. 3559, § 5, 34 Stat. 520; June 6, 1930, ch. 405, 46 Stat. 502.)

REFERENCES IN TEXT

The Act of June 17, 1902, and the Reclamation Act, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

AMENDMENTS

1930—Act June 6, 1930, among other changes, inserted "within a reasonable time after notice as the Secretary may prescribe and not less than two years", "regulations of the said Secretary applicable to the remainder of the irrigable land of the project", and substituted provisions specifying one farm unit, as determined by the Secretary of the Interior for provisions specifying 160 acres.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 449, 451h of this title.

§ 449. Assignment of desert-land entry within project.

A desert-land entry within the exterior limits of a Government reclamation project may be assigned in whole or in part under section 324 of this title, and the benefits and limitations of section 448 of this title shall apply to such desert-land entryman and his assignees: *Provided,* That all such assignments shall conform to and be in accordance with farm units to be established by the Secretary of the Interior upon the application of the desert-land entryman. All such assignments made in good faith prior to July 24, 1912, shall be recognized under this section. (July 24, 1912, ch. 251, 37 Stat. 200.)

EXCHANGE AND AMENDMENT OF FARM UNITS

§ 451. Conditions necessary for exchange; terms; credits; rights nonassignable.

Any entryman on an unpatented farm unit on a Federal irrigation project which shall be found by the Secretary of the Interior, pursuant to a land classification, to be insufficient to support a family shall be entitled, upon timely application to the Secretary to exchange his farm unit for another farm unit of unentered public land within the same or any other such project, or, upon terms and conditions satisfactory to the Secretary, for any other available farm unit on the same or any other such project. He shall be given credit under the homestead laws for residence, improvement, and cultivation made or performed upon the original entry, and if satisfactory final proof of residence, improvement, and cultivation has been made on the original entry it shall not be necessary to submit such proof upon the lieu entry. Rights under sections 451 to 451k of this title shall not be assignable. (Aug. 13, 1953, ch. 428, § 1, 67 Stat. 566.)

CROSS REFERENCES

Columbia Basin Project, qualification of applicants for purchase of land prescribed by this section, see section 835c (b) of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451a, 451b, 451c, 451d, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451a. Persons eligible for benefits.

The benefits of section 451 of this title shall, and those of sections 451b to 451k of this title may, be extended by the Secretary to (a) any lawful assignee of an unpatented farm unit on a Federal irrigation project who took the assignment in good faith not knowing and not having reason to believe the farm unit to be insufficient to support a family; and (b) any resident owner of private lands on any such project whose lands shall be found to be insufficient to support a family and (i) who, apart from his ownership of the lands to be conveyed pursuant to clause (iii) hereof and apart from his having previously exhausted his homestead right, if such be the case, is eligible to enter unappropriated public lands under section 161 of this title, (ii) who lawfully acquired his lands as an entire farm unit under the Federal reclamation laws from the United States or, in the case of a widow, widower, heir, or devisee, from a spouse or ancestor, as the case may be, who so acquired them, and (iii) who conveys, free from all encumbrances, to the United States all of his lands served by the project or such portion thereof as the Secretary may designate. (Aug. 13, 1953, ch. 428, § 2, 67 Stat. 566.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451b, 451c, 451d, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451b. Irrigation construction charges.

(a) Credits to entryman.

If an entryman making an exchange under the provisions of sections 451 to 451k of this title becomes the direct obligor for payment to the United States of irrigation construction charges for his lieu farm unit or undertakes a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary, to the extent to which such charges upon the original farm unit or the equivalent thereof have actually been paid to the United States or to an irrigation district or other form of organization under contract with the United States, may give him credit for such charges upon the lieu unit.

(b) Credits to district; reduction of costs.

If an irrigation district or other form of organization within the boundaries of which is located the lieu farm unit of an entryman making an exchange under the provisions of sections 451 to 451k of this title is or becomes the direct obligor for payment to the United States of irrigation construction charges or undertakes or has undertaken a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary may, to the extent to which it gives credit to the entryman for such charges or the equivalent thereof actually paid upon the original farm unit, give the district or other form of organization credit for payment of such charges. Upon the making of an exchange pursuant to the provisions of said sections, the Secretary may reduce (i) the reimbursable construction costs of the project or division thereof upon which the original farm unit was located by the amount of such costs which were properly assignable to the original farm unit and which were not then due and payable, and (ii) the reimbursable construction costs of the project or division thereof upon which the lieu farm unit is located by the amount of credit which might be given under the provisions of this section.

(c) Extension of benefits to districts.

In any case in which the benefits of sections 451 to 451k of this title are extended to an assignee of an unpatented farm unit or to a resident owner of private lands, as provided in subsection (b) of section 451a of this title, an appropriate extension of benefits may also be made to an irrigation district or other form of organization under subsection (b) of this section. (Aug. 13, 1953, ch. 428, § 3, 67 Stat. 566.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451c, 451d, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451c. Cancellation of charges or liens; credits.

(a) After his approval of any application for an exchange as provided in sections 451 to 451k of this title, the Secretary may cancel and release, in whole or in part, any and all charges or liens against the entryman or against the relinquished farm unit which are within his administrative jurisdiction. In administering the provisions of this subsection the Secretary shall take into consideration other charges and liens and the rights and interests of other lien holders as to him may seem just and equitable.

(b) An entryman making an exchange under the provisions of sections 451 to 451k of this title may be given credit by the Secretary upon any land development charges made by the United States in connection with the lieu farm unit for any such charges paid to the United States in connection with the original unit. A resident owner making an exchange under the provisions of said sections may, to the extent to which he or, in the case of a widow, widower, heir, or devisee, his spouse or ancestor, as the case may be, has paid to the United States the purchase price of the original farm unit, be given credit by the Secretary upon the purchase price of his lieu farm unit; such credit may also be applied in the manner and circumstances provided in section 451b of this title upon irrigation construction charges for or properly assignable to his lieu farm unit. (Aug. 13, 1953, ch. 428, § 4, 67 Stat. 567.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451d, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451d. Disposal of improvements; water rights; revertibility of relinquished land.

Within ninety days after receipt of notice of the approval by the Secretary of the application for exchange of entry and subject to the rights and interests of other parties, the entryman may dispose of, and he or his transferee or vendee may remove, any and all improvements placed on the relinquished unit. Upon the making of an exchange under sections 451 to 451k of this title, any water right appurtenant to the original lands under the

Federal reclamation laws shall cease and the water supply theretofore used or required to satisfy such right shall be available for disposition under those laws. Any land relinquished or conveyed to the United States under said sections shall revert to or become a part of the public domain and be subject to disposition by the Secretary under any of the provisions of the Federal reclamation laws. (Aug. 13, 1953, ch. 428, § 5, 67 Stat. 567.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451e. Amendment of farm unit; application; amount of land; exchange; waiver.

Upon timely application by an entryman on an unpatented farm unit on a Federal irrigation project, which shall be found by the Secretary, pursuant to a land classification, to be insufficient to support a family, the Secretary may, upon terms and conditions satisfactory to him, amend the farm unit of said entryman, combine all or a part of the lands of said farm unit with other contiguous or noncontiguous lands on the same project which are declared by the Secretary to be open to entry or purchase, and thereby form and designate an amended farm unit for said entryman, which in no event shall exceed three hundred and twenty acres of land containing not more than one hundred and sixty irrigable acres designated by the Secretary. The acceptance of the amended farm unit by the applicant shall be deemed an exchange within the meaning of sections 451 to 451k of this title. In extending the benefits of this section to a resident owner of private lands as provided in section 451a of this title, the Secretary may waive, in whole or in part, the provisions of clause (iii) of subsection (b) of section 451a of this title. (Aug. 13, 1953, ch. 428, § 6, 67 Stat. 567.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451f. Exchanges subject to mortgage contracts.

Any exchange pursuant to sections 451 to 451k of this title of land that is subject to a mortgage contract with the Secretary of Agriculture under sections 1006a and 1006b of Title 7, and any disposition pursuant to sections 451 to 451k of this title of property that is subject to such a mortgage contract, shall be effected only in such form and manner and upon such terms and conditions as are consistent with the authority of the Secretary of Agriculture over such mortgage contract and such property under the Bankhead-Jones Farm Tenant Act, as amended, as supplemented by sections 1006a and 1006b of Title 7. (Aug. 13, 1953, ch. 428, § 7, 67 Stat. 568.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, as amended, referred to in the text, refers to act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of act July 22, 1937, as amended, is classified to sections 1010–1012 and 1013a of Title 7, Agriculture. Titles I, II and IV of act July 22, 1937, as amended, were formerly classified to sections 1001–1005d, 1006c–1006e, 1007, 1008, 1009, and 1014–1025, 1027–1029 of Title 7, respectively, were repealed by section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318, and are now covered by chapter 50 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451g. Preferences; veterans; timely applicants.

Where there are two or more timely applicants for a farm unit on a particular project or division thereof under the provisions of sections 451 to 451k of this title, one or more of whom is an ex-serviceman who would be entitled under the applicable statutes to a preference in making entry of farm units on such project or division, the ex-serviceman, or one of them, shall have a preference in making such exchange. Any timely applicant for an exchange under the provisions of said sections shall be entitled to preference over any other applicant for a farm unit on the same project or division thereof. (Aug. 13, 1953, ch. 428, § 8, 67 Stat. 568.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451f, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451h. Establishment of farm units; size; contiguous or noncontiguous.

In administering sections 434, 448, and 544 of this title, the Secretary may, to the extent found necessary as shown by a land classification to provide farm units sufficient in size to support a family, establish such units of not more than three hundred and twenty acres containing not more than one hundred and sixty irrigable acres designated by him and may permit entry and assignment under the homestead laws, and retention and assignment under the desert land laws, of such units. The lands included in farm units established pursuant to the authority of this section and entered under the homestead laws may be contiguous or noncontiguous. (Aug. 13, 1953, ch. 428, § 9, 67 Stat. 568.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451f, 451g, 451i, 451j, 451k of this title; title 16 section 835c.

§ 451i. Definitions.

As used in sections 451 to 451k of this title, the term "Federal irrigation project" means any irrigation project subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to which laws sections 451 to 451k of this title itself shall be deemed a supplement. (Aug. 13, 1953, ch. 428, § 11, 67 stat. 568.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451f, 451g, 451j, 451k of this title; title 16 section 835c.

§ 451j. Rules and regulations.

The Secretary may perform any and all acts and make all rules and regulations necessary and proper for carrying out the purposes of sections 451 to 451k

of this title. (Aug. 13, 1953, ch. 428, § 12, 67 Stat. 568.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451f, 451g, 451k of this title; title 16 section 435c.

§ 451k. Availability of appropriations; expenses as nonreimbursable.

Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under sections 451 to 451k of this title. Expenses incurred in carrying out the provisions of sections 451 to 451f of this title, shall be nonreimbursable and nonreturnable under the Federal reclamation laws. (Aug. 13, 1953, ch. 428, § 13, 67 Stat. 568.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451, 451a, 451b, 451c, 451d, 451e, 451f, 451g, 451i, 451j of this title; title 16 section 435c.

TAXATION

§ 455. State taxation; lands of homestead entrymen.

The lands of any homestead entryman under the Act of June 17, 1902, known as the Reclamation Act, or any Act amendatory thereof or supplementary thereto, and the lands of any entryman on ceded Indian lands within any Indian irrigation project, may, after satisfactory proof of residence, improvement, and cultivation, and acceptance of such proof by the Bureau of Land Management, be taxed by the State or political subdivision thereof in which such lands are located in the same manner and to the same extent as lands of a like character held under private ownership may be taxed. (Apr. 21, 1928, ch. 394, § 1, 45 Stat. 439; June 13, 1930, ch. 477, 46 Stat. 581; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

The Act of June 17, 1902, known as the Reclamation Act, or any Act amendatory thereof or supplementary thereto, referred to in the text, refers to act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

TRANSFER OF FUNCTIONS

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 455a. Same; lands of desert-land entrymen.

The lands of any desert-land entryman located within an irrigation project constructed under the Reclamation Act and obtaining a water supply from such project, and for whose land water has been actually available for a period of four years, may likewise be taxed by the State or political subdivision thereof in which such lands are located. (Apr. 21, 1928, ch. 394, § 2, 45 Stat. 439; June 13, 1930, ch. 477, 46 Stat. 581.)

REFERENCES IN TEXT

The Reclamation Act (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, is classified generally to this title. See Tables for distribution.

§ 455b. Same; tax as lien upon lands; prior lien of United States; rights of holder of tax title.

All such taxes legally assessed shall be a lien upon the lands and may be enforced upon said lands by the sale thereof in the same manner and under the same proceeding whereby said taxes are enforced against lands held under private ownership; but the title or interest which the State or political subdivision thereof may convey by tax sale, tax deed, or as a result of any tax proceeding shall be subject to a prior lien reserved to the United States for all due and unpaid installments on the appraised purchase price of such lands and for all the unpaid charges authorized by law whether accrued or otherwise. The holder of such tax deed or tax title resulting from such tax shall be entitled to all the rights and privileges in the land of an assignee of such entryman on ceded Indian lands or of an assignee under the provisions of section 441 of this title or of any such entries in a Federal reclamation project constructed under said Act of June 17, 1902, as supplemented or amended. (Apr. 21, 1928, ch. 394, § 4, as added June 13, 1930, ch. 477, 46 Stat. 581.)

REFERENCES IN TEXT

The Act of June 17, 1902, as supplemented or amended, referred to in the text, is classified generally to this title. See Tables for distribution.

§ 455c. Same; reversion of lands to United States; extinguishment of liens and tax titles.

If the lands of any such entryman shall at any time revert to the United States for any reason whatever, all such liens or tax titles resulting from assessments levied after June 13, 1930, upon such lands in favor of the State or political subdivision thereof wherein the lands are located, shall be and shall be held to have been, thereupon extinguished; and the levying of any such assessment by such State or political subdivision shall be deemed to be an agreement on its part, in the event of such reversion, to execute and record a formal release of such lien or tax title. (Apr. 21, 1928, ch. 394, § 4; June 13, 1930, ch. 477, 46 Stat. 581.)

CONSTRUCTION CHARGES

§ 461. Determination of construction charges generally.

The construction charges which shall be made per acre upon the entries and upon lands in private ownership which may be irrigated by the waters of any irrigation project shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably. (June 17, 1902, ch. 1093, § 4, 32 Stat. 389.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Construction charges against unproductive lands, see sections 423—423g of this title.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 491, 498 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 462. Classification of irrigable lands and equitable apportionment of charges.

The irrigable lands of each new project and new division of a project approved, after December 5, 1924, shall be classified by the Secretary with respect to their power, under a proper agricultural program, to support a family and pay water charges, and the Secretary is authorized to fix different construction charges against different classes of land under the same project for the purpose of equitably apportioning the total construction cost so that all lands may as far as practicable bear the burden of such cost according to their productive value. (Dec. 5, 1924, ch. 4, § 4, subsec. D, 43 Stat. 702.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500 of this title.

§ 463. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650.

Section, act Dec. 5, 1924, ch. 4, § 4, subsec. E, 43 Stat. 702, related to notices concerning construction charges.

§ 464. Increases of charges on failure to make water-right application.

In all cases where application for water right for lands in private ownership or lands held under entries not subject to the reclamation law shall not be made within one year after August 13, 1914, or within one year after notice issued in pursuance of section 419 of this title, in cases where such notice has not been issued prior to August 13, 1914, the construction charges for such land shall be increased 5 per centum each year until such application is made and an initial installment is paid. (Aug. 13, 1914, ch. 247, § 9, 38 Stat. 689.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 465. Charges for water service prior to notice of construction charge.

Whenever water is available and it is impracticable to apportion operation and maintenance charges as provided in section 492 of this title, the Secretary of the Interior may, prior to giving public notice of the construction charge per acre upon land under any project, furnish water to any entryman or private landowner thereunder until such notice is given, making a reasonable charge therefor, and such charges shall be subject to the same penalties and to the provisions for cancellation and collection as provided in sections 373, 414, 418, 435 to 437, 440, 443, 464, 465, 469, 471, 472, 475, 477 to 481, 492, 493, 494 to 497 and 499 of this title for other operation and maintenance charges. (Aug. 13, 1914, ch. 247, § 11, 38 Stat. 689.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 475 of this title.

§ 466. Surveys to correct errors or inequalities in original basis of project.

On each project existing prior to December 5, 1924, where, in the opinion of the Secretary, it appears that on account of lack of fertility in the soil, an inadequate water supply, or other physical causes, settlers are unable to pay construction costs, or whenever it appears that the cost of any reclamation project by reason of error or mistake or for any cause has been apportioned or charged upon a smaller area of land than the total area of land under said project, the Secretary is authorized to undertake a comprehensive and detailed survey to ascertain all pertinent facts, and report in each case the result of such survey to the Congress, with his recommendations: *Provided,* That the cost and expense of each such survey shall be charged to the appropriation for the project on account of which the same is made, but shall not be charged as a part of the construction or operation and maintenance cost payable by the water users under the project. (Dec. 5, 1924, ch. 4, § 4, subsec. K, 43 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 423g, 493, 500 of this title.

§ 467. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650.

Section, act Dec. 5, 1924, ch. 4, § 4, subsec. L, 43 Stat. 703, related to the adjustment of charges and the items to be included in the adjustment.

§ 468. Withdrawal of notice given and modification of applications and contracts made prior to February 13, 1911.

The Secretary of the Interior may, in his discretion, withdraw any public notice issued prior to February 13, 1911, under section 419 of this title, and he may agree to such modification of water-right applications duly filed prior to February 13, 1911, or contracts with water users' associations and others, entered into prior to February 13, 1911, as he may deem advisable, or he may consent to the abrogation of such water-right applications and contracts, and proceed in all respects as if no such notice has been given. (Feb. 13, 1911, ch. 49, 36 Stat. 902.)

§ 469. Increase in construction charges.

No increase in the construction charges shall, after August 13, 1914, be made, after the same have been fixed by public notice, except by agreement between the Secretary of the Interior and a majority of the water-right applicants and entrymen to be affected by such increase, whereupon all water-right applicants and entrymen in the area proposed to be affected by the increased charge shall become subject thereto. Such increased charge shall be added to the construction charge and payment thereof distributed over the remaining unpaid installments of construction charges: *Provided,* That the Secretary of the Interior, in his discretion, may agree that such increased construction charge shall be paid in additional annual installments, each of which shall be at least equal to the amount of the largest installment as fixed for the project by the public notice theretofore issued. And such additional installments of the increased construction charge, as so agreed upon shall become due and payable on December 1 of each year subsequent to the year when the final installment of the construction charge under such public notice is due and payable: *Provided further,* That all such increased construction charges shall be subject to the same conditions, penalties, and suit or action as provided in sections 478, 480,

and 481 of this title. (Aug. 13, 1914, ch. 247, § 4, 38 Stat. 687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 470, 475 of this title.

§ 470. When work increasing construction charge may be undertaken.

No work shall be undertaken or expenditure made for any lands, for which the construction charge has been fixed by public notice, which work or expenditure shall, in the opinion of the Secretary of the Interior, increase the construction cost above the construction charge so fixed; unless and until valid and binding agreement to repay the cost thereof shall have been entered into between the Secretary of the Interior and the water-right applicants and entrymen affected by such increased cost, as provided by section 469 of this title. (Mar. 3, 1915, ch. 75, § 1, 38 Stat. 861.)

§ 471. Initial payment and annual installments of charges generally.

Any entryman or applicant shall at the time of making water-right application or entry, as the case may be, pay into the reclamation fund 5 per centum of the construction charge fixed for his land as an initial installment, and shall pay the balance of said charge in annual installments. The first of the annual installments shall become due and payable on December 1 of the fifth calendar year after the initial installment: *Provided,* That any water-right applicant or entryman may, if he so elects, pay the whole or any part of the construction charges owing by him within any shorter period: *Provided further,* That entry may be made whenever water is available, as announced by the Secretary of the Interior, and the initial payment be made when the charge per acre is established. (Aug. 13, 1914, ch. 247, § 1, 38 Stat. 686.)

CROSS REFERENCES

Construction charges to be paid in annual installments, see section 475 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title.

§ 472. Installments on entries or applications made after August 13, 1914, and prior to December 5, 1924.

Any person whose lands, after August 13, 1914, and prior to December 5, 1924, became subject to the terms and conditions of the Act approved June 17, 1902, and Acts amendatory thereof or supplementary thereto, and any person who, after August 13, 1914, and prior to December 5, 1924, made entry thereunder shall pay the balance of said charge after the initial payment in fifteen annual installments, the first five of which shall each be 5 per centum of the construction charge and the remainder shall each be 7 per centum until the whole amount shall have been paid. (Aug. 13, 1914, ch. 247, § 1, 38 Stat. 686.)

REFERENCES IN TEXT

The Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

CROSS REFERENCES

Construction charges to be paid in annual installments, see section 475 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 465, 475, 511 of this title.

§§ 473, 474. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650.

Sections, act Dec. 5, 1924, ch. 4, § 4, subsec. F, 43 Stat. 702, related to installments on contracts, and the modification of existing contracts.

§ 475. Annual installments on entries and contracts prior to August 13, 1914.

Any person whose land or entry, prior to August 13, 1914, became subject to the terms and conditions of the reclamation law shall pay the construction charge, or the portion of the construction charge remaining unpaid, in twenty annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued, and subsequent installments on December 1 of each year thereafter. The first four of such installments shall each be 2 per centum, the next two installments shall each be 4 per centum, and the next fourteen each 6 per centum of the total construction charge, or the portion of the construction charge unpaid at the beginning of such installments.

Any person whose land or entry prior to August 13, 1914, became subject to the reclamation law, who desires to secure the benefits of the extension of the period of payments provided by sections 373, 414, 418, 435 to 437, 440, 443, 464, 465, 469, 471, 472, 475, 477 to 481, 492, 493, 494 to 497 and 499 of this title, shall, within six months after the issuance of the first public notice hereunder affecting his land or entry, notify the Secretary of the Interior, in the manner to be prescribed by said Secretary, of his acceptance of all the terms and conditions of such sections, and thereafter his lands or entry shall be subject to all of the provisions of such sections: *Provided,* That upon sufficient showing the Secretary of the Interior may, in his discretion, permit notice of acceptance of all the terms and conditions of such sections to be filed at any time after the time limit hereinbefore fixed for filing such acceptance shall have expired, conditioned, however, that where the applicant for such acceptance is in arrears on construction charges, he shall at the time of acceptance pay such installments of the construction charge as he would have been required to pay had he accepted the benefits of this section within the time limit hereinabove fixed, plus the penalties that would have accrued had he so accepted, and such applicant shall thereafter be upon the same status that he would have been had he accepted the provisions of this section within the time limit hereinabove fixed, and thereafter the lands or entry of any such persons so filing such notice of acceptance shall be subject to all the provisions of such sections. (Aug. 13, 1914, ch. 247, §§ 2, 14, 38 Stat. 687, 690; July 26, 1916, ch. 257, 39 Stat. 390.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title.

§ 476. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, act June 17, 1902, ch. 1093, § 5, 32 Stat. 389, provided for the payment of construction charges to the register and receiver of the local land office.

§ 477. Association or irrigation district as fiscal agent of Government.

The Secretary of the Interior is authorized, in his discretion, to designate and appoint, under such rules and regulations as he may prescribe, the legally organized water-users' association or irrigation district, under any reclamation project, as the fiscal agent of the United States to collect the annual payments on the construction charge of the project and the annual charges for operation and maintenance and all penalties: *Provided,* That no water-right applicant or entryman shall be entitled to credit for any payment thus made until the same shall have been paid over to an officer designated by the Secretary of the Interior to receive the same. (Aug. 13, 1914, ch. 247, § 7, 38 Stat. 688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475 of this title.

§ 478. Pecuniary penalty for nonpayment of installments of construction charges.

If any water-right applicant or entryman shall have, prior to December 5, 1924, failed to pay any installment of his construction charges when due, there shall be added to the amount unpaid a penalty of 1 per centum thereof, and there shall be added a like penalty of 1 per centum of the amount unpaid on the first day of each month thereafter so long as such default shall have continued: *Provided,* That the penalty of 1 per centum per month against delinquent accounts, is reduced to one-half of 1 per centum per month, as to all installments which may become due after December 5, 1924. (Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687; Dec. 5, 1924, ch. 4, § 4, subsec. H, 43 Stat. 703.)

CODIFICATION

Section consolidates the first sentence of act Aug. 13, 1914, § 3 with act Dec. 5, 1924, § 4, subsec. H.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 465, 469, 493, 500, 511 of this title.

§ 479. Shutting off water for nonpayment of construction charge.

No water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any annual construction charge and penalties. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 511 of this title.

§ 480. Cancellation of water right or entry for nonpayment of construction charge.

If any water-right applicant or entryman shall be one year in default in the payment of any installment of the construction charges and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such default. (Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 469, 481, 511 of this title.

§ 481. Action to recover construction charges and penalties.

If the Secretary of the Interior shall so elect, he may cause suit or action to be brought for the recovery of the amount of the construction charges in default and penalties; but if suit or action be brought, the right to declare a cancellation and forfeiture of the entry or water-right application as provided in section 480 of this title shall be suspended pending such suit or action. (Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 469, 475, 497, 511 of this title.

§ 482. Extension of time for payment of construction charges by irrigation district; authority of Secretary; interest.

CODIFICATION

Section, act May 10, 1926, ch. 277, § 1, 44 Stat. 479, authorized Secretary of the Interior, until June 30, 1927, to contract with water-users' associations for payment of charges within such term as may be necessary. See section 485b of this title.

PAYMENT OF CONSTRUCTION CHARGES

§ 485. Declaration of policy.

For the purpose of providing for United States reclamation projects a feasible and comprehensive plan for an economical and equitable treatment of repayment problems and for variable payments of construction charges which can be met regularly and fully from year to year during periods of decline in agricultural income and unsatisfactory conditions of agriculture as well as during periods of prosperity and good prices for agricultural products, and which will protect adequately the financial interest of the United States in said projects, obligations to pay construction charges may be revised or undertaken pursuant to the provisions of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title. (Aug. 4, 1939, ch. 418, § 1, 53 Stat. 1187.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485a, 485b, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 485a. Definitions.

As used in sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title—

(a) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof supplementary thereto.

(b) The term "Secretary" shall mean the Secretary of the Interior.

(c) The term "project" shall mean any reclamation or irrigation project, including incidental features thereof, authorized by the Federal reclamation laws, or constructed by the United States pursuant to said laws, or in connection with which there is a repayment contract executed by the United States,

pursuant to said laws, or any project constructed or operated and maintained by the Secretary through the Bureau of Reclamation for the reclamation of arid lands or other purposes.

(d) The term "construction charges" shall mean the amounts of principal obligations payable to the United States under water-right applications, repayment contracts, orders of the Secretary, or other forms of obligation entered into pursuant to the Federal reclamation laws, excepting amounts payable for water rental or power charges, operation and maintenance and other yearly service charges, and excepting also any other operation and maintenance, interest, or other charges which are not covered into the principal sums of the construction accounts of the Bureau of Reclamation.

(e) The term "repayment contract" shall mean any contract providing for payment of construction charges to the United States.

(f) The term "project contract unit" shall mean a project or any substantial area of a project which is covered or is proposed to be covered by a repayment contract. On any project where two or more repayment contracts in part cover the same area and in part different areas, the area covered by each such repayment contract shall be a separate project contract unit. On any project where there are either two or more repayment contracts on a single project contract unit or two or more project contract units, the repayment contracts or project contract units may be merged by agreements in form satisfactory to the Secretary.

(g) The term "organization" shall mean any conservancy district, irrigation district, water users' association, or other organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws.

(h) The term "division of a project" shall mean any part of a project designated as a division by order of the Secretary or any phase or feature of project operations given a separate designation as a division by order of the Secretary for the purposes of orderly and efficient administration.

(i) The term "development unit" shall mean a part of a project which, for purposes of orderly engineering or reclamation development, is designated as a development unit by order of the Secretary.

(j) The term "irrigation block" shall mean an area of arid or semiarid lands in a project in which, in the judgment of the Secretary, the irrigable lands should be reclaimed and put under irrigation at substantially the same time, and which is designated as an irrigation block by order of the Secretary. (Aug. 4, 1939, ch. 418, § 2, 53 Stat. 1187; Aug. 8, 1958, Pub. L. 85–611, § 3, 72 Stat. 543.)

REFERENCES IN TEXT

The Federal reclamation laws, act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto, referred to in subsec. (a), are classified generally to this title. See Tables for distribution.

AMENDMENTS

1958—Subsec. (h). Pub. L. 85–611 redesignated former subsec. (i) as (h) also repealed former subsec. (h) which defined "annual returns" and "normal returns".

Subsecs. (i) and (j). Pub. L. 85–611 redesignated former subsecs. (j) and (k) as (i) and (j).

FEDERAL RECLAMATION LAWS

Gila project, Arizona, as supplement to and part of the reclamation law, see note under section 613 of this title.

Klamath project, Oregon-California, as part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939 [clause (a) of this section], see note under section 612 of this title.

Rehabilitation and betterment of Federal reclamation projects as a supplement to the Federal reclamation laws, see note under section 504 of this title.

Repayment contracts and contracts to furnish water, administration of; provisions as a supplement to the Federal reclamation laws, see section 485h—5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 421b, 485, 485b, 485d, 485e, 485f, 485g, 485i, 485j, 485k, 504, 614a, 615a, 615aa, 615bb, 616l, 616bbb, 616hhh, 616ppp, 616qqq, 616bbbb, 616hhhh, 620c of this title.

§ 485b. Amendment of existing repayment contracts.

In connection with any repayment contract or other form of obligation, existing on August 4, 1939, to pay construction charges, providing for repayment on the basis of a definite period, the Secretary is authorized, upon request by the water users involved or their duly authorized representatives for amendment under this section of said contract or other form of obligation, and if in the Secretary's judgment such amendment is both practicable and in keeping with the general purpose of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title, to amend said contract or other form of obligation so as to provide that the construction charges remaining unaccrued on the date of the amendment, or any later date agreed upon, shall be spread in definite annual installments on the basis of a longer definite period fixed in each case by the Secretary: *Provided,* That for any construction charges said longer period shall not exceed forty years, exclusive of 1931 and subsequent years to the extent of moratoria or deferments of construction charges due and payable for such years effected pursuant to Acts of Congress, from the date when the first installment of said construction charges become due and payable under the original obligation to pay said construction charges and in no event shall the unexpired part of said longer period exceed double the number of remaining years, as of the date of the amendment made pursuant to sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title, in which installments of said construction charges would become due and payable under said existing repayment contract or other form of obligation to pay construction charges. (Aug. 4, 1939, ch. 418, § 3, 53 Stat. 1188.)

EXTENSION OF DATE OF MODIFICATION OF REPAYMENT CONTRACTS

Act Mar. 6, 1952, ch. 94, 66 Stat. 16, as amended by act Aug. 31, 1954, ch. 1168, 68 Stat. 1044; by Pub. L. 85–156, Aug. 21, 1957, 71 Stat. 390; Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543; Pub. L. 86–308, § 2, Sept. 21, 1959, 73 Stat. 585, provided that the authority vested in the Secretary of the Interior by sections 485b and 485f of this title should be extended through Dec. 31, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b–1, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 485b-1. Deferment of installments under repayment contracts; determination of undue burden; conditions; supplemental contract; report to Congress.

(a) The authority granted in section 485b of this title for modification of existing repayment contracts or other forms of obligations to pay construction charges shall continue through December 31, 1960.

(b) The Secretary is authorized, subject to the provisions of this subsection to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation as he deems necessary to adjust such installments to amounts within the probable ability of the water users to pay. Any such deferment shall be effected only after findings by the Secretary that the installments under consideration probably cannot be paid on their due date without undue burden on the water users, considering the various factors which in the Secretary's judgment bear on the ability of the water users so to pay.

The Secretary may effect the deferments hereunder subject to such conditions and provisions relating to the operation and maintenance of the project involved as he deems to be in the interest of the United States. If, however, any deferments would affect installments to accrue more than twelve months after the action of deferment, they shall be effected only by a formal supplemental contract. Such a contract shall provide by its terms that, it being only an interim solution of the repayment problems dealt with therein, its terms are not, in themselves, to be construed as a criterion of the terms of any amendatory contract that may be negotiated and that any such amendatory contract must be approved by the Congress unless it does not lengthen the repayment period for the project in question beyond that permitted by the laws applicable to that project, involves no reduction in the total amount payable by the water users, and is not in other respects less advantageous to the Government than the existing contract arrangements. The Secretary shall report to the Congress all deferments granted under this subsection. (Aug. 4, 1939, ch. 418, § 17, 53 Stat. 1198; Apr. 24, 1945, ch. 94, § 3, 59 Stat. 76; Aug. 8, 1958, Pub. L. 85-611, § 3, 72 Stat. 543; Sept. 21, 1959, Pub. L. 86-308, § 1, 73 Stat. 584.)

AMENDMENTS

1959—Subsec. (b). Pub. L. 86-308 made permanent the Secretary's authority to grant deferments in payment of installments of construction charges under repayment contracts.

1958—Subsec. (a). Pub. L. 85-611 substituted "section 485b" for "sections 485b and 485c".

1945—Subsec. (a). Act Apr. 24, 1945, extended authority for modification of existing repayment contracts or other forms of obligations to pay construction charges through Dec. 31, 1950, or Dec. 31 of the fifth full calendar year after the cessation of hostilities of World War II, as determined by proclamation of the President or concurrent resolution of Congress, whichever period was the longer.

Subsec. (b). Act Apr. 24, 1945, authorized Secretary, subject to provisions of this subsection, to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation that are due and unpaid as of Apr. 24, 1945, or which would become due prior to the expiration of authority under subsec. (a).

APPLICABILITY TO OTHER IRRIGATION PROJECTS

Section 3 of Pub. L. 86-308 provided that: "The provisions of section 17, subsection (b), of the Reclamation Project Act of 1939 [subsec. (b) of this section], as amended by section 1 of this Act, shall apply to any project within the administrative jurisdiction of the Bureau of Reclamation to which, if it had been constructed as a project under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 383) [sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title], and Acts amendatory thereof or supplementary thereto), these provisions would be applicable."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 485c. Repealed. Pub. L. 85-611, § 3, Aug. 8, 1958, 72 Stat. 543.

Section, acts Aug. 4, 1939, ch. 418, § 4, 53 Stat. 1189; Apr. 24, 1945, ch. 94, § 1, 59 Stat. 75, related to repayment contracts with the United States. See section 485h (d) (3) of this title.

§ 485d. Time of payments to the United States.

The Secretary in his discretion may require, in connection with any contract entered into pursuant to the authority of sections 375a, 387 to 389 and 485 to 485b-1, 485d to 485h, 485i to 485k of this title, that the contract provide (1) that the payments for each year to be made to the United States shall become due and payable on such date or dates, not exceeding two, in each year as the Secretary determines will be substantially contemporaneous with the time or times in each year when water users receive crop returns and (2) if the contract be with an organization, that assessments or levies for the purpose of obtaining moneys sufficient to meet the organization's payments under said contract shall be made and shall become due and payable within a certain period or periods of time prior to the date or dates on which the organization's payments to the United States are due and payable, said period or periods of time to be agreed upon in each said contract.

The Secretary may provide such deferments of construction charges as in his judgment are necessary to prevent said requirements from resulting in inequitable pyramiding of payments of said charges. (Aug. 4, 1939, ch. 418, § 5, 53 Stat. 1191.)

EXTENSION OF SECRETARY'S AUTHORITY TO ENTER INTO AMENDATORY CONTRACTS

Secretary's authority extended through Dec. 31, 1960, see section 485b-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485e, 485f, 485g, 485i, 485j, 485k of this title.

§ 485e. Maintenance and operation of project works; delinquency penalties.

In connection with any contract, relating to construction charges, entered into pursuant to the authority of sections 375a, 387 to 389 and 485 to 485k of this title, the Secretary is authorized to require such provisions as he deems proper to secure the adoption of proper accounting, to protect the condition of project works and to provide for the proper use thereof, and to protect project lands against deterioration due to improper use of water. Any such contract shall require advance payment of adequate operation and maintenance charges. The Secretary is further authorized, in his discretion, to

require such provisions as he deems proper to penalize delinquencies in payments of construction charges or operation and maintenance charges: *Provided,* That in any event there shall be penalties imposed on account of delinquencies of not less than one-half of 1 per centum per month of the delinquent charge from and after the date when such charge becomes due and payable: *Provided further,* That any such contract shall require that no water shall be delivered to lands or parties which are in arrears in the advance payment of operation and maintenance or toll charges, or to lands or parties which are in arrears for more than twelve months in the payment of construction charges due from such lands or parties to the United States or to the organization in which the lands or parties are included, or to any lands or parties included in an organization which is in arrears in the advance payment of operation and maintenance or toll charges or in arrears more than twelve months in the payment of construction charges due from such organization to the United States. (Aug. 4, 1939, ch. 418, § 6, 53 Stat. 1191.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485f, 485g, 485i, 485j, 485k of this title.

§ 485f. Negotiation of equitable contracts by Secretary.

(a) Existing project contract unit.

The Secretary is authorized and directed to investigate the repayment problems of any existing project contract unit in connection with which, in his judgment, a contract under section 485b or 485c of this title would not be practicable nor provide an economically sound adjustment, and to negotiate a contract which, in his judgment, both would provide fair and equitable treatment of the repayment problems involved and would be in keeping with the general purpose of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title.

(b) New projects or projects under construction; public lands; development periods.

For any project, division of a project, development unit of a project, or supplemental works on a project, under construction on August 4. 1939, or for which appropriations had been made, and in connection with which a repayment contract had not been executed, allocations of costs may be made in accordance with the provisions of section 485h of this title and a repayment contract may be negotiated, in the discretion of the Secretary, (1) pursuant to the authority of subsection (a) of this section or (2) in accordance, as near as may be, with the provisions in section 485h (d) or 485h (e) of this title. In connection with any such project, division, or development unit, on which the majority of the lands involved are public lands of the United States, the Secretary, prior to entering into a repayment contract, may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first year in which water is delivered for the lands in said block: *Provided,* That in the event a development period is fixed prior to execution of a repayment contract, execution thereof shall be a condition precedent to delivery of water after the close of the development period. During any such development period water shall be delivered to the lands in the irrigation block involved only on a toll-charge basis, at a charge per annum per acre-foot to be fixed by the Secretary each year and to be collected in advance of delivery of water. Pending negotiation and execution of a repayment contract for any other such project, division, or development unit, water may be delivered for a period of not more than five years from August 4, 1939, on the same toll-charge basis. Any such toll charges collected and which the Secretary determines to be in excess of the cost of operation and maintenance during the toll-charge period shall be credited to the construction cost of the project in the manner determined by the Secretary.

(c) Report of proposed contracts to Congress; approval; amendment after approval.

The Secretary from time to time shall report to the Congress on any proposed contracts negotiated pursuant to the authority of subsection (a) or (b) (1) of this section, and he may execute any such contract on behalf of the United States only after approval thereof has been given by Act of Congress. Contracts, so approved, however, may be amended from time to time by mutual agreement and without further approval by Congress if such amendments are within the scope of authority granted prior to or after April 24, 1945, to the Secretary under any Act, except that amendments providing for repayment of construction charges in a period of years longer than authorized by sections 375a, 387 to 389, and 485 to 485b–1, 485d to 485h, 485i to 485k of this title, shall be effective only when approved by Congress. (Aug. 4, 1939, ch. 418, § 7, 53 Stat. 1192; Apr. 24, 1945, ch. 94, § 2, 59 Stat. 76.)

AMENDMENTS

1945—Subsec. (c). Act Apr. 24, 1945 added second sentence.

EXTENSION OF SECRETARY'S AUTHORITY TO ENTER INTO AMENDATORY CONTRACTS

Secretary's authority extended through Dec. 31, 1960, see section 485b–1 of this title.

CROSS REFERENCES

Secretary's authority to enter into supplemental contract, see section 485b–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485g, 485i, 485j, 485k of this title.

§ 485g. Classification of lands.

(a) Generally.

The Secretary is authorized and directed in the manner hereinafter provided to classify or to reclassify, from time to time but not more often than at five-year intervals, as to irrigability and productivity those lands which have been, are, or may be included within any project.

(b) Necessity for request.

No classification or reclassification pursuant to the authority of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title shall be undertaken unless a request therefor, by an organization or duly authorized representatives of the water users, in the form required by subsection (c) of this section has been made of the Secretary. The

Secretary shall plan the classification work, undertaken pursuant to the authority of this section, in such manner as in his judgment will result in the most expeditious completion of the work.

(c) Furnishing data.

In any request made to the Secretary for a land classification or reclassification under this section, the organization or representatives of the water users shall furnish a list of those lands which are considered to be of comparatively low productivity or to be nonproductive, and of those lands which are considered to be of greater or lesser productivity than indicated by existing classifications, if any, made pursuant to the Federal reclamation laws, and shall furnish also such data relating thereto as the Secretary by regulation may require.

(d) Primary determination.

Upon receipt of any such request the Secretary shall make a preliminary determination whether the requested land classification or reclassification probably is justified by reason of the conditions of the lands involved and other pertinent conditions of the project, including its contractual relations with the United States.

(e) Probable justification.

If the Secretary finds probable justification and if the advance to the United States hereinafter required is made, he shall undertake as soon as practicable the classification or reclassification of the lands listed in the request, and of any other lands which have been, are, or may be included within the project involved and which in his judgment should be classified or reclassified.

(f) Report to Congress.

As soon as practicable after completion of the classification work undertaken pursuant to this section, or from time to time, the Secretary shall report to Congress on the classifications and reclassifications made and shall include in his report, as to each project involved, his recommendations, if any, for remedial legislation.

(g) Expenses.

One-half of the expense involved in any classification work undertaken pursuant to this section shall be charged to operation and maintenance administration nonreimbursable; and one-half shall be paid in advance by the organization involved. On determining probable justification for the requested classification or reclassification as provided in this section, the Secretary shall estimate the cost of the work involved and shall submit a statement of the estimated cost to said organization. Said organization, before commencement of the work, shall advance to the United States one-half of the amount set forth in said statement and also shall advance one-half of the amount of supplementary estimates of costs which the Secretary may find it necessary to make from time to time during the progress of the work; and said amounts shall be and remain available for expenditure by the Secretary for the purposes for which they are advanced, until the work is completed or abandoned. After completion or abandonment of the work, the Secretary, shall determine the actual costs thereof; and said organization shall pay any additional amount required to make its total payments hereunder equal to one-half of the actual cost or shall be credited with any amount by which advances made by it exceed one-half of said actual cost, as the case may be.

(h) Classification as prerequisite to contract.

If in the judgment of the Secretary a classification or reclassification pursuant to the provisions of this section is a necessary preliminary to entering into a contract under section 485b or 485c of this title, he may require the same as a condition precedent to entering into such a contract.

(i) Modification of existing obligations.

No modification of any existing obligation to pay construction charges on any project shall be made by reason of any classification or reclassification undertaken pursuant to this section without express authority therefor granted by Congress upon recommendations of the Secretary made in a report under subsection (f) of this section. (Aug. 4, 1939, ch. 418, § 8, 53 Stat. 1192.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485i, 485j, 485k of this title.

§ 485h. New projects; sale of water and electric power; lease of power privileges.

(a) Findings of Secretary.

No expenditures for the construction of any new project, new division of a project, or new supplemental works on a project shall be made, nor shall estimates be submitted therefor, by the Secretary until after he has made an investigation thereof and has submitted to the President and to the Congress his report and findings on—

(1) the engineering feasibility of the proposed construction;

(2) the estimated cost of the proposed construction;

(3) the part of the estimated cost which can properly be allocated to irrigation and probably be repaid by the water users;

(4) the part of the estimated cost which can properly be allocated to power and probably be returned to the United States in net power revenues;

(5) the part of the estimated cost which can properly be allocated to municipal water supply or other miscellaneous purposes and probably be returned to the United States.

If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper, together with any allocation to flood control or navigation made under subsection (b) of this section, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary. If all such allocations do not equal said total estimated cost, then said new project, new division, or new supplemental works may be undertaken by the Secretary only after provision therefor has been

made by Act of Congress enacted after the Secretary has submitted to the President and the Congress the report and findings involved.

(b) Allocation of part of cost to flood control or navigation.

In connection with any new project, new division of a project, or supplemental works on a project there may be allocated to flood control or navigation the part of said total estimated cost which the Secretary may find to be proper. Items for any such allocations made in connection with projects which may be undertaken pursuant to subsection (a) of this section shall be included in the estimates of appropriations submitted by the Secretary for said projects, and funds for such portions of the projects shall not become available except as directly appropriated or allotted to the Department of the Interior. In connection with the making of such an allocation, the Secretary shall consult with the Chief of Engineers and the Secretary of the Army, and may perform any of the necessary investigations or studies under a cooperative agreement with the Secretary of the Army. In the event of such an allocation the Secretary of the Interior shall operate the project for purposes of flood control or navigation, to the extent justified by said allocation therefor.

(c) Furnishing water to municipalities; sale of electric power; lease of power privileges.

The Secretary is authorized to enter into contracts to furnish water for municipal water supply or miscellaneous purposes: *Provided,* That any such contract either (1) shall require repayment to the United States, over a period of not to exceed forty years from the year in which water is first delivered for the use of the contracting party, with interest not exceeding the rate of 3½ per centum per annum if the Secretary determines an interest charge to be proper, of an appropriate share as determined by the Secretary of that part of the construction costs allocated by him to municipal water supply or other miscellaneous purposes; or (2) shall be for such periods, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, and shall require the payment of said rates each year in advance of delivery of water for said year. Any sale of electric power or lease of power privileges, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further,* That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936. Nothing in this subsection shall be applicable to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects. No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes.

(d) Delivery of water for irrigation; repayment contract prerequisites.

No water may be delivered for irrigation of lands in connection with any new project, new division of a project, or supplemental works on a project until an organization, satisfactory in form and powers to the Secretary, has entered into a repayment contract with the United States, in a form satisfactory to the Secretary, providing among other things—

(1) That the Secretary may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said block; and that during the development period water shall be delivered to the lands in the irrigation block involved at a charge per annum per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water: *Provided,* That where the lands included in an irrigation block are for the most part lands owned by the United States, the Secretary, prior to execution of a repayment contract, may fix a development period, but in such case execution of such a contract shall be a condition precedent to delivery of water after the close of the development period: *Provided further,* That when the Secretary, by contract or by notice given thereunder, shall have fixed a development period of less than ten years, and at any time thereafter but before commencement of the repayment period conditions arise which in the judgment of the Secretary would have justified the fixing of a longer period, he may amend such contract or notice to extend such development period to a date not to exceed ten years from its commencement, and in a case where no development period was provided, he may amend such contract within the same limits: *Provided further,* That when the Secretary shall have deferred the payment of all or any part of any installments of construction charges under any repayment contract pursuant to the authority of the Act of September 21, 1959, he may, at any time prior to the due date prescribed for the first installment not reduced by such deferment, and by agreement with the contracting organization, terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section. After the close of the development period, any such charges collected and which the Secretary determines to be in excess of the cost of the operation and maintenance during the development period shall be credited to the construction cost of

the project in the manner determined by the Secretary.

(2) That the part of the construction costs allocated by the Secretary to irrigation shall be included in a general repayment obligation of the organization; and that the organization may vary its distribution of construction charges in a manner that takes into account the productivity of the various classes of lands and the benefits accruing to the lands by reason of the construction: *Provided,* That no distribution of construction charges over the lands included in the organization shall in any manner be deemed to relieve the organization or any party or any land therein of the organization's general obligation to the United States.

(3) That the general repayment obligation of the organization shall be spread in annual installments, of the number and amounts fixed by the Secretary, over a period of not more than 40 years, exclusive of any development period fixed under paragraph (1) of this subsection, for any project contract unit or, if the project contract unit be divided into two or more irrigation blocks, for any such block, or as near to said period of not more than forty years as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within such period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay.

(4) That the first annual installment for any project contract unit, or for any irrigation block, as the case may be, shall accrue, on the date fixed by the Secretary, in the year after the last year of the development period or, if there be no development period, in the calendar year after the Secretary announces that the construction contemplated in the repayment contract is substantially completed or is advanced to a point where delivery of water can be made to substantially all of the lands in said unit or block to be irrigated; and if there be no development period fixed, that prior to and including the year in which the Secretary makes said announcement water shall be delivered only on the toll charge basis hereinbefore provided for development periods.

(e) Contracts to furnish water.

In lieu of entering into a repayment contract pursuant to the provisions of subsection (d) of this section to cover that part of the cost of the construction of works connected with water supply and allocated to irrigation, the Secretary, in his discretion, may enter into either short- or long-term contracts to furnish water for irrigation purposes. Each such contract shall be for such period, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, due consideration being given to that part of the cost of construction of works connected with water supply and allocated to irrigation; and shall require payment of said rates each year in advance of delivery of water for said year. In the event such contracts are made for furnishing water for irrigation purposes, the costs of any irrigation water distribution works constructed by the United States in connection with the new project, new division of a project, or supplemental works on a project, shall be covered by a repayment contract entered into pursuant to subsection (d) of this section. (Aug. 4, 1939, ch. 418, § 9, 53 Stat. 1193; Aug. 8, 1958, Pub. L. 85–611, §§ 1, 3, 72 Stat. 542, 543; Aug. 28, 1962, Pub. L. 87–613, § 2, 76 Stat. 407.)

REFERENCES IN TEXT

Rural Electrification Act of 1936, referred to in subsec. (c), is classified to chapter 31 of Title 7, Agriculture.

The Act of September 21, 1959, referred to in the text of subsec. (d)(1), amended section 485b–1 of this title, enacted provisions set out as a note under such section 485b–1, and amended a note under section 485b of this title.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1962—Subsec. (d)(1). Pub. L. 87–613 authorized the Secretary, when a development period of less than ten years was fixed by contract and, before repayment period conditions arose which would justify a longer period, to amend such contract to extend such period to not exceed ten years from its start, and where no period was provided, to grant a period not to exceed ten years, and where he deferred payment of any construction charges pursuant to act of September 21, 1959, authorized him, prior to the due date of the first installment not reduced by such deferment, by agreement with the contracting organization, to terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section.

1958—Subsec. (d) (3). Pub. L. 85–611, § 1, permitted the general repayment obligation to be spread in annual installments as near to the period of not more than 40 years as is consistent with the adoption and operation of a variable payment formula which permits variance in the required annual payments.

Subsec. (d) (5). Pub. L. 85–611, § 3, repealed provisions which required repayment contracts to provide that each year the installment of the organization's repayment obligation scheduled for such year shall be the construction charges due and payable for such year, or that each year the installment for such year of the organization's repayment obligation shall be increased or decreased on the basis of the normal and percentages plan provided in former section 485c of this title for modification of existing obligations to pay construction charges, and the amount of the annual installment, as thus increased or decreased, shall be the construction charges due and payable for such year.

CONSTRUCTION WITH SECTION 701–1 OF TITLE 33

Section as amended and modified by act Dec. 22, 1944, ch. 665, § 1 (c), 58 Stat. 665, see section 701–1 (c) of Title 33, Navigation and Navigable Waters.

MUNICIPAL, DOMESTIC, AND INDUSTRIAL WATER SUPPLY CONTRACTS; RENEWALS; CONFORMING AMENDMENTS TO EXISTING CONTRACTS; "LONG-TERM CONTRACT" DEFINED

Pub. L. 88–44, June 21, 1963, 77 Stat. 68, provided:

"That the Secretary of the Interior shall, upon request of the other party to any long-term contract for municipal, domestic, or industrial water supply hereafter entered

into under clause (2) in the proviso to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 (53 Stat. 1195, 43 U.S.C. 485h) [subsec. (c) of this section], include provision for renewal thereof subject to renegotiation of (1) the charges set forth in the contract in the light of circumstances prevailing at the time of renewal and (2) any other matters with respect to which the right to renegotiate is reserved in the contract. Any right of renewal shall be exercised within such reasonable time prior to the expiration of the contract as the parties shall have agreed upon and set forth therein.

"SEC. 2. The Secretary shall also, upon like request, provide in any such long-term contract or in any contract entered into under clause (1) of the proviso aforesaid that the other party to the contract shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right for the purposes stated in the contract (to which right the holders of any other type of contract for municipal, domestic, or industrial water supply shall be subordinate) to a stated share or quantity of the project's water supply available for municipal, domestic, or industrial use.

"SEC. 3. The Secretary is hereby authorized, upon request by the other party, to negotiate amendments to existing contracts entered into pursuant to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 [subsec. (c) of this section] to conform said contracts to the provisions of this Act.

"SEC. 4. As used in this Act, the term 'long-term contract' means any contract the term of which is more than ten years."

EXTENSION OF VARIABLE PAYMENT PLAN TO OTHER ORGANIZATIONS

Section 2 of Pub. L. 85-611 provided that: "The benefits of a variable payment plan as provided in the amendment to paragraph (3) of section 9, subsection (d), of the Reclamation Project Act of 1939 [subsec. (d)(3) of this section] contained in section 1 of this Act may be extended by the Secretary to any organization with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts under the Act of August 11, 1939 (53 Stat. 1418), as amended [sections 590y to 590y-4 and 590y-6 to 590y-10 of Title 16], and contracts for the storage of water or for the use of stored water under section 8 of the Act of December 22, 1944 (58 Stat. 887, 891) [section 390 of this title]. In the case of any project for which a maximum repayment period longer than that prescribed in said paragraph (3) has been or is allowed by Act of Congress, the period so allowed may be used by the Secretary in lieu of the forty-year period provided in said amendment to paragraph (3)."

CROSS REFERENCES

Additional allocations for the Valley Gravity Canal and Storage Project, see section 277f of Title 22, Foreign Relations and Intercourse

Administration of contracts entered into under subsections (d) and (e) of this section, see sections 485h-1 to 485h-5 of this title.

Spokane Valley Project, extension of base period of contract entered into under subsection (d) of this section, see section 615t of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 421b, 422e, 485, 485a, 485, 485d, 485e, 485f, 485g, 485h-1, 485h-2, 485i, 485j, 485k, 614a, 615a, 615g, 615k, 615p, 615w, 615cc, 616a, 616h, 616m, 616u, 616oo, 616iii, 616qqq, 616bbbb, 616hhhh, 620c, 1524 of this title; title 22 section 277f.

§ 485h-1. Administration of repayment contracts and long-term contracts to furnish water; renewal and conversion; credit for payments; right to available water supply; rates; construction component.

In administering subsections (d) and (e) of section 485h of this title, the Secretary of the Interior shall—

(1) include in any long-term contract hereafter entered into under subsection (e) of section 485h of this title provision, if the other contracting party so requests, for renewal thereof under stated terms and conditions mutually agreeable to the parties. Such terms and conditions shall provide for an increase or decrease in the charges set forth in the contract to reflect, among other things, increases or decreases in construction, operation, and maintenance costs and improvement or deterioration in the party's repayment capacity. Any right of renewal shall be exercised within such reasonable time prior to the expiration of the contract as the parties shall have agreed upon and set forth therein;

(2) include in any long-term contract hereafter entered into under subsection (e) of section 485h of this title with a contracting organization provision, if the organization so requests, for conversion of said contract, under stated terms and conditions mutually agreeable to the parties, to a contract under subsection (d) of section 485h of this title at such time as, account being taken of the amount credited to return by the organization as hereinafter provided, the remaining amount of construction cost which is properly assignable for ultimate return by it can probably be repaid to the United States within the term of a contract under subsection (d) of section 485h of this title;

(3) credit each year to every party which has entered into or which shall enter into a long-term contract pursuant to subsection (e) of section 485h of this title so much of the amount paid by said party on or before the due date as is in excess of the share of the operation and maintenance costs of the project which the Secretary finds is properly chargeable to that party. Credit for payments heretofore made under any such contract shall be established by the Secretary as soon after July 2, 1956 as it is feasible for him to do so. After the sum of such credits is equal to the amount which would have been for repayment by the party if a repayment contract under subsection (d) of section 485h of this title had been entered into, which amount shall be established by the Secretary upon completion of the project concerned or as far in advance thereof as is feasible, no construction component shall be included in any charges made for the furnishing of water to the contracting party and any charges theretofore fixed by contract or otherwise shall be reduced accordingly;

(4) provide that the other party to any contract entered into pursuant to subsection (d) of section 485h of this title or to any long-term contract entered into pursuant to subsection (e) of section 485h of this title shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right (to which right the rights of the holders of any other type of irrigation water contract shall be subordinate) to a stated share or quantity of the project's available water supply for beneficial use on the irrigable

lands within the boundaries of, or owned by, the party and a permanent right to such share or quantity upon completion of payment of the amount assigned for ultimate return by the party subject to payment of an appropriate share of such costs, if any, as may thereafter be incurred by the United States in its operation and maintenance of the project works; and

(5) provide for payment of rates under any contract entered into pursuant to subsection (e) of section 485h of this title in advance of delivery of water on an annual or semiannual basis as specified in the contract.

(6) include a reasonable construction component in the rates set out in any long-term contract hereafter entered into under subsection (e) of section 485h of this title prior to amortization of that part of the cost of constructing the project which is assigned to be repaid by the contracting party.

(July 2, 1956, ch. 492, § 1, 70 Stat. 483.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises sections 375a, 387—389, and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485h-2, 485h-3, 485h-4, 485h-5 of this title.

§ 485h-2. Same; amendments to existing contracts.

The Secretary is authorized to negotiate amendments to existing contracts entered into pursuant to subsection (e) of section 485h of this title to conform said contracts to the provisions of sections 485h-1 to 485h-5 of this title. (July 2, 1956, ch. 492, § 2, 70 Stat. 484.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises sections 375a, 387—389, and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485h-3, 485h-4, 485h-5 of this title.

§ 485h-3. Same; definition of long-term contract.

As used in sections 485h-1 to 485h-5 of this title, the term "long-term contract" shall mean any contract the term of which is more than ten years. (July 2, 1956, ch. 492, § 3, 70 Stat. 484.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises sections 375a, 387—389, and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485h-2, 485h-4, 485h-5 of this title.

§ 485h-4. Same; effect on State laws; right to use of water.

Nothing in sections 485h-1 to 485h-5 of this title shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary in carrying out the provisions of such sections, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of such sections shall be appurtenant to the land irrigated and beneficial use shall be the basis, the measure, and the limit of the right. (July 2, 1956, ch. 492, § 4, 70 Stat. 484.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises sections 375a, 387—389, and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485l-2, 485l-3, 485l-5 of this title.

§ 485h-5. Same; supplement to Federal reclamation laws.

Sections 485h-1 to 485h-5 of this title shall be a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). (July 2, 1956, ch. 492, § 5, 70 Stat. 484.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for Distribution.

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises sections 375a, 387—389, and 485 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485l-2, 485l-3, 485l-4 of this title.

§ 485h-6. Repayment contracts; amendment for provision, addition or modification of irrigation blocks.

After the execution of a contract pursuant to the authority of section 9(d)(1) of the Reclamation Project Act of 1939 and prior to the commencement of the development period provided thereunder, the Secretary of the Interior is authorized to amend such contract to provide for irrigation blocks, or if such are already provided, to add to or modify such irrigation blocks, as he shall deem desirable to carry out the purposes of that Act. (Pub. L. 87-613, § 1, Aug. 28, 1962, 76 Stat. 407.)

REFERENCES IN TEXT

Section 9(d)(1) of the Reclamation Project Act of 1939, referred to in the text, is classified to section 485h (d)(1) of this title.

That Act, referred to in the text, means the Reclamation Project Act of 1939, which is classified to sections 375a, 387—389, and 485 et seq. of this title.

§ 485h-7. Same; amendment for payment of annual installments in two parts.

In any repayment contract which provides for payment of construction charges by single annual installments, the Secretary may by agreement with the contracting organization amend such contract to provide for the payment of such annual installments in two parts on such dates in the calendar year as may best enable the contracting organization to meet its payments. (Pub. L. 87-613, § 3, Aug. 28, 1962, 76 Stat. 408.)

§ 485i. Rules and regulations.

The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title into full force and effect. (Aug. 4, 1939, ch. 418, § 15, 53 Stat. 1198.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485g, 485j, 485k of this title.

§ 485j. Effect on existing laws.

The provisions of previous Acts of Congress not inconsistent with the provisions of sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title shall remain in full force and effect. (Aug. 4, 1939, ch. 418, § 16, 53 Stat. 1198.)

CONSTRUCTION WITH OTHER LAWS

Section 18 of act Aug. 4, 1939, provided: "Nothing in this Act [sections 375a, 387–389 and 485 et seq. of this title] shall be construed to amend the Boulder Canyon Project Act (45 Stat. 1057), as amended [section 617 et seq. of this title].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485g, 485i, 485k of this title.

§ 485k. Short title.

Sections 375a, 387 to 389 and 485 to 485b–1, 485d to 485h, 485i to 485k of this title may be cited as the "Reclamation Project Act of 1939." (Aug. 4, 1939, ch. 418, § 19, 53 Stat. 1198.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 485, 485a, 485b, 485d, 485e, 485f, 485g, 485i, 485j of this title.

MAINTENANCE AND OPERATION OF WORKS GENERALLY

§ 491. Authority of Secretary to operate works.

The Secretary of the Interior is authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title. (June 17, 1902, ch. 1093, § 6, 32 Stat. 389.)

CODIFICATION

Section is comprised of part of section 6 of act June 17, 1902. Remainder of such section 6 is classified to section 498 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Delegation of powers and duties of Secretary of Interior under reclamation laws, see section 590z–11 of Title 16, Conservation.

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d–5 of Title 16, Conservation.

No expenditures to be made for carrying out purposes of reclamation law except out of appropriations made annually by Congress, see section 414 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 498 of this title; title 12 section 773; title 16 section 406d–5; title 30 section 125.

§ 492. Operation and maintenance charges generally.

In addition to the construction charge, every water-right applicant, entryman, or landowner under or upon a reclamation project shall also pay, whenever water service is available for the irrigation of his land, an operation and maintenance charge based upon the total cost of operation and maintenance of the project, or each separate unit thereof, and such charge shall be made for each acre-foot of water delivered; but each acre of irrigable land, whether irrigated or not, shall be charged with a minimum operation and maintenance charge based upon the charge for delivery of not less than one acre-foot of water. If the total amount of operation and maintenance charges and penalties collected for any one irrigation season on any project shall exceed the cost of operation and maintenance of the project during that irrigation season, the balance shall be applied to a reduction of the charge on the project for the next irrigation season, and any deficit incurred may likewise be added to the charge for the next irrigation season. (Aug. 13, 1914, ch. 247, § 5, 38 Stat. 687.)

CODIFICATION

Section is comprised of part of first sentence and second sentence of section 5 of act Aug. 13, 1914. Remainder of first sentence of such section is classified to section 499 of this title.

CROSS REFERENCES

Secretary of the Interior authorized to contract with irrigation district for such penalties or interest charges in case of delinquency in payments as he may deem proper notwithstanding this section, see section 511 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511, 591a of this title.

§ 493. Operation charges; date of payment; discount; advance payment.

All operation and maintenance charges upon projects existing prior to December 5, 1924, shall become due and payable on the date fixed for each project by the Secretary of the Interior, and if such charge is paid on or before the date when due there shall be a discount of 5 per centum of such charge.

All contracts providing for new projects and new divisions of projects approved after December 5, 1924, shall require that all operation and maintenance charges shall be payable in advance. In each case where the care, operation, and maintenance of a project or division of a project are transferred to the water users the contract shall require the payment of operation and maintenance charges in advance. Whenever an adjustment of water charges is made under sections 371, 376, 377, 412, 417, 433, 462, 466, 478, 493, 494, 500, 501 and 526 of this title the adjustment contract shall provide that thereafter all operation and maintenance charges shall be payable in advance. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688; Dec. 5, 1924, ch. 4, § 4, subsec. N, 43 Stat. 704.)

CODIFICATION

First paragraph of this section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 494, and 495 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

Second paragraph of this section is from act Dec. 5, 1924.

Upon incorporation into the Code, the first paragraph was limited to projects existing prior to Dec. 5, 1924 to avoid conflict with second paragraph applicable to projects after Dec. 5, 1924.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 465, 475, 500, 511 of this title.

§ 493a. Extension of time for payment of charges; authority of Secretary; interest.

CODIFICATION

Section, act May 10, 1926, ch. 277, § 1, 44 Stat. 479, authorized Secretary of the Interior, until June 30, 1927, to extend time for payment of charges for period not exceeding 5 years.

§ 494. Pecuniary penalty for nonpayment of operation charge.

If any operation or maintenance charge is unpaid on the 1st day of the third calendar month after it became due a penalty of 1 per centum of the amount unpaid shall be added thereto, and thereafter an additional penalty of one-half of 1 per centum of the amount unpaid shall be added on the 1st day of each calendar month if such charge and penalties shall remain unpaid. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688; Dec. 5, 1924, ch. 4, § 4, subsec. H, 43 Stat. 703.)

CODIFICATION

Section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 493 and 495 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

Act Dec. 5, 1924 reduced the additional penalty from 1 per centum to one-half of 1 per centum.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 465, 475, 493, 500, 511 of this title.

§ 495. Shutting off water for nonpayment of operation charge.

No water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any charge for operation and maintenance. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 493 and 494 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title.

§ 496. Cancellation of entry or water right for nonpayment of operation charge.

If any water-right applicant or entryman shall be one year in arrears in the payment of any charge for operation and maintenance and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such arrears. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of second sentence of section 6 of act Aug. 13, 1914. First and third sentences of such section 6 are classified to sections 479, 493, 494, 495, 497 of this title, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title.

§ 497. Action to recover operation charge and penalty.

In the discretion of the Secretary of the Interior suit or action may be brought for the amounts of operation or maintenance charges in default and penalties in like manner as provided in section 481 of this title. (Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of third sentence of section 6 of act Aug. 13, 1914. First and second sentences of such section 6 are classified to sections 479, 493, 494, 495, and 496 of this title, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title.

§ 498. Transfer of management and operation of works to water users generally.

When the payments required by sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491 and 498 of this title are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior; *Provided,* That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress. (June 17, 1902, ch. 1093, § 6, 32 Stat. 389.)

CODIFICATION

Section is comprised of part of section 6 of act June 17, 1902. Remainder of such section 6 is classified to section 491 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

CROSS REFERENCES

Grand Teton National Park, withdrawn lands within exterior boundary, use for reclamation purposes, see section 406d-5 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 238, 372, 373, 383, 391, 411, 416, 420, 421, 432, 491, 522, 524, 569 of this title; title 12 section 773; title 16 section 406d-5; title 30 section 125.

§ 499. Discretionary power to transfer management.

Whenever any legally organized water-users' association or irrigation district shall so request, the Secretary of the Interior is authorized, in his discretion, to transfer to such water-users' association or irrigation district the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe. (Aug. 13, 1914, ch. 247, § 5, 38 Stat. 687.)

CODIFICATION

Section is comprised of part of first sentence of section 5 of act Aug. 13, 1914. Remainder of first sentence and second sentence of such section 5 are classified to section 492 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 465, 475, 511 of this title; title 25 section 564*l*.

§ 499a. Transfer of title to movable property; use of appropriations.

Whenever an irrigation district, municipality, or water users' organization assumes operation and maintenance of works constructed to furnish or distribute a water supply pursuant to a contract entered into with the United States in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior may transfer to said district, municipality, or organization title to movable property which has been purchased with funds advanced by the district, municipality, or organization or which, in the case of property purchased with appropriated funds, is necessary to the operation and maintenance of such works and the value of which is to be repaid under a contract with the district, municipality, or organization. In order to encourage the assumption by irrigation districts, municipalities, and water users' organizations of the operation and maintenance of works constructed to furnish or distribute a water supply, the Secretary is authorized to use appropriated funds available for the project involved to acquire movable property for transfer under the terms and conditions hereinbefore provided, at the time operation and maintenance is assumed. (July 29, 1954, ch. 616, 68 Stat. 580; Aug. 2, 1956, ch. 884, 70 Stat. 940; June 24, 1965, Pub. L. 89–48, §1, 79 Stat. 172.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

AMENDMENTS

1965—Pub. L. 89–48 extended the provisions to municipalities and broadened their scope, previously limited to operation and maintenance of irrigation works, to cover operation and maintenance of works constructed to furnish or distribute a water supply.

1956—Act Aug. 2, 1956 authorized the Secretary to use appropriated funds for a project to acquire movable property for transfer to irrigation districts and other water users' organizations to encourage them to take over operation and maintenance of reclamation projects as soon as they are completed.

SHORT TITLE

This section is popularly known as the "Title to Movable Property Act."

§ 499b. Transfer to municipal corporations or other organizations of care, operation, and maintenance of works supplying water for municipal, domestic, or industrial use.

Whenever a municipal corporation or other organization to which water for municipal, domestic, or industrial use is furnished or distributed under a contract entered into with the United States pursuant to the Federal reclamation laws so requests, the Secretary of the Interior is authorized to transfer to it or its nominee the care, operation, and maintenance of the works by which such water supply is made available or such part of those works as, in his judgment, is appropriate in the circumstances, subject to such terms and conditions as he may prescribe. (Pub. L. 89–48, § 2, June 24, 1965, 79 Stat. 172.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are Act June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto, which are classified generally to this title. See Tables for distribution.

§ 500. Duty of association or district to take over management.

Whenever two-thirds of the irrigable area of any project, or division of a project, shall be covered by water-right contracts between the water users and the United States, said project shall be required, as a condition precedent to receiving the benefits of sections 371, 376, 377, 412, 417, 433, 462, 466, 478, 493, 494, 500, 501 and 526 of this title to take over, through a legally organized water-users' association or irrigation district, the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as the Secretary may prescribe, and thereafter the United States, in its relation to said project, shall deal with a water users' association or irrigation district, and when the water users assume control of a project, the operation and maintenance charges for the year then current shall be covered into the construction account to be repaid as part of the construction repayments. (Dec. 5, 1924, ch. 4, § 4, subsec. G, 43 Stat. 702.)

CROSS REFERENCES

Amendment of existing water-right contracts by Secretary of the Interior, see section 423d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493 of this title.

§ 501. Disposition of profits of project taken over by water users.

Whenever the water users take over the care, operation, and maintenance of a project, or a division of a project, the total accumulated net profits, as determined by the Secretary, derived from the operation of project power plants, leasing of project grazing and farm lands, and the sale or use of town sites shall be credited to the construction charge of the project, or a division thereof, and thereafter the net profits from such sources may be used by the water users to be credited annually, first, on account of project construction charge, second, on account of project operation and maintenance charge, and third, as the water users may direct. No distribution to individual water users shall be made out of any such profits before all obligations to the Government shall have been fully paid. (Dec. 5, 1924, ch. 4, § 4, subsec. I, 43 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500, 572 of this title.

§ 502. Emergency fund to assure continuous operation of irrigation and power systems maintained by Bureau of Reclamation.

In order to assure continuous operation of irrigation or power systems operated and maintained by

the Bureau of Reclamation, Department of the Interior, there is authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions. (June 26, 1948, ch. 676, § 1, 62 Stat. 1052.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 503. Same; definition of "unusual or emergency conditions".

The term "unusual or emergency conditions", as used in section 502 of this title, shall be construed to mean canal bank failures, generator failures, damage to transmission lines; or other physical failures or damage, or acts of God, or of the public enemy, fires, floods, drought, epidemics, strikes, or freight embargoes, or conditions, causing or threatening to cause interruption in water or power service. (June 26, 1948, ch. 676, § 2, 62 Stat. 1052.)

§ 504. Rehabilitation and betterment of Federal reclamation projects; return of costs; definitions; performance of work.

Expenditures of funds hereafter specifically appropriated for rehabilitation and betterment of irrigation systems on projects governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) shall be made only after the organizations concerned shall have obligated themselves for the return thereof in installments fixed in accordance with their ability to pay, as determined by the Secretary of the Interior in the light of their outstanding repayment obligations, and which shall, to the fullest practicable extent, be scheduled for return with their construction charge installments or otherwise scheduled as he shall determine. No such determination of the Secretary of the Interior shall become effective until the expiration of sixty days after it has been submitted to the Committee on Interior and Insular Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives; except that, any such determination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary, in writing, of such approval: *Provided,* That when Congress is not in session the Secretary's determination, if accompanied by a finding by the Secretary that substantial hardship to the water users concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings. The term "rehabilitation and betterment", as used in this section, shall mean maintenance, including replacements, which cannot be financed currently, as otherwise contemplated by the Federal reclamation laws in the case of operation and maintenance costs, but shall not include construction, the costs of which are returnable, in whole or in part, through "construction charges" as that term is defined in section 485a (d) of this title. Such rehabilitation and betterment work may be performed by contract, by force-account, or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary of the Interior shall deem appropriate for the protection of the United States, by contract entered into with the organization concerned whereby such organization shall perform such work. (Oct. 7, 1949, ch. 650, § 1, 63 Stat. 724; Mar. 3, 1950, ch. 47, 64 Stat. 11.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

AMENDMENTS

1950—Act Mar. 3, 1950 offered an alternate to the 60-day waiting period in any case where either the Senate Committee on Interior or Insular Affairs or the House Committee on Interior or Insular Affairs approves an earlier date, and to make action possible when Congress is not in session.

SUPPLEMENTAL TO FEDERAL RECLAMATION LAWS

Section 2 of act Oct. 7, 1949, provided that: "This Act [this section] shall be deemed a supplement to the Federal reclamation laws."

§ 505. Drainage facilities and minor construction in irrigation works; contracts with repayment organizations; limitation on costs; submission of contract to Congress.

Funds appropriated for the construction of irrigation works authorized to be undertaken pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), sections 590y to 590z–4, 590z–6 to 590z–9 of Title 16, Conservation, or other Acts of Congress may, insofar as such funds are available for the construction of drainage facilities and other minor items, be utilized by the Secretary of the Interior to accomplish such work by contract, by force account or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary shall deem appropriate for the protection of the United States, by contract entered into with the repayment organization concerned whereby said organization shall perform such work: *Provided,* That in the event construction work to be accomplished by any one repayment organization, pursuant to contract with the United States, exceeds a total cost of $200,000, such contract shall not be executed by the Secretary prior to the expiration of sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which it has been submitted to the Speaker of the House and the President of the Senate for reference to the appropriate Committees, except that such contract may be executed prior to expiration of such sixty days in any case in which both such Committees approve said

contract and notify the Secretary in writing of such approval. (June 13, 1956, ch. 382, 70 Stat. 274.)

REFERENCES IN TEXT

The Federal reclamation laws (act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

CONTRACTS WITH STATE IRRIGATION DISTRICTS FOR PAYMENT OF CHARGES

§ 511. Authority to contract with irrigation district.

In carrying out the purposes of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto and known as the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with. In the event of such contract being made with an irrigation district, the Secretary of the Interior, in his discretion, may contract that the payments, both for the construction of irrigation works and for operation and maintenance, on the part of the district shall be made upon such dates as will best conform to the district and taxation laws of the respective States under which such irrigation districts shall be formed, and if he deem it advisable he may contract for such penalties or interest charges in case of delinquency in payments as he may deem proper and consistent with such State laws, notwithstanding the provisions of sections 471, 472, 475, 478 to 481, 492, 493, 494 to 497 and 499 of this title. The Secretary of the Interior may accept a partial payment of the amount due from any district to the United States, providing such acceptance shall not constitute a waiver of the balance remaining due nor the interest or penalties, if any, accruing upon said balance: *Provided,* That no contract with an irrigation district under this section and sections 512 and 513 of this title shall be binding on the United States until the proceedings on the part of the district for the authorization of the execution of the contract with the United States shall have been confirmed by decree of a court of competent jurisdiction, or pending appellate action if ground for appeal be laid. (May 15, 1922, ch. 190, § 1, 42 Stat. 541.)

REFERENCES IN TEXT

The Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, and known as and called the reclamation law, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 513 of this title.

§ 512. Release of Government liens after contract with irrigation districts.

Patents and water-right certificates which shall be issued after May 15, 1922, under the terms of sections 541 to 546 of this title, for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; and where such a lien shall have been reserved in any patent or water-right certificate issued under the said sections, the Secretary of the Interior is empowered to release such lien in such manner and form as may be deemed effective; and the Secretary of the Interior is further empowered to release liens in favor of the United States contained in water-right applications and to assent to the release of liens to secure reimbursement of moneys due to the United States pursuant to water-right applications running in favor of the water users' association and contained in stock subscription contracts to such associations, when the lands covered by such liens shall be subject to assessment and levy for the collection of all moneys due and to become due to the United States by irrigation districts formed pursuant to State law and with which the United States shall have entered into contract therefor: *Provided,* That no such lien so reserved to the United States in any patent or water-right certificate shall be released until the owner of the land covered by the lien shall consent in writing to the assessment, levy, and collection by such irrigation district of taxes against said land for the payment to the United States of the contract obligation: *Provided further,* That before any lien is released under this section the Secretary of the Interior shall file a written report finding that the contracting irrigation district is legally organized under the laws of the State in which its lands are located, with full power to enter into the contract and to collect by assessment and levy against the lands of the district the amount of the contract obligation. (May 15, 1922, ch. 190, § 2, 42 Stat. 542.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 513 of this title.

§ 513. Lands in project subject to provisions of chapter; after contract with irrigation district.

Upon the execution of any contract between the United States and any irrigation district pursuant to sections 511 and 512 of this title the public lands included within such irrigation district, when subject to entry, and entered lands within such irrigation district, for which no final certificates shall have been issued and which may be designated by the Secretary of the Interior in said contract, shall be subject to all the provisions of chapter 13 of this title: *Provided,* That no map or plan as required by section 623 of this title need be filed by the irrigation district for approval by the Secretary of the Interior. (May 15, 1922, ch. 190, § 3, 42 Stat. 542.)

SALE OR LEASE OF SURPLUS WATERS, WATER POWER, STORAGE CAPACITY, AND WATER TRANSPORTATION FACILITIES

§ 521. Sale of surplus waters generally.

The Secretary of the Interior in connection with the operations under the reclamation law is authorized to enter into contract to supply water from any project irrigation system for other purposes than irrigation, upon such conditions of delivery, use, and payment as he may deem proper: *Provided,* That

the approval of such contract by the water-users' association or associations shall have first been obtained: *Provided,* That no such contract shall be entered into except upon a showing that there is no other practicable source of water supply for the purpose: *Provided further,* That no water shall be furnished for the uses aforesaid if the delivery of such water shall be detrimental to the water service for such irrigation project, nor to the rights of any prior appropriator: *Provided further,* That the moneys derived from such contracts shall be covered into the reclamation fund and be placed to the credit of the project from which such water is supplied. (Feb. 25, 1920, ch. 86, 41 Stat. 451.)

CROSS REFERENCES

Municipal water supply and other miscellaneous purposes, see section 485h of this title.

§ 522. Lease of water power.

Whenever a development of power is necessary for the irrigation of lands, under any project undertaken under the Reclamation Act of June 17, 1902, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided,* That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project: *Provided further,* That the Secretary of the Interior is authorized, in his discretion, to make such a lease in connection with Rio Grande project in Texas and New Mexico for a longer period not exceeding fifty years, with the approval of the water-users' association or associations under any such project, organized in conformity with the rules and regulations prescribed by the Secretary of the Interior in pursuance of section 498 of this title. (Apr. 16, 1906, ch. 1631, § 5, 34 Stat. 117; Feb. 24, 1911, ch. 155, 36 Stat. 930.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

CROSS REFERENCES

Sale of electric power and lease of power privileges, see section 485h (c) of this title.

§ 523. Storage and transportation of water for irrigation districts, etc.

Whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage, and carriage of water to an extent not exceeding such excess capacity with irrigation systems operating under section 641 of this title, and individuals, corporations, associations, and irrigation districts organized for or engaged in furnishing or in distributing water for irrigation. Water so impounded, stored, or carried under any such contract shall be for the purpose of distribution to individual water users by the party with whom the contract is made: *Provided, however,* That water so impounded, stored, or carried shall not be used otherwise than as prescribed by law as to lands held in private ownership within Government reclamation projects. In fixing the charges under any such contract for impounding, storing, or carrying water for any irrigation system, corporation, association, district, or individual, as herein provided, the Secretary shall take into consideration the cost of construction and maintenance of the reservoir by which such water is to be impounded or stored and the canal by which it is to be carried, and such charges shall be just and equitable as to water users under the Government project. No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage, carriage, or delivery of such water in excess of the charge paid to the United States except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their works. (Feb. 21, 1911, ch. 141, § 1, 36 Stat. 925.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 524, 525, 526 of this title.

§ 524. Cooperation with irrigation districts, etc., in construction of reservoirs and canals.

In carrying out the provisions of the reclamation law, the Secretary of the Interior is authorized, upon such terms as may be agreed upon, to cooperate with irrigation districts, water-users' associations, corporations, entrymen, or water users for the construction or use of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water-users' associations, corporations, entrymen, or water users for impounding, delivering, and carrying water for irrigation purposes: *Provided,* That the title to and management of the works so constructed shall be subject to the provisions of section 498 of this title: *Provided further,* That water shall not be furnished from any such reservoir or delivered through any such canal or ditch to any one landowner in excess of an amount sufficient to irrigate one hundred and sixty acres: *Provided,* That nothing contained in this section or section 523 of this title shall be held or construed as enlarging or attempting to enlarge the right of the United States, under existing law, to control the waters of any stream in any State. (Feb. 21, 1911, ch. 141, § 2, 36 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 525, 526 of this title.

§ 525. Covering proceeds into reclamation fund.

The moneys received in pursuance of the contracts authorized by sections 523 and 524 of this title shall be covered into the reclamation fund and be available for use under the terms of the reclamation law. (Feb. 21, 1911, ch. 141, § 3, 36 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 526 of this title.

§ 526. Credit of proceeds to particular project.

All moneys or profits as determined by the Secretary heretofore or hereafter derived from the sale or rental of surplus water under sections 523 to 525 of this title or from the connection of a new project with an existing project shall be credited to the project or division of the project to which the construction cost has been charged. (Dec. 5, 1924, ch. 4, § 4, subsec. J, 43 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 417, 493, 500 of this title.

PATENTS AND FINAL WATER-RIGHT CERTIFICATES

§ 541. When patent or final certificate issued.

Any homestead entryman under the Act of June 17, 1902, known as the Reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence reclamation, and cultivation, submit proof of such residence, reclamation, and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation law for homestead entrymen: *Provided,* That no such patent or final water-right certificate shall issue until after the payment of all sums due the United States on account of such land or water right at the time of the submission of proof entitling the homestead or desert-land entryman to such patent or the purchaser to such final water-right certificate. (Aug. 9, 1912, ch. 278, § 1, 37 Stat. 265; Feb. 15, 1917, ch. 71, 39 Stat. 920.)

REFERENCES IN TEXT

The Act of June 17, 1902, known as the Reclamation Act, referred to in the text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 542, 544, 546, 593 of this title.

§ 542. Reservation of lien for charges; enforcement of lien; redemption.

Every patent and water-right certificate issued under section 541 of this title shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims, or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with 8 per centum interest and cost. And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: *Provided,* That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs. (Aug. 9, 1912, ch. 278, § 2, 37 Stat. 266.)

CROSS REFERENCES

Release of Government liens after contract with irrigation districts, see section 512 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 544, 546, 593 of this title.

§ 543. Certificate of final payment and release of lien.

Upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certificate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance. (Aug. 9, 1912, ch. 278, § 3, 37 Stat. 266.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 544, 546, 593 of this title.

§ 544. Limitation as to holdings prior to final payment of charges; forfeiture of excess holding.

No person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water-right application shall have been made under the said Reclamation Act of June 17, 1902 and Acts supplementary thereto and amendatory thereof, before final payment in full of all installments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said law nor a water right sold or recognized for such excess; but any such excess land acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, may be held for five years and no longer after its acquisition, and water may be temporarily furnished during that time; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction. The above provision shall be recited in every patent and water-right certificate issued by the United States under the provisions of sections 541 to 543 of this title. (Aug. 9, 1912, ch. 278, § 3, 37 Stat. 266; July 11, 1956, ch. 563, § 2, 70 Stat. 524.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof, referred to in the text, are classified generally to this title. See Tables for distribution.

AMENDMENTS

1956—Act July 11, 1956 increased the period during which land could be held from two years to five years, and to authorize the delivery of water for that period.

AMENDMENT OF EXISTING CONTRACTS

For provisions authorizing the Secretary of the Interior to amend existing contracts under the Federal reclamation laws to conform to the provisions of this section, see section 3 of act July 11, 1956, set out as a note under section 423e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 451b, 512, 546, 593 of this title.

§ 545. Appointment of agents to receive payments; record of payments and amounts owing.

The Secretary of the Interior is authorized to designate such bonded fiscal agents or officers of the Bureau of Reclamation as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation law; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees which copies shall be admissible in evidence, as are copies authenticated under section 669 of Title 28. (Aug. 9, 1912, ch. 278, § 4, 37 Stat. 267.)

REFERENCES IN TEXT

Section 669 of Title 28, referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and is now covered by section 1733 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 546, 593 of this title.

§ 546. Jurisdiction of district court for enforcement of sections 541 to 545.

Jurisdiction of suits by the United States for the enforcement of the provisions of sections 541 to 545 of this title is conferred on the United States district courts of the districts in which the lands are situated. (Aug. 9, 1912, ch. 278, § 5, 37 Stat. 267.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 512, 593 of this title.

§ 547. Patent to desert-land entryman.

Any desert-land entryman whose desert-land entry has been embraced within the exterior limits of any land withdrawal or irrigation project under the reclamation law, and who may have obtained a water supply for the land embraced in any such desert-land entry from the reclamation project by the purchase of a water-right certificate, may at any time after having complied with the provisions of the law applicable to such lands and upon proof of the cultivation and reclamation of the land to the extent required by the reclamation law for homestead entrymen, submit proof of such compliance, which proof, if found regular and satisfactory, shall entitle the entryman to a patent and a final water-right certificate under the same terms and conditions as required of homestead entrymen under the six preceding sections. (Aug. 26, 1912, ch. 408, § 1, 37 Stat. 610.)

TOWN SITES, PARKS, PLAYGROUNDS, AND SCHOOL SITES

§ 561. Withdrawal of land for town sites; reservation for public purposes.

The Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the Reclamation Act of June 17, 1902, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes: *Provided,* That, whenever, in the opinion of the Secretary of the Interior, it shall be advisable for the public interest, he may withdraw and dispose of town sites in excess of one hundred and sixty acres. (Apr. 16, 1906, ch. 1631, § 1, 34 Stat. 116; June 27, 1906, ch. 3559, § 4, 34 Stat. 520.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, referred to in the text, is classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 567, 568, 571 of this title.

§ 562. Appraisal and sale of town lots.

The lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund. (Apr. 16, 1906, ch. 1631, § 2, 34 Stat. 116.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 563, 564, 565, 567, 568 of this title.

§ 563. Disposal of town sites set apart prior to June 27, 1906.

Any town site set apart or established prior to June 27, 1906, by proclamation of the President, under the provisions of sections 711 and 712 of this title, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of section 562 of this title

and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund. (June 27, 1906, ch. 3559, § 3, 34 Stat. 519.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 568 of this title.

§ 564. Reappraisal of town lots for sale.

The Secretary of the Interior is authorized, whenever he may deem it necessary, to reappraise all unsold lots within town sites on projects under the reclamation law heretofore or hereafter appraised under the provisions of section 562 of this title, and thereafter to proceed with the sale of such town lots in accordance with said section. (June 11, 1910, ch. 284, § 1, 36 Stat. 465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 565 of this title.

§ 565. Terms of sale of town lots; installments of price.

In the sale of town lots under the provisions of sections 562 and 564 of this title the Secretary of the Interior may, in his discretion, require payments for such town lots in full at time of sale or in annual installments, not exceeding five, with interest at the rate of 6 per centum per annum on deferred payments. (June 11, 1910, ch. 284, § 2, 36 Stat. 466.)

§ 566. Maintenance of public reservations and conveyance to municipality.

The public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes. (Apr. 16, 1906, ch. 1631, § 3, 34 Stat. 116.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 567, 568 of this title.

§ 567. Water rights for towns and cities; charges.

The Secretary of the Interior shall, in accordance with the provisions of the reclamation law, provide for water rights in amount he may deem necessary for the towns established as provided, in sections 561, 562 and 566 of this title, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken. (Apr. 16, 1906, ch. 1631, § 4, 34 Stat. 116.)

CROSS REFERENCES

Municipal water supply, see section 485h (c) of this title.

§ 568. Use of reclamation fund for expenses of and disposal of proceeds of sale of town sites.

Reclamation funds shall be available for the payment of all expenses incurred in executing the provisions of sections 561 to 563 and 566 of this title relating to town sites, and the proceeds of all sales of town sites shall be covered into the reclamation fund. (June 27, 1906, ch. 3559, § 4, 34 Stat. 520.)

§ 569. Reservation of land for park, playground, or community center.

(a) Authority for reservation.

The Secretary of the Interior is authorized to withdraw from other disposition and reserve for country parks, public playgrounds, and community centers for the use of the residents upon the lands such tracts as he may deem advisable not exceeding twenty acres in any one township in each reclamation project or the several units of such reclamation projects undertaken under the Act of June 17, 1902, known as the Reclamation Act.

(b) Water service.

Subject to the provisions hereinafter contained in this section every such tract of land so set apart shall be supplied with water from the Government irrigation system, the cost thereof to be charged to the remaining lands of the project as a part of the construction charge of such project, and shall be maintained and used in perpetuity by the people upon said reclaimed lands for a pleasure park, public playground, and community center.

(c) Contract for maintenance and use.

For the purpose of carrying out and effecting the objects of this section the Secretary of the Interior is authorized to enter into a contract with the organization formed by the owners of the lands irrigated within said project or project unit pursuant to section 498 of this title, stipulating and providing that the organization will maintain and use such of the lands so reserved for the purposes prescribed in this section as such organization may desire, and that upon failure to so maintain and use such lands, or in the event that same shall be permitted to be used or occupied for other purposes than those stipulated in this section, the control of the lands shall revert to the United States.

(d) Disposition of land not contracted for.

Any of such lands not contracted for in accordance with the provisions of subsection (c) of this section within ten years from the time water is available for the same, or sooner, if the Secretary of the Interior may deem it desirable, shall be disposed of in accordance with the public land laws applicable thereto, and the proceeds from the disposition of lands reverting to the United States under the provisions of this section, and from sales of water rights, shall be covered into the reclamation fund and placed to the credit of the project wherein the lands are situate. (Oct. 5, 1914, ch. 316, §§ 1—4, 38 Stat. 727–728.)

REFERENCES IN TEXT

The Act of June 17, 1902, known as the Reclamation Act, referred to in subsec. (a), is classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 569a of this title.

§ 569a. Extension of section 569 to tract of land in Idaho.

Section 569 of this title is extended to the following described land.

All in lot 2, section 22, township 7 north, range 1 west, Boise meridian, beginning at the northwest corner of said lot 2, thence east along the northern boundary of said lot 2 nine hundred and ninety feet; thence south along a line parallel to the eastern boundary of said lot 2 to the intersection with the northerly meander line of the Payette River; thence westerly along the northerly meander line of the Payette River to the intersection with the western boundary of said lot 2; thence north along the western boundary of said lot 2 to the northwest corner of said lot 2, which is the point of beginning, comprising approximately twenty-five acres. (July 3, 1926, ch. 777, 44 Stat. 890.)

§ 570. Conveyance of land to school district.

The Secretary of the Interior is authorized, upon application by the proper officers of a school district located wholly or in part within the boundaries of a project of the United States Bureau of Reclamation, to issue patent conveying to such district such unappropriated undisposed of lands, not exceeding six acres in area, within any Government reclamation town site situated within such school district as, in the opinion of the Secretary of the Interior, are necessary for use by said district for school buildings and grounds: *Provided*, That if any land so conveyed cease entirely to be used for school purposes title thereto shall revert to and revest in the United States. (Oct. 31, 1919, ch. 92, 41 Stat. 326.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 571. Sale of unplatted portions of Government town sites; authorization.

The Secretary of the Interior is authorized, in his discretion, to appraise, and sell, at public auction, to the highest bidder, from time to time, under such terms as to time of payment as he may require, but in no event for any longer period than five years, any or all of the unplatted portions of Government town sites created under section 561 of this title, on any irrigation project constructed under the reclamation law: *Provided*, That any land so offered for sale and not disposed of may afterwards be sold, at not less than the appraised value, at private sale, under such regulations as the Secretary of the Interior may prescribe. Patents made in pursuance of such sale shall convey all the right, title, and interest of the United States in or to the land so sold. (Mar. 2, 1929, ch. 541, § 1, 45 Stat. 1522; Feb. 14, 1931, ch. 176, 46 Stat. 1107.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 573 of this title.

§ 572. Same; disposition of net proceeds; fixing project construction charges.

The net proceeds of such sales after deducting all expenditures on account of such lands, and the project construction charge, for the irrigable area of the lands so sold where irrigation or drainage works have been constructed or are proposed to be constructed, shall be disposed of as provided in section 501 of this title. Where the project construction charge shall not have been fixed at the date of any such sale, same shall be estimated by the Secretary of the Interior. (Mar. 2, 1929, ch. 541, § 2, 45 Stat. 1522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 573 of this title.

§ 573. Expenses of appraisement and sale; rules and regulations.

Reclamation funds are authorized to be appropriated for use in defraying the necessary expenses of appraisement and sale of the lands authorized to be sold under section 571 of this title, and the Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as, in his opinion, may be necessary and proper for carrying out the purposes of sections 571 and 572 of this title. (Mar. 2, 1929, ch. 541, § 3, 45 Stat. 1522.)

REFUNDS TO WAR VETERANS

§§ 581 to 586. Omitted.

CODIFICATION

Sections 581—586, act Feb. 21, 1925, ch. 277, §§ 1—5, 43 Stat. 956, 957, relating to refunds to World War I veterans with respect to farm entries, defined the term "veteran"; provided a general authorization for refund; extended the benefits of the authorization to veteran's estate; deemed an acceptance of refund as a relinquishment of rights in any farm unit; authorized the cancellation of water-right application; and authorized the making of regulations to execute the aforementioned functions.

LEGISLATION APPLICABLE TO PARTICULAR PROJECTS GENERALLY

§ 591. Extension of time for payment of charges.

CODIFICATION

Section, act Feb. 28, 1923, ch. 145, § 5, 42 Stat. 1325, related to extension of time for payment of operation and maintenance charges on projects other than the Boise, Idaho, project. Later provisions on this subject were contained in former section 493a of this title.

§ 591a. Boise project, Idaho; Arrowrock Dam; installment payments of costs of repairs, resurfacing, improvement, etc.

For the purpose of avoiding an unduly high operation and maintenance assessment in any one year and to keep the operation and maintenance charges in connection with the Arrowrock Division of the Boise reclamation project within the ability of the water users to pay, the Secretary of the Interior is authorized to allow the irrigation districts of the said Arrowrock Division and the irrigation districts, ditch companies, and water users who have assumed obligations to pay proportionate parts of the estimated cost of the operation and maintenance of the Arrowrock Reservoir, to pay the costs, as determined conclusively by said Secretary, incurred in the repair, resurfacing, and improvement of the Arrowrock Dam

and in increasing the height thereof (to provide additional capacity to offset past and, to some extent, future losses of capacity resulting from the deposit of silt in the said reservoir) in twenty annual installments instead of requiring the payment of all of such operation and maintenance costs in one year as provided in section 492 of this title: *Provided,* That such costs, for the purpose of any amendatory contracts affecting the construction charges of Arrowrock Dam that may be entered into as authorized by the Act of August 4, 1939 (53 Stat. 1187), may, in the discretion of the Secretary, be treated as part of the construction charges of said dam, and as payable in the same manner as such charges. (Apr. 22, 1940, ch. 132, 54 Stat. 155.)

REFERENCES IN TEXT

The Act of August 4, 1939 (53 Stat. 1187), referred to in the text, is popularly known as the "Reclamation Project Act of 1939". For distribution of such act in this Code, see section 485k of this title.

§ 592. Castle Peak project, Utah; leave of absence to entrymen.

CODIFICATION

Section, act Feb. 28, 1919, ch. 78, 40 Stat. 1210, granted leave of absence to any entryman who, prior to Feb. 28, 1919, made entry upon land withdrawn under reclamation law, until water became available for irrigation.

§ 593. Flathead irrigation project, Montana.

The provisions of sections 441 and 442 of this title, authorizing the assignment under certain conditions of homesteads within reclamation projects, and of sections 541 to 546 of this title, authorizing under certain conditions the issuance of patents on reclamation entries, and for other purposes, are hereby extended and made applicable to lands within the Flathead irrigation project, in the former Flathead Indian Reservation, Montana, but such lands shall otherwise be subject to the provisions of the Act of Congress approved April 23, 1904 (Thirty-third Statutes at Large, page 302), as amended by the Act of Congress approved May 29, 1908 (Thirty-fifth Statutes at Large, page 448): *Provided,* That the lien reserved to the United States on the land patented, as provided for in section 542 of this title, shall include all sums due or to become due to the United States on account of the Indian price of such land. (July 17, 1914, ch. 143, 38 Stat. 510.)

REFERENCES IN TEXT

Act Apr. 23, 1904, ch. 1495, to which reference is made in this section, was entitled "An act for the survey and allotment of land now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment" and was not classified to the Code.

§ 593a. Construction, operation, and maintenance of Hungry Horse Dam.

For the purpose of irrigation and reclamation of arid lands, for controlling floods, improving navigation, regulating the flow of the South Fork of the Flathead River, for the generation of electric energy, and for other beneficial uses primarily in the State of Montana but also in downstream areas, the Secretary of the Interior is authorized and directed to proceed as soon as practicable with the construction, operation, and maintenance of the proposed Hungry Horse Dam (including facilities for generating electric energy) on the South Fork of the Flathead River, Flathead County, Montana, to such a height as may be necessary to impound not less than one million acre-feet of water. The Hungry Horse project shall be subject to the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto).

The Secretary of the Interior is authorized to complete, as soon as the necessary additional material is available, the construction of the Hungry Horse Dam so as to provide a storage reservoir of the maximum usable and feasible capacity. (June 5, 1944, ch. 234, §§ 1, 2, 58 Stat. 270; May 29, 1958, Pub. L. 85-428, 72 Stat. 147.)

REFERENCES IN TEXT

The Federal reclamation laws (act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

AMENDMENTS

1958—Pub. L. 85-428 provided that the Hungry Horse project shall be subject to the Federal reclamation laws.

APPROPRIATION

Section 4 of act June 5, 1944, authorized appropriation of such sums as might be necessary to carry out the purpose of this section and section 593b of this title.

CROSS REFERENCES

Geographical preference of power users in the State of Montana under this section and section 593b of this title not modified by Pacific Northwest hydroelectric provisions, see section 837h of Title 16, Conservation.

§ 593b. Construction of additional works for irrigation purposes.

The Secretary of the Interior is authorized to construct, operate, and maintain under the provisions of the Federal reclamation laws (Act June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), such additional works as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and findings thereon have been made by the Secretary of the Interior as provided in such Federal reclamation laws; and, within the limits of the water users' repayment ability, such report may be predicated on allocation to irrigation of an appropriate portion of the cost of constructing said dam and reservoir. Said dam and reservoir and said irrigation works may be utilized for irrigation purposes only pursuant to the provisions of said Federal reclamation laws. (June 5, 1944, ch. 234, § 3, 58 Stat. 271.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

APPROPRIATION

Section 4 of act June 5, 1944, authorized appropriation of such sums as might be necessary to carry out the purpose of this section and section 593a of this title.

§ 594. Heyburn and Rupert project, Idaho; rights of settlers on town site; size of town site.

CODIFICATION

Section, act June 27, 1906, ch. 3559, § 4, 34 Stat. 520, provided that settlers who had actually established themselves in town sites of Heyburn and Rupert, Idaho, prior to Mar. 5, 1906, in permanent buildings not easily moved, should be given right to purchase lots so built upon at an appraised value.

§ 595. King Hill project, Idaho.

King Hill project, Idaho, shall be subject to the Reclamation Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, so far as applicable and consistent with contract made prior to July 1, 1918, between the United States and King Hill irrigation district: *Provided,* That for the purposes of issuing patent to lands reclaimed, the reclamation effected by the operations of the United States Bureau of Reclamation may be considered by the Secretary of the Interior as equivalent to reclamation effected by the State of Idaho, under section 641 of this title. (July 1, 1918, ch. 113, § 1, 40 Stat. 674.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 596. North Platte irrigation project, Nebraska-Wyoming; aid of ex-service men whose entries were defeated.

CODIFICATION

Section, act May 20, 1921, ch. 9, 42 Stat. 7, gave ex-service men, successful at drawing held March 5, 1920, but unable to make entry because of reinstatement of conflicting claims, preference for not less than thirty days before next opening of lands to other entry.

§ 597. Riverton project, Wyoming.

Lands within and in the vicinity of the ceded portion of the Wind River or Shoshone Reservation, and included in the Riverton project, Wyoming, shall be subject to all the charges, terms, conditions, provisions, and limitations of the Reclamation Acts and Acts amendatory thereof or supplementary thereto, and suitable provision shall be made by the Secretary of the Interior in fixing the charges to provide for reimbursement of the entire expenditure in accordance with the reclamation law and other laws applicable to said lands.

When any land on the project is opened to homestead entry under the terms of the reclamation law, the entryman shall pay to the United States for the lands the sum of $1.50 per acre as provided in section 2 of the Act approved March 3, 1905 (volume 33, Statutes at Large, page 1016), to be credited to the fund established by said Act of 1905, together with the proceeds from the sale of town sites established in said project under the reclamation law. (June 5, 1920, ch. 235, § 1, 41 Stat. 915; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1404.)

REFERENCES IN TEXT

The Reclamation Acts and Acts amendatory thereof or supplementary thereto, and the reclamation laws, referred to in the text, are classified generally to this title. See Tables for distribution.

RESTORATION OF LANDS TO PUBLIC DOMAIN

Act Aug. 15, 1953, ch. 509, § 2, 67 Stat. 612, set out as a note under section 611 of Title 25, Indians, provided that unentered and vacant lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation should be restored to the public domain for administration, use, occupancy, and disposal under the reclamation and public land laws of the United States.

§ 597a. Easements for Bull Lake Dam and Reservoir.

There is granted to the United States and its assigns, including its successors in control of the operation and maintenance of the Riverton reclamation project, Wyoming, a flowage easement and an easement for a dam site, together with all rights and privileges incident to the use and enjoyment of said easements, over tribal and allotted lands of the Wind River or Shoshone Indian Reservation within that part of said reservation required for the construction of the Bull Lake Dam and Reservoir on Bull Lake Creek, a tributary of the Wind River, in connection with the Riverton reclamation project, Wyoming, and for the impounding of approximately one hundred and fifty-five thousand acre-feet of water, including a ten-foot freeboard: *Provided,* That in consideration of the said rights insofar as they affect tribal lands there shall be deposited into the Treasury of the United States pursuant to the provisions of section 155 of Title 25, for credit to the Shoshone and Arapaho Indians of the Wind River Reservation the sum of $6,500, from moneys appropriated for the construction of the said Bull Lake Dam and Reservoir, and the said sum when so credited shall draw interest at the rate of 4 per centum per annum. (Mar. 14, 1940, ch. 51, § 1, 54 Stat. 49.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 597b, 597c, 597d of this title.

§ 597b. Same; compensation for lands.

Compensation to the individual Indian owners of the allotted lands within the area described in section 597a of this title shall be made from moneys appropriated for the construction of the Bull Lake Dam and Reservoir at the appraised value of the easements: *Provided,* That should any individual Indian not agree to accept the appraised value of the easement as it affects his land, the Secretary of the Interior be, and he is, authorized to acquire such easement by condemnation proceedings. (Mar. 14, 1940, ch. 51, § 2, 54 Stat. 49.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 597c, 597d of this title.

§ 597c. Same; reservation of Indians' right to use lands.

The easements granted in section 597a of this title shall not interfere with the use by the Indians of the Wind River or Shoshone Indian Reservation of the lands dealt with in sections 597a to 597d of this title and the waters of Bull Lake Creek and the reservoir insofar as the use by the Indians shall not be inconsistent with the use of said lands for reservoir purposes. (Mar. 14, 1940, ch. 51, § 3, 54 Stat. 49.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 597d of this title.

§ 597d. Same; regulations.

The Secretary of the Interior is authorized to perform any and all acts and to prescribe such regulations as may be necessary to carry out the provisions of sections 597a to 597c of this title. (Mar. 14, 1940, ch. 51, § 4, 54 Stat. 49.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 597c of this title.

§ 598. Salt River project, Arizona; sale of water power.

Whenever a development of power is necessary for the irrigation of lands under the Salt River reclamation project, Arizona, or an opportunity is afforded for the development of power under said project, the Secretary of the Interior is authorized, giving preference to municipal purposes, to enter into contracts for a period not exceeding fifty years for the sale of any surplus power so developed, and the money derived from such sales shall be placed to the credit of said project for disposal as provided in the contract between the United States of America and the Salt River Valley Water Users' Association, approved September 6, 1917. *Provided,* That no contract shall be made for the sale of such surplus power which will impair the efficiency of said project: *Provided, however,* That no such contract shall be made without the approval of the legally organized water-users' association or irrigation district which has contracted with the United States to repay the cost of said project: *Provided further,* That the charge for power may be readjusted at the end of five-, ten-, or twenty-year periods after the beginning of any contract for the sale of power in a manner to be described in the contract. (Sept. 18, 1922, ch. 323, 42 Stat. 847.)

§ 599. Yuma project, Arizona; entries by residents on lands withdrawn for project.

CODIFICATION

Section, act Aug. 17, 1916, ch. 349, 39 Stat. 516, provided that any person who established residence and made improvements on land within Yuma reclamation project for two years prior to August 17, 1916, should have right to make entry for the farm unit and have residence and improvements credited on his final proof.

§ 600. Minidoka project, Idaho; sales of water from American Falls Reservoir.

No contractor shall secure a right to the use of water from American Falls Reservoir, Minidoka project, except under a contract containing the provision that the contractor shall, as a part of the construction cost, pay interest at the rate of six per centum per annum upon the contractor's proper proportionate share, as found by the Secretary of the Interior, of the moneys advanced by the United States on account of the construction of said reservoir prior to the date of the contract. (June 5, 1924, ch. 264, 43 Stat. 417.)

§ 600a. Arch Hurley Conservancy District project, New Mexico.

The Secretary of the Interior is authorized to construct a Federal reclamation project for the irrigation of the lands of the Arch Hurley Conservancy District in New Mexico under the Federal reclamation laws: *Provided,* That construction work is not to be initiated on said irrigation project until (a) the project shall have been found to be feasible under section 412 of this title, but the project may be found to be financially feasible if the Secretary of the Interior finds that the amount to be expended from the reclamation fund can be repaid by the District, and further that the amount of money to be expended from the reclamation fund, plus the amount of money which has been made available from other sources (for the estimated period of construction), equals the estimated cost of construction; (b) a contract shall have been executed with an irrigation or conservation district embracing the land to be irrigated under said project, which contract shall obligate the contracting district to repay the cost of construction of said project met by expenditure of moneys from the reclamation fund in forty equal annual installments, without interest; (c) contracts shall have been made with each owner of more than one hundred and sixty irrigable acres under said project, by which he, his successors, and assigns shall be obligated to sell all of his land in excess of one hundred and sixty irrigable acres at or below prices fixed by the Secretary of the Interior and within the time to be fixed by said Secretary, no water to be furnished to the land of any such large landowner refusing or failing to execute such contract. (Aug. 2, 1937, ch. 557, 50 Stat. 557; Apr. 9, 1938, ch. 134, 52 Stat. 211; Aug. 9, 1955, ch. 637, § 1, 69 Stat. 556.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are classified generally to this title.

AMENDMENTS

1955—Act Aug. 9, 1955 eliminated clause (d) which required landowners to contract to pay to the United States one-half of the price above the appraised value received for the sale of land.

1938—Act Apr. 9, 1938 inserted "but the project may be found feasible * * * estimated cost of construction" following "section 412 of this title" in clause (a).

AMENDMENT OF CONTRACTS

Section 2 of act Aug. 9, 1955, provided that: "The Secretary of the Interior is authorized to amend any contract, which has been entered into prior to the date of enactment of this Act [Aug. 9, 1955], to conform with the provisions of the first section of this Act [amending this section]. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amendment contract and to the simultaneous discharge of record of the original contract. The consent of the United States is likewise given to the discharge of record, at the expense of the party benefited thereby, of any contract which the Secretary of the Interior or his duly authorized agent finds is rendered nugatory by the enactment of this Act [amending this section]."

ENFORCEMENT OF CONTRACT PROVISIONS; COMPLETED TRANSACTIONS AND PAYMENTS

Section 1 of act Aug. 9, 1955, which amended this section, also provided that: "No provision with respect to the matters covered in said clause (d) [formerly of this section] which is contained in any contract entered into prior to the date of enactment of this Act [Aug. 9, 1955] shall, except as is otherwise provided by this Act [amending this section], be enforced by the United States. Nothing contained in this section shall affect (1) the retention and application by the United States of any payments which have been made prior to the date of enactment of this Act [Aug. 9, 1955] in accordance with any such provision of a contract, (2) the obligation of any party to the United States with respect to any payment which is due to the United States under any such provision but not paid upon the date of enactment of this Act [Aug. 9, 1955], and the application by the United

States of any such payment in accordance with the terms of such contract, or (3) the enforcement of any such obligation by refusal to deliver water to lands covered by contractual provisions executed in accordance with said clause (d), except in those cases, if any, in which a sale or transfer consummated between December 27, 1938, and the date of enactment of this Act [Aug. 9, 1955] is only discovered after such date of enactment to have been made contrary to such contractual provisions or to said clause (d)."

§ 600b. Canadian River project, Texas.

For the purposes of irrigating land, delivering water for industrial and municipal use, controlling floods, providing recreation and fish and wildlife benefits, and controlling and catching silt, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Canadian River reclamation project, Texas, described in the report of the Commissioner of Reclamation approved by the Secretary May 3, 1950, entitled "Plan for Development, Canadian River Project, Texas", Project Planning Report Number 5-12.22-1, at an estimated cost of $86,656,000, the impounding works whereof shall be located at a suitable site on the Canadian River in that area known as the Panhandle of Texas. In addition to the impounding works, the project shall include such main canals, pumping plants, distribution and drainage systems, and other works as are necessary to accomplish the purposes of sections 600b and 600c of this title. The use by the project of waters arising in Ute and Pajarito Creeks, New Mexico, shall be only such use as does not conflict with use, present or potential, of such waters for beneficial consumptive purposes in New Mexico. (Dec. 29, 1950, ch. 1183, § 1, 64 Stat. 1124.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

APPROPRIATIONS

Section 3 of act Dec. 29, 1950, provided that: "There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act [sections 600b and 600c of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 600c, 600d of this title.

§ 600c. Same; nonreimbursable costs; conditions precedent to construction; repayment contract.

(a) Notwithstanding any recommendations in the report mentioned in section 600b of this title to the contrary, only the costs of construction allocable to flood control and, upon approval by the President of a suitable plan thereof, to the preservation and propagation of fish and wildlife, and operation and maintenance costs allocable to the same purposes, shall be nonreimbursable.

(b) Actual construction of the project herein authorized shall not be commenced, and no construction contract awarded therefor, until (1) the Congress shall have consented to the interstate compact between the States of New Mexico, Oklahoma, and Texas agreed upon by the Canadian River Compact Commission at Santa Fe, New Mexico, December 6, 1950, in conformity with Public Law 491, Eighty-first Congress, and (2) repayment of that portion of the actual cost of constructing the project which is allocated to municipal and industrial water supply and of interest on the unamortized balance thereof at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the average rate paid by the United States on its long-term loans outstanding at the time the repayment contract is negotiated minus the amount of such net revenues as may be derived from temporary water supply contracts or from other sources prior to the close of the repayment period, shall have been assured by a contract satisfactory to the Secretary, with one central repayment contract organization, the term of which shall not exceed fifty years from the date of completion of the municipal and industrial water supply features of the project as determined by the Secretary.

(c) The repayment contract shall provide, among other things, (1) that the holder thereof shall have a first right, to which right the rights of the holders of any other type of contract shall be subordinate, to a stated share or quantity of the project's available water supply for use by its constituent industrial and municipal water users during the repayment period and a permanent right to such share or quantity thereafter subject to payment of such costs as may be incurred by the United States in its operation and maintenance of any part of the project works; (2) that, subject to such rules and regulations as the Secretary may prescribe, the care, operation, and maintenance of such portions of the pipeline and related facilities as are used solely for delivering such water to the contract holder and its constituent organizations shall, as soon as is practicable after completion of the municipal and industrial water supply features of the project, pass to the contract holder or to an organization which is designated by it for that purpose and which is satisfactory to the Secretary; and (3) that title to such portions of the pipeline and related facilities shall in like manner pass to the contract holder or its designee or designees upon payment to the United States of all obligations arising under sections 600b and 600c of this title or incurred in connection with the project. (Dec. 29, 1950, ch. 1183, § 2, 64 Stat. 1124.)

REFERENCES IN TEXT

Public Law 491, Eighty-first Congress, referred to in subsec. (a), is set out as a note under this section.

CONSENT OF CONGRESS TO COMPACT

Act Apr. 29, 1950, ch. 135, 64 Stat. 93, provided: "That the consent of the Congress is hereby given to the States of Oklahoma, Texas, and New Mexico to negotiate and enter into a compact not later than June 30, 1953, providing for an equitable apportionment among the said States of the waters of the Canadian River and its tributaries, upon the condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to the Congress of the proceedings and of any compact entered into. Said compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of the States aforesaid and approved by the Congress of the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 600b, 600d of this title.

§ 600d. Same; public recreation facilities; allocation of water, reservoir capacity, or joint project costs of the Canadian River project; municipal water use priorities; agreements for operation, maintenance, or additional development of project lands or facilities; disposal of project lands or facilities; nonreimbursable costs; cognizance of effect of fish and wildlife plan.

The Secretary of the Interior is hereby authorized to investigate, plan, construct, operate and maintain, or otherwise provide for basic public outdoor recreation facilities at the Sanford Reservoir area, Canadian Federal reclamation project, to acquire or otherwise include within the project area such adjacent lands or interests therein as are necessary for present or future public recreation use, and to provide for the public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes: *Provided,* That this section shall not provide the Secretary with a basis for allocation to recreation of water, reservoir capacity, or joint project costs of the Canadian River project nor affect the priority for municipal use of water stored in the Sanford Reservoir, or the priority of use for municipal purposes of the capacity of said reservoir. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, or additional development of project lands or facilities, or to dispose of project lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The cost of providing basic recreation facilities shall be nonreimbursable. In carrying out the aforesaid activities the Secretary shall take cognizance of the effect of the fish and wildlife plan approved by the President December 19, 1962, pursuant to sections 600b and 600c of this title in providing facilities at the Canadian River project which have general recreation utility. (Pub. L. 88–536, § 1, Aug. 31, 1964, 78 Stat. 744.)

§ 600e. Same; authorization of appropriations for public recreation facilities.

There are authorized to be appropriated such amounts, but not more than $1,100,000, as may be necessary for the investigation, preparation of plans, construction and acquisition of lands authorized in section 600d of this title. (Pub. L. 88–536, § 2, Aug. 31, 1964, 78 Stat. 744.)

KLAMATH PROJECT, OREGON-CALIFORNIA

§ 601. Change of level of lakes and subjection of lands to reclamation law.

The Secretary of the Interior is authorized in carrying out any irrigation project that may be undertaken by him under the terms and conditions of the national reclamation law and which may involve the changing of the levels of Lower or Little Klamath Lake, Tule or Rhett Lake, and Goose Lake, or any river or other body of water connected therewith, in the States of Oregon and California, to raise or lower the level of said lakes as may be necessary and to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the national reclamation law. (Feb. 9, 1905, ch. 567, 33 Stat. 714.)

§§ 602 to 609. Repealed. June 17, 1944, ch. 261, § 2 (a), 58 Stat. 279.

Section 602, act May 27, 1920, ch. 209, § 1, 41 Stat. 627, related to notice of lands subject to entry and conditions and reservations in patents.

Section 603, act May 27, 1920, ch. 209, § 2, 41 Stat. 628, related to assessment of past expenditure for benefit of reclamation fund.

Section 604, act May 27, 1920, ch. 209, § 3, 41 Stat. 628, related to survey and opening of lands to entry.

Section 605, act May 27, 1920, ch. 209, § 4, 41 Stat. 628, related to additional payments; installments; forfeiture for nonpayment, etc.

Section 606, act May 27, 1920, ch. 209, § 5, 41 Stat. 628, related to preference rights of World War I veterans.

Section 607, act May 27, 1920, ch. 209, § 6, 41 Stat. 629, related to squatter's rights not recognized, time of entry, and penalty for premature entry.

Section 608, act May 27, 1920, ch. 209, § 7, 41 Stat. 629, related to Lands in Klamath Lake Bird Reservation.

Section 609, act May 27, 1920, ch. 209, § 8, 41 Stat. 629, related to powers of the Secretary of the Interior in relation to project.

§ 610. Reclassification of lands.

The Secretary of the Interior is authorized to reclassify all lands within the Klamath irrigation district and to place in the temporarily unproductive class such lands as he determines are properly subject to this classification. (May 25, 1926, ch. 383, § 14 (a–1), as added June 23, 1932, ch. 273, 47 Stat. 332.)

§ 611. Availability of revenues from lease of Tule Lake marginal lands for refunds.

Revenues received from the lease of marginal lands, Tule Lake division, shall be available for refunds to the lessees in such cases where it becomes necessary to make refunds because of flooding or other reasons within the terms of such leases. (July 1, 1946, ch. 529, § 1, 60 Stat. 366.)

SIMILAR PROVISIONS

Text of section is taken from the Interior Department Appropriation Act, 1947. Similar provisions were contained in the following prior appropriation acts:

1945—July 3, 1945, ch. 262, § 1, 59 Stat. 340.
1944—June 28, 1944, ch. 298, § 1, 58 Stat. 487.
1943—July 12, 1943, ch. 219, § 1, 57 Stat. 473.
1942—July 2, 1942, ch. 473, § 1, 56 Stat. 533.
1941—June 28, 1941, ch. 259, § 1, 55 Stat. 332.
1940—June 18, 1940, ch. 395, § 1, 54 Stat. 434.

§ 612. Lands subject to reclamation laws; application of net revenues.

Lands owned by the United States, ceded by the States of California and Oregon pursuant to the Act of February 3, 1905 (Cal. Stat. 1905, p. 4), and of January 20, 1905 (L. Oreg. 1905, ch. 5, p. 63), lying in Klamath County, Oregon, west of range 11 east, Willamette meridian, and in Siskiyou County, California, west of range 4 east, Mount Diablo meridian, shall be subject to all applicable provisions of the Federal reclamation laws concerning entry and patent, except that any part of these lands administered by the Fish and Wildlife Service pursuant to the existing agreement with the Bureau of Reclamation, as this may be amended from time to time with the

approval of the Secretary, shall not be opened to entry.

Net revenues heretofore and hereafter received from lands owned by the United States within the district boundaries shall be covered into the reclamation fund and shall be applied: First, to offset the balance of $47,627.89 as to which the district's obligation is to be released under the proposed contract; second, to offset the balance of the charges heretofore apportioned to the Government-owned lands in Klamath County, Oregon, pursuant to the Act of May 27, 1920, amounting to $36,714.37; third, to offset the balance of charges allocated as of December 31, 1942, to the Lower Klamath Lake Division; and, fourth, as an increment to the reclamation fund without further application to project construction costs. (June 17, 1944, ch. 261, § 2 (b)-(d), 58 Stat. 279; Aug. 1, 1956, ch. 828, § 2(e), 70 Stat. 799.)

REFERENCE IN TEXT

Act of May 27, 1920, referred to in the text, has reference to act May 27, 1920, ch. 209, 41 Stat. 627, which was formerly classified to sections 602—609 of this title and repealed by section 2 (a) of act June 17, 1944.

AMENDMENTS

1956—Act Aug. 1, 1956 repealed provisions which deemed certain lands in Siskiyou County, California, and in the vicinity of Lower Klamath Lake, to be part of the Modoc unit of the Tule Lake Division of the Klamath project, and which provided for the application of net revenues which have accrued from Government-owned lands in that area. See note under this section entitled "Repayment contract with Tule Lake Irrigation District".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CONTRACT APPROVED

Section 1 of act June 17, 1944, provided: "That the contract dated April 28, 1943, negotiated by the Secretary of the Interior with the Klamath Drainage District and reported on as provided in subsections (a) and (c) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187) [section 485f of this title], is approved and the Secretary is hereby authorized to execute it on behalf of the United States."

RECLAMATION LAWS

Section 3 of act June 17, 1944, provided: "This Act [section] is declared to be a part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939 [sections 485—485k of this title]."

REPAYMENT CONTRACT WITH TULE LAKE IRRIGATION DISTRICT

Act Aug. 1, 1956, provided:

"That the Secretary of the Interior is authorized to execute on behalf of the United States a repayment contract with the Tule Lake Irrigation District, California, substantially in the form in which said contract was negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192, 43 U. S. C., sec. 485f) [section 485f of this title] and approved at an election of the district held on July 2, 1956.

"SEC. 2. In aid of the administration of said contract and for other purposes—

(a) credits may be given and payments made to the Tule Lake Irrigation District and the Klamath Irrigation District in acordance with said contract without further appropriation but, notwithstanding any other provision of the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), said credits and payments shall be the only credits given or payments made to the Tule Lake Irrigation District.

"(b) repayment of those portions of the costs of the works of the Klamath project heretofore or hereafter constructed serving lands within the boundaries of the Tule Lake Irrigation District which are allocated by the Secretary to said lands shall be accounted for by application of the construction charge payments required to be made under the aforesaid contract and, to the extent to which the payments so required do not account in full for said allocation, by application of (a) net revenues heretofore received from the sources described in article 4 of said contract, (b) those net revenues hereafter received from the same sources which are in excess of the amounts to be credited or paid to the district in accordance with said article, and (c) other net project revenues heretofore or hereafter received from project sources which are properly creditable to the Tule Lake division under the Federal reclamation laws.

"(c) the lands of the Klamath project, presently within its Tule Lake division, which lie in Siskiyou County, California, west of range 4 east, Mount Diablo meridian, and in the vicinity of Lower Klamath Lake, including lands heretofore uncovered by the changing level of that lake, are hereby severed from said division, and appropriate portions of the costs of the works of the Klamath project heretofore or hereafter constructed which serve said lands shall be allocated by the Secretary to those lands. Any repayment contract entered into under the Federal reclamation laws with respect to them shall require water users thereon to assume such equitable share of said allocation as is within their repayment ability. Construction costs, if any, in excess of that amount shall be accounted for by the application of net revenues derived after December 31, 1942, from the leasing of Government-owned lands in the area aforesaid. Nothing contained in this subsection shall authorize the levying or collection of charges on account of project construction on lands utilized by the Fish and Wildlife Service in any national wildlife refuge. Any project construction costs assigned by the Secretary to such refuge lands shall be nonreimbursable.

"(d) the allocations provided for in subsections (b) and (c) of this section shall extend to all past and future expenditures except those for which special provision was made by section 15 of the Act of May 25, 1926 (44 Stat. 636, 639).

"(e) the proviso attached to the item in the Interior Department Appropriation Act, 1941, appropriating funds for construction of the Klamath project (54 Stat. 406, 436), is repealed. Section 2, subsection (d), of the Act of June 17, 1944 (58 Stat. 279, 43 U. S. C., sec. 612) [third paragraph of this section] is repealed, but this repeal shall not affect the application of net revenues received prior to January 1, 1943, which was made by the second sentence thereof.

"(f) the Secretary is authorized to withdraw any public notice heretofore issued on the Klamath project which is applicable to lands of the Tule Lake division.

"SEC. 3. Net revenues of the Tule Lake division which are derived from sources other than those described in subsections (a), (b), and (c) of section 2 of this Act or which, although derived from said sources, are in excess of the amounts required for the purposes therein stated, shall be covered into the reclamation fund for application, to the extent necessary, in aid of divisions or units of the Klamath project, including lands within the Tule Lake Irrigation District, hereafter authorized for construction pursuant to law.

"SEC. 4. Nothing contained in this Act or in the aforesaid contract shall be construed to affect the homesteading of the now unentered public lands within the Tule Lake Irrigation District as promptly as the United States may deem desirable consistent with other authorized uses, but the Secretary shall, in the meantime, continue the leasing of public lands to provide adequate funds for the purposes of this Act and said contract and to prepare and make said lands available for the designated purposes."

GILA PROJECT, ARIZONA

§ 613. Reduction in area; substitution of land; diversion of waters; maximum acreage.

For the purpose of reclaiming and irrigating lands in the State of Arizona and other beneficial uses, the reclamation project known as Gila project, heretofore authorized and established under the provisions of the reclamation laws, the Act of June 16, 1933 (48 Stat. 195), and various appropriation Acts, is reduced in area to approximately forty thousand irrigable acres of land (twenty-five thousand acres thereof situated on the Yuma Mesa and fifteen thousand acres thereof within the North and South Gila Valleys), or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, and as thus reduced is reauthorized and redesignated the Yuma Mesa division, Gila project, and the Wellton-Mohawk division, Gila project, comprising approximately seventy-five thousand irrigable acres of land, or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, situate within the Wellton, Dome, Roll, Texas Hill, and Mohawk areas, is substituted for the land eliminated from the Yuma Mesa division and is authorized: *Provided, however,* That the waters to be diverted and used thereby, and the lands and structures for the diversion, transportation, delivery, and storage thereof, shall be subject to the provisions of the Boulder Canyon Project Act of December 21, 1928, and subject to the provisions of the Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922: *And provided further,* That the above limitations contained in this section are for the sole purpose of fixing the maximum acreage of the project and shall not be construed as interpreting, affecting, or modifying any interstate compact or contract with the United States for the use of Colorado River water or any Federal or State statute limiting or defining the right to use Colorado River water of or in any State. (July 30, 1947, ch. 382, § 1, 61 Stat. 628.)

References in Text

Reclamation laws, referred to in the text, are classified generally to this title.

Act June 16, 1933 (48 Stat. 195), referred to in the text, is the National Industrial Recovery Act and is classified in part to section 607 of Title 7, Agriculture; former section 609b of Title 15, Commerce and Trade; former section 9b of Title 23, Highways; and former sections 401—404, 406—410, and 412—414 of Title 40, Public Buildings.

Boulder Canyon Project Act of December 21, 1928, referred to in the text, is classified to subchapter I of chapter 12A of this title.

Appropriations

Section 6 of act July 30, 1947, provided: "There are hereby authorized to be appropriated, from time to time, out of any money in the Treasury not otherwise appropriated, such moneys as may be necessary to carry out the provisions of this Act [sections 613—613e of this title]."

Reclamation Law; Amendment of Other Laws

Section 8 of act July 30, 1947, provided: "This Act [sections 613—613e of this title] shall be deemed a supplement to and part of the reclamation law. Nothing in this Act [those sections] shall be construed to amend the Boulder Canyon Project Act of December 21, 1928 [subchapter I of chapter 12A of this title] as amended by the Boulder Canyon Project Adjustment Act of July 19, 1940 [subchapter II of chapter 12A of this title]."

Section Referred to in Other Sections

This section is referred to in sections 613b, 613c, 613e of this title.

§ 613a. Acquisition of property; limitation on price; liquidation of indebtedness.

The Secretary is authorized to acquire in the name of the United States, at prices satisfactory to him, such lands, interests in lands, water rights, and other property within or adjacent to the Gila project, which belongs to the Gila Valley Power District or the Mohawk Municipal Water Conservation District, as he deems appropriate for the protection, development, or improvement of said project: *Provided, however,* That the prices to be paid for the lands owned by the Gila Valley Power District, of Arizona, and heretofore officially appraised at the direction of the Commissioner of Reclamation, for the existing facilities of said district and of the Mohawk Municipal Water Conservation District, of Arizona, heretofore officially appraised at his request and determined by him to be useful to said project, shall not, in the aggregate, exceed $380,000, and no portion thereof shall be paid until said districts have made arrangements satisfactory to the Secretary for the liquidation of their respective bonded, warrant, and other outstanding indebtedness. (July 30, 1947, ch. 382, § 2, 61 Stat. 628.)

Transfer of Functions

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Section Referred to in Other Sections

This section is referred to in sections 613b, 613c, 613e of this title.

§ 613b. Disposition of lands; sales contracts; reclamation fund.

The Secretary is authorized, to the extent, in the manner, and on such terms as he deems appropriate for the protection, development, or improvement of the Gila project, to sell, exchange, or otherwise dispose of the public lands of the United States within said project, the lands acquired under sections 613 to 613e of this title, and any improvements on any such lands and to lease the same during the presettlement period only, provided such lands shall be disposed of to actual settlers and farmers as soon as practicable; to establish town sites on such lands; and to dedicate portions of such lands for public purposes. Contracts for the sale of such lands shall be on a basis that, in the Secretary's judgment, will provide the return in a reasonable period of years of not less than the appraised value of the land and the improvements thereon or thereto. Such lands may be disposed of in farm units of such sizes as the Secretary determines to be adequate, taking into consideration the character of soil, topography, location with

respect to the irrigation system, and such other factors as the Secretary deems relevant: *Provided,* That the area disposed of to an individual shall, so far as practicable, not exceed one hundred and sixty acres. Sales to any individual shall be of not more than one farm unit. Any sums received by the United States from the disposition of said lands and improvements shall be covered into the reclamation fund, and credited to construction costs. (July 30, 1947, ch. 382, § 3, 61 Stat. 629.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613c, 613e of this title.

§ 613c. Regulations of Secretary; control under State law; assessment or taxation; priority of federal liens and obligations.

Beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations which the Secretary is authorized to issue, any public lands within the Gila project and any lands acquired under section 613 to 613e of this title shall be, after disposition thereof by the United States by contract of sale and during the time such contract shall remain in effect, (i) subject to the provisions of the laws of the State of Arizona relating to the organization, government, and regulation of irrigation, electrical, power, and other similar districts, and (ii) subject to legal assessment or taxation by any such district and by said State or political subdivisions thereof, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands: *Provided, however,* That the United States does not assume any obligation for amounts so assessed or taxed: *And provided further,* That any proceedings to enforce said assessments or taxes shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land-sale contracts made under said sections, and to any obligation for any other charges, accrued or unaccrued, for special improvements, construction, or operation and maintenance costs of said project. (July 30, 1947, ch. 382, § 4, 61 Stat. 629.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613b, 613e of this title.

§ 613d. Repayment of costs in installments; apportionment of repayment obligations; variable payments.

Notwithstanding any other provision of law, the general repayment obligation of any organization which may hereafter enter into a contract with the United States covering the repayment of any portion of the costs of construction of the Gila project may be spread in annual installments over such reasonable period, not exceeding sixty years, as the Secretary may determine. For the purpose of predicating the repayment obligations of the various lands within said project on their respective ability, as determined by the Secretary, to share the burdens thereof, he may provide for the equitable apportionment of said general repayment obligation to the lands benefited on a unit basis in accordance with the extent of the benefit derived from the project, the character of soil, topography, and such other factors as he deems relevant, and he may provide for a system of variable payments under which larger annual payments will be required during periods of above-normal production or income and lesser annual payments will be required during periods of subnormal production or income. (July 30, 1947, ch. 382, § 5, 61 Stat. 629.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613b, 613c, 613e of this title.

§ 613e. Powers of Secretary and authorized representatives.

The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in contracts made under the authority of sections 613 to 613e of this title such provisions as he deems proper for carrying out the provisions of said sections; and in connection with sales or exchanges under said sections, he is authorized to effect conveyances without regard to the laws governing the patenting of public lands. Wherever in said sections, functions, powers, or duties are conferred upon the Secretary, said functions, powers, or duties may be performed, exercised, or discharged by his duly authorized representatives. (July 30, 1947, ch. 382, § 7, 61 Stat. 630.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613b, 613c of this title.

WASHOE PROJECT, NEVADA-CALIFORNIA

§ 614. Authorization for construction, operation, and maintenance.

For the purposes of furnishing water for the irrigation of approximately fifty thousand acres of land in the Carson and Truckee River Basins, Nevada and California, providing drainage service to approximately thirty-one thousand acres of land therein, firming the existing water supplies of lands under the Truckee River storage project and the Newlands project, controlling floods, providing hydroelectric power, development of fish and wildlife resources, and for other beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Washoe reclamation project consisting of two principal reservoirs at the Stampede and Watasheamu sites, together with other necessary works for the impounding, diversion, and the delivery of water, the generation and transmission of hydroelectric power, and the drainage of lands. The dam at the Stampede site shall be so constructed as to permit its ultimate enlargement to a height at which the reservoir will have a capacity of approximately one hundred and seventy-five thousand acre-feet. (Aug. 1, 1956, ch. 809, § 1, 70 Stat. 775.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 614a, 614c of this title.

§ 614a. Law governing; repayment of construction costs; contracts for supplemental water supply; net revenues from sale of commercial power; Alpine County water users; waters of Little Truckee River.

(a) In constructing, operating, and maintaining the works authorized in section 614 of this title, the

Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 389, and Acts amendatory thereof or supplementary thereto) except as is otherwise provided in sections 614 to 614d of this title.

(b) Any contract entered into under section 485h (d) of this title for payment of those portions of the costs of constructing, operating, and maintaining the Washoe reclamation project which are properly allocable to irrigation and drainage and which are assigned to be paid by the contracting organization may provide for the repayment of the portion of the construction cost of the project assigned to any project contract unit or, if the contract unit be divided into two or more irrigation or drainage blocks, to any such block over a period of not more than fifty years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided,* That any contract for a supplemental water supply for irrigation under sections 614 to 614d of this title may omit provisions complying with the third sentence of section 423e of this title if such contract, in lieu of such provisions, provides that the pro rata share of the irrigation allocation which is attributable to furnishing irrigation benefits, in each particular year, to land held in private ownership by any one owner in excess of one hundred and sixty irrigated acres, shall be returned with interest determined in accordance with subparagraph (c) of this section, except that such payment for the excess lands shall not exceed an amount equal to the increased payment capacity of the excess lands, as determined by the Secretary of the Interior, resulting from the supplemental water supply.

(c) Notwithstanding any other provision of law to the contrary, all net revenues derived from the sale of commercial power from the Washoe reclamation project shall be applied, first, to the amortization of that portion of the cost of constructing the project which is allocated to commercial power with interest on the unamortized balance thereof at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on August 1, 1956, and thereafter to the amortization of that portion of the cost of constructing the project which is allocated to irrigation but which is beyond the ability of the contracting irrigation organizations to repay as provided above, including interest that would have been paid by the irrigators on that portion of the irrigation allocation attributable to furnishing irrigation benefits to excess lands which is not repaid under subsection (b) of this section: *Provided,* That the Secretary, prior to the delivery of project water supplies, shall have entered into a contract or contracts with an organization or organizations as defined in section 485a (g) of this title which have the capacity to levy assessments upon all taxable real property located within their boundaries to assist in making repayments.

(d) Water users in Alpine County, California, shall have the opportunity to contract for project water made available by the Watasheamu Reservoir before such project water is offered for the development of any new land in Nevada. Should any such project water be contracted for by Alpine County water users, then in that event such users shall be permitted to exchange such water for existing rights to natural flow or stored water of the West Carson River.

(e) The use of waters of the Little Truckee River solely for the generation of electric power by the Washoe project shall not impair or preclude the appropriation of such waters in the future for beneficial consumptive use within the Little Truckee River watershed in California to the same extent as such waters may be presently available for such appropriation in the State of California: *Provided,* That if and when an interstate compact covering the distribution and use of the waters of the Truckee and Carson Rivers is approved by the Legislatures of the States of California and Nevada and is consented to by Congress, the operation of the Washoe reclamation project shall be in conformance with such compact, and the foregoing restriction shall not apply. (Aug. 1, 1956, ch. 809, § 2, 70 Stat. 775.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) are classified generally to this title. See Tables for distribution.

§ 614b. Facilities for access, public health and safety, and protection of public property; withdrawal of lands from entry; nonreimbursable costs.

The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Washoe project, to conserve the scenery and natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by this project by such means as are consistent with its primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section

shall be nonreimbursable and nonreturnable. (Aug. 1, 1956, ch. 809, § 3, 70 Stat. 776.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 614a of this title.

§ 614c. Facilities for development of fish and wildlife resources; minimum water releases; cost.

Facilities shall be provided for the development of the fish and wildlife resources of the project area including facilities to permit increased minimum water releases from Lake Tahoe and restoration of the Pyramid Lake fishery. The cost of such facilities, including operation and maintenance, shall be nonreimbursable. The cost to the Federal Government of constructing these facilities shall not exceed $2,000,000. This amount shall not include the cost of measures undertaken, pursuant to section 662 of Title 16, to mitigate damages to fish and wildlife resources occasioned by the Washoe project as authorized by section 614 of this title. (Aug. 1, 1956, ch. 809, § 4, 70 Stat. 777.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 614a of this title.

§ 614d. Authorization of appropriations.

There is authorized to be appropriated for construction of the Washoe reclamation project the sum of $52,000,000 (April 1958 prices) plus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, such sums as may be required to operate and maintain the project: *Provided*, That the appropriation of funds for the construction, operation, or maintenance of facilities authorized by section 614c of this title shall not be from the reclamation fund. (Aug. 1, 1956, ch. 809, § 5, 70 Stat. 777; Aug. 21, 1958, Pub. L. 85-706, 72 Stat. 705.)

AMENDMENTS

1958—Pub. L. 85-706 substituted "$52,000,000 (April 1958 prices)" for "$43,700,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 614a, 614c of this title.

WASHITA RIVER BASIN PROJECT, OKLAHOMA

§ 615. Authorization for construction, operation, and maintenance.

The Secretary of the Interior is authorized to construct, operate, and maintain the Washita River Basin reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto), except so far as those laws are inconsistent with sections 615 to 615e of this title, for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and, for the irrigation of approximately twenty-six thousand acres of land and of controlling floods and, as incidents to the foregoing for the additional purposes of regulating the flow of the Washita River, providing for the preservation and propagation of fish and wildlife, and of enhancing recreational opportunities. The Washita project shall consist of the following principal works: A reservoir at or near the Foss site on the main stem of the Washita River; a reservoir at or near the Fort Cobb site on Pond (Cobb) Creek; and canals, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use, and for irrigation. (Feb. 25, 1956, ch. 71, § 1, 70 Stat. 28.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) are classified generally to this title. See Tables for distribution.

FOSS RESERVOIR MASTER CONSERVANCY DISTRICT; FEASIBILITY STUDY; REVISION OF REPAYMENT CONTRACT

Pub. L. 90-311, May 18, 1968, 82 Stat. 124, provided:

"That the Secretary of the Interior is authorized to conduct feasibility studies in the areas serving the Foss Reservoir Master Conservancy District to determine alternative water sources and the most practicable and feasible methods of alleviating the problems associated with the poor quality and supply of water stored in Foss Reservoir, Washita River Basin project, Oklahoma.

"SEC. 2. In order to assist the Foss Reservoir Master Conservancy District in developing an adequate interim water supply, the Secretary of the Interior is authorized to relieve the District (1) of the obligation of making any further construction charge payments under its repayment contract with the United States, numbered 14-06-500-322, dated February 14, 1958, as amended, and (2) of any interest accrual on its total obligation, until initial delivery of water is made which the Secretary considers to be satisfactory for municipal and industrial use. The Secretary is also authorized (a) to refund to the District the amount of $218,364.62, representing the amount already paid under such contract and to revise such contract by adding such amount to the obligation for future payment, (b) to further revise such contract so that further payments on its construction charge obligation will be rescheduled in a manner satisfactory to the Secretary over a period not to exceed fifty years from the date of the aforementioned delivery of water, and (c) to cancel any penalties which have accrued on any unpaid matured construction charge payments.

"SEC. 3. The Secretary of the Interior may use any funds that are otherwise available to him to carry out this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615e of this title.

§ 615a. Allocation of costs; adjustments; limitations; repayment of construction costs.

In constructing, operating, and maintaining the Washita project, the Secretary shall allocate proper costs thereof in accordance with the methods used in determining the allocations made on pages 68, 69, and 70, of House Document 219, Eighty-third Congress, but with appropriate adjustments for changes in actual cost of construction, under the following conditions:

(a) Allocations to flood control, recreation, and the preservation and propagation of fish and wildlife shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable through contracts with municipal corporations, or other organizations as defined by section 485a of this title. Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs alocated to municipal water supply in not to exceed fifty years from the dates water is first delivered for that purpose, and payments of said construction costs shall include interest on

unamortized balances of that allocation at a rate equal to the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term loans outstanding on February 25, 1956: *Provided,* That such contracts shall provide that annual municipal repayments shall continue at the same rates until the costs of Foss and Fort Cobb Reservoirs allocated to irrigation are fully repaid: *Provided further,* That if irrigation works are constructed, as hereinafter provided, said annual repayment rates shall continue so long as the costs of irrigation works are unpaid.

(c) The authorization for construction of the irrigation works, exclusive of Foss and Fort Cobb Reservoirs, shall be limited, as to each reservoir, to a period of ten years from the commencement of the delivery of municipal water from the reservoir on which the irrigation unit is dependent. Any contract entered into under section 485h (d) of this title, for payment of those portions of the costs of constructing, operating, and maintaining the Washita project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than fifty-five years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided,* That nothing in this section is intended to preclude the temporary furnishing of irrigation water under contracts appropriate for that purpose from Foss and Fort Cobb Reservoirs with or without the construction of specific irrigation works. (Feb. 25, 1956, ch. 71, § 2, 70 Stat. 28.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615, 615b of this title.

§ 615b. Construction in units or stages.

Construction of the Washita project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serves the project requirements and the relative needs for water of the several prospective users. Repayment contracts negotiated in connection with each unit or stage of construction shall be subject to the terms and conditions of section 615a of this title. (Feb. 25, 1956, ch. 71, § 3, 70 Stat. 30.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 615c. Public park and recreational facilities; cost of facilities.

The Secretary may, upon conclusion of a suitable agreement with any qualified agency of the State of Oklahoma or a political subdivision thereof for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, construct or permit the construction of public park and recreational facilities on lands owned by the United States adjacent to the reservoirs of the Washita project, when such use is determined by the Secretary not to be contrary to the public interest, all under such rules and regulations as the Secretary may prescribe. No recreational use of any area to which this section applies shall be permitted which is inconsistent with the laws of the State of Oklahoma for the protection of fish and game. The costs of constructing, operating, and maintaining the facilities authorized by this section shall not be charged to or become a part of the costs of the Washita River Basin project. (Feb. 25, 1956, ch. 71, § 4, 70 Stat. 30.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 615d. Expenditures for Foss and Fort Cobb Reservoirs.

Expenditures for Foss and Fort Cobb Reservoirs may be made without regard to the soil survey and land classification requirements of section 390a of this title. (Feb. 25, 1956, ch. 71, § 5, 70 Stat. 30.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 615e. Authorization of appropriations.

There is authorized to be appropriated for construction of the works authorized to be constructed by section 615 of this title the sum of $40,600,000 plus such additional amount, if any, as may be required by reason of changes in the costs of construction of the types involved in the Washita River Basin project as shown by engineering indices. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Feb. 25, 1956, ch. 71, § 6, 70 Stat. 30.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

CROOKED RIVER PROJECT, OREGON

§ 615f. Authorization for construction, operation, and maintenance.

For the purpose of furnishing water for the irrigation of arid and semiarid lands (including approximately twenty thousand acres of land in Crook County, Oregon) and for other beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Crooked River Federal reclamation project and the Crooked River project extension, together referred to hereafter as the project. The principal new works for the project extension shall include six pumping plants, canals, and related distribution and drainage facilities. The principal new works of the said project shall include a dam and storage reservoir at or near the Prineville site, a diversion dam and canal below said reservoir, and related pumping plants, canals, conduits, drains, and other facilities. The operation of said works shall be integrated with the operation of the existing Ochoco Dam and Reservoir and of the Government-owned generator in the Cove powerplant of the Pacific Power and Light Company, which works shall, for the purpose of sections 615f to 615j

of this title, be considered as works of the Crooked River Project. The Secretary of the Interior is authorized to construct extra capacity in the canal below said reservoir and pumping plants located on the canal for the future irrigation of approximately three thousand acres of land, in addition to the presently proposed development, and to recognize the cost of providing such extra capacity as a deferred obligation to be paid under arrangements to be made at such time as the additional area may be brought into the project. (Aug. 6, 1956, ch. 980, § 1, 70 Stat. 1058; Sept. 14, 1959, Pub. L. 86-271, § 1, 73 Stat. 554; Sept. 18, 1964, Pub. L. 88-598, § 1, 78 Stat. 954.)

AMENDMENTS

1964—Pub. L. 88-598 included the Crooked River project extension.

1959—Pub. L. 86-271 authorized the construction of extra capacity in the canal below the reservoir and pumping plants located on the canal for the future irrigation of approximately 3,000 acres of land.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615g of this title.

§ 615f-1. Supplemental power for irrigation water pumping.

Supplemental power and energy required for irrigation water pumping for the project shall be made available by the Secretary of the Interior from the Federal Columbia River power system at charges determined by him. (Pub. L. 88-598, § 3, Sept. 18, 1964, 78 Stat. 954.)

§ 615g. Law governing; repayment of construction costs; construction charge obligation of Ochoco Irrigation District; costs allocated to irrigation; commencement of new works; nonreimbursable costs.

In constructing, operating, and maintaining the Crooked River project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), except that (1) any contract entered into under section 485h (d) of this title for payment of those portions of the costs of constructing, operating, and maintaining the project which are allocated to irrigation and assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit, or if the contract unit be divided into two or more blocks, to any such block over a period of not more than fifty years (exclusive of any permissible development period) or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the said period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay; (2) the construction charge obligation of the Ochoco Irrigation District set out in its contract with the United States dated April 24, 1950, may, if the district so elects, be merged with and paid under the same conditions as other obligations undertaken by it under sections 615f to 615j of this title; (3) that portion of the cost of constructing the new works of the project which is allocated to irrigation but is beyond the ability of the water users to pay shall be charged to and returnable to the reclamation fund from net revenues derived by the Secretary of the Interior from his sale of power from the Dalles project, Oregon, which are over and beyond the amounts required to amortize the power investment therein, as provided in section 825s of Title 16, and to return interest on the unamortized balance of said investment; and (4) construction of any of the new works herein authorized shall not be commenced until the Secretary shall have certified to the Congress, in accordance with the provisions of section 390a of this title, that an adequate soil survey and land classification of not less than twenty thousand acres of land to be served by the project has been made and that those lands are susceptible to the production of agricultural crops by means of irrigation or that their susceptibility to the sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Those costs of constructing the project which are properly allocable to flood control and to the preservation and propagation of fish and wildlife as provided in existing law, and the like costs of operating and maintaining the same shall be nonreturnable and nonreimbursable under the reclamation laws. (Aug. 6, 1956, ch. 980, § 2, 70 Stat. 1058.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615f of this title.

§ 615h. Public recreational facilities; arrangements for operation and maintenance; cost of facilities.

The Secretary is authorized, in connection with the Crooked River project, to construct minimum basic public recreational facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. The cost of such facilities shall be nonreturnable and nonreimbursable under the Federal reclamation laws. (Aug 6, 1956, ch. 980, § 3, 70 Stat. 1059.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are classified generally to this title. See note under section 615g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615f, 615g of this title.

§ 615i. Preservation and propagation of fish and wildlife; screen and fish ladder; minimum release.

In order to promote the preservation and propagation of fish and wildlife in accordance with section 662 of Title 16, an appropriate screen and fish ladder shall be provided at the diversion canal headworks of the Crooked River project below Prineville Reservoir and a minimum release of ten cubic feet per second shall be maintained from said reservoir for the benefit of downstream fishlife during those months when there is no other discharge therefrom, but this release may be reduced for brief temporary periods by the Secretary whenever he may find that release of the full ten cubic feet per second is harm-

ful to the primary purpose of the project. (Aug. 6, 1956, ch. 980, § 4, 70 Stat. 1059.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615f, 615g of this title.

§ 615j. Authorization of appropriations.

There are authorized to be appropriated $6,339,000 for construction of the new works of the Crooked River project, plus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering indices and, in addition thereto, such sums as may be required to operate and maintain said project. (Aug. 6, 1956, ch. 980, § 5, 70 Stat. 1059.)

ADDITIONAL APPROPRIATIONS TO INCREASE CAPACITY OF CERTAIN PROJECT FEATURES

Section 2 of Pub. L. 86-271, Sept. 14, 1959, 73 Stat. 555. provided that: "There are hereby authorized to be appropriated such sums, in addition to the sum of $6,339,000 authorized to be appropriated for the Crooked River Federal reclamation project in section 5 of the Act of August 6, 1956 (70 Stat. 1058) [this section], as may be required to carry out the purposes of this Act [amending section 615f of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615f, 615g of this title.

§ 615j-1. Authorization of appropriations for new works in project extension.

There are hereby authorized to be appropriated for construction of the new works involved in the Crooked River project extension $1,132,000, plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes and, in addition thereto, such sums as may be required to operate and maintain said extension. (Pub. L. 88-598, § 2, Sept. 18, 1964, 78 Stat. 954.)

LITTLE WOOD RIVER PROJECT, IDAHO

§ 615k. Authorization for enlargement of reservoir; operation and maintenance; repayment of construction costs.

For the principal purposes of improving the irrigation water supply of approximately ten thousand acres of land in Blaine County, Idaho, and assisting in the control of floods, the Secretary of the Interior is authorized to undertake an enlargement of the Little Wood River Reservoir and to operate and maintain the same in accordance with the Federal reclamation laws (Act of June 7, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). Any contract entered into under section 485h (d) of this title for payment of those portions of the costs of constructing, operating, and maintaining the Little Wood River project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the construction cost over a period of not more than forty years or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay. (Aug. 6, 1956, ch. 981, § 1, 70 Stat. 1059.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615m of this title

§ 615*l*. Public recreational facilities; arrangements for operation and maintenance; cost of facilities.

The Secretary is authorized to construct minimum basic public recreational facilities in connection with the Little Wood River project and to enter into appropriate arrangements for the operation and maintenance of the same by a State or local agency or organization. The cost of such facilities shall be nonreimbursable and nonreturnable under the reclamation laws. (Aug. 6, 1956, ch. 981, § 2, 70 Stat. 1059.)

REFERENCES IN TEXT

The reclamation laws, referred to in the text, are classified generally to this title. See note under section 615k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615m of this title.

§ 615m. Preservation and propagation of fish and wildlife; nonreimbursable costs; hunting and fishing; operation of reservoir in accord with water rights.

(a) The Secretary may make such reasonable provision in the works of the Little Wood River project as, upon further study in accordance with section 662 of Title 16, he finds to be required for the preservation and propagation of fish and wildlife. An appropriate portion of the construction cost of the project shall be allocated as provided in sections 661 to 666c of Title 16 and it, together with the portion of the construction cost allocated to flood control and the portions of the operation and maintenance costs allocated to these functions or the capitalized value of the equivalent thereof, shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) So far as the Secretary finds the same to be consistent with safety and with efficient operation or the primary purpose of the Little Wood River project, the project waters in the project area shall be open to free public use for lawful hunting and fishing purposes, and free access to the waters for those purposes shall be assured.

(c) Little Wood River Reservoir shall be operated in accord with water rights, under decree or permit, which are valid under the laws of the State of Idaho, but the Congress, taking cognizance of the need for clarification of certain of these rights in some formal manner effective under Idaho law, particularly as between the Fish and Game Department of said State and the water users under the Little Wood River project or their organizations, does not by this declaration accept for or impose upon the United States, its officers or employees any responsibility for determining the correctness of such claims of right and does not, either by the enactment of sections 615k to 615n of this title or by

any action taken pursuant thereto, intend to aid or prejudice the claims of any party to a dispute with respect thereto or to impose upon any party to a contract entered into under section 615k to 615n of this title any obligation with respect to such rights that does not exist under the laws of the State of Idaho or to require that water, other than that which is available under established rights, shall be used primarily either for irrigation or for the preservation of fish and wildlife resources. (Aug. 6, 1956, ch. 981, § 3, 70 Stat. 1059.)

REFERENCES IN TEXT

The reclamation laws, referred to in the text, are classified generally to this title. See note under section 615k of this title.

§ 615n. Authorization of appropriations.

There are authorized to be appropriated for construction of the Little Wood River project $1,880,000 plus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved therein and, in addition, such amounts as may be required to operate and maintain said project. (Aug. 6, 1956, ch. 981, § 4, 70 Stat. 1060.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615m of this title.

SAN ANGELO PROJECT, TEXAS

§ 615o. Authorization of project; purposes and features.

The Secretary of the Interior is authorized to construct, operate, and maintain the San Angelo Federal reclamation project, Texas, for the principal purposes of furnishing water for the irrigation of approximately ten thousand acres of land in Tom Green County and municipal, domestic, and industrial use, controlling floods, providing recreation and fish and wildlife benefits, and controlling silt. The principal engineering features of said project shall be a dam and reservoir at or near the Twin Buttes site, outlet works at the existing Nasworthy Dam, and necessary canals, drains, and related works. (Pub. L. 85–152, § 1, Aug. 16, 1957, 71 Stat. 372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615p, 615q of this title.

§ 615p. Construction, operation, and maintenance.

(a) Laws governing.

In constructing, operating, and maintaining the San Angelo project, the Secretary shall be governed by the provisions of this chapter except as is otherwise provided in sections 615o to 615r of this title.

(b) Requirement for contract for payment of costs allocated to irrigation and water.

Actual construction of the project shall not be commenced, and no construction contract therefor shall be awarded, until a contract or contracts complying with the provisions of section 615o to 615r of this title have been entered into for payment of those portions of the construction cost of the project which are allocated to irrigation and to municipal, domestic, and industrial water.

(c) Water rates; right to storage space after reimbursement.

In furnishing water for irrigation and for municipal, domestic, and industrial uses from the project, the Secretary shall charge rates with the object of returning to the United States over a period of not more than forty years, exclusive of any development period for irrigation, all of the costs incurred by it in constructing, operating, and maintaining the project which the Secretary finds to be properly allocable to the purposes aforesaid and of interest on the unamortized balance of the portion of the construction cost which is allocated to municipal, domestic, and industrial water. Said interest shall be at the average rate, which rate shall be certified by the Secretary of the Treasury, paid by the United States on its marketable long-term securities outstanding on August 16, 1957. When all of the said costs allocable to said purpose incurred by the United States in constructing, operating, and maintaining the project, together with said interest on the said unamortized balance, have been returned to the United States, the contracting organization or organizations which have thus reimbursed the United States shall have a permanent right to use that portion of the storage space in the project thus allocable to said uses.

(d) Repayment contract prerequisites; restriction on delivery of water for production of excessive basic commodities.

Any contract entered into under section 485h (d) of this title for payment of those portions of the costs of constructing, operating, and maintaining the project which are allocated to irrigation and assigned to be paid by the contracting organization may provide for repayment of the portion of the construction cost of the project assigned to any project contract unit or, if the contract unit be divided into two or more irrigation blocks, to any such block over the period specified in said section 485h (d) of this title, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within said period under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the irrigators to pay: *Provided,* That for a period of ten years from August 16, 1957, no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301 (b) (10) of Title 7, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

(e) Contracts relating to municipal, domestic and industrial water supply.

Contracts relating to municipal, domestic, and industrial water supply may be entered into without regard to the last sentence of section 485h (c) of this title, and such contracts may recognize the relative priorities of domestic, municipal, industrial, and irrigational uses.

(f) Transfer of care, operation, and maintenance of project works; return of works.

Upon request of a contracting organization, the Secretary may at any time and shall, after payment of the reimbursable costs of the project has been completed, transfer to the requesting organization, or to another organization designated by it and satisfactory to him, the care, operation, and maintenance of any project works which serve the requesting organization and do not serve any other contracting organization. The care, operation, and maintenance of project works which serve two or more contracting organizations may or shall, as the case may be, be transferred in like circumstances to an organization satisfactory to all of said organizations and to the Secretary. Any transfer made pursuant to the authority of this section shall be upon terms and conditions satisfactory to the Secretary, and the works transferred shall be operated and maintained without further expense to the United States. If the transferred works serve a flood control or fish and wildlife function, they shall be operated and maintained in accordance with regulations with respect thereto prescribed by the Secretary of the Army and the Secretary of the Interior, respectively, and upon failure so to operate or maintain them they shall, upon demand, be returned immediately to the Secretary of the Interior. (Pub. L. 85–152, § 2, Aug. 16, 1957, 71 Stat. 372.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in subsec. (a), are classified generally to this title. See Tables for distribution.

Agricultural Act of 1949, referred to in subsec. (d), is is classified to sections 612c, 1301 (a)(1) (B), (C), (G), (b)(1)(B), (b)(3)(B), (b)(9), (b)(10) (A), (C), (b)(16) (A), (C), 1302, 1322(a), 1328, 1343(a), 1344(f)(3), 1345, 1353—1356, and chapter 35A of Title 7, Agriculture, sections 1134c and 1134j of Title 12, Banks and Banking and section 713a–4 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615q of this title.

§ 615q. Recreational facilities; nonreimbursable allocations.

The Secretary is authorized to construct minimum basic recreational facilities at the Twin Buttes Reservoir and to operate and maintain or arrange for the operation and maintenance of the same. The costs of constructing, operating, and maintaining such facilities, and like costs of the San Angelo project allocated to flood control and to the preservation and propagation of fish and wildlife shall, except as is otherwise provided in sections 615o to 615r of this title, be nonreimbursable and nonreturnable under the reclamation laws. The Secretary shall, upon conclusion of a suitable agreement with a qualified agency and subject to such conditions as may be set forth in the repayment contracts, permit said agency to construct, operate, and maintain additional public recreational facilities and parks in connection with the project to the extent determined by the Secretary to be consistent with its primary purposes and subject to terms and conditions satisfactory to him. (Pub. L. 85–152, § 3, Aug. 16, 1957, 71 Stat. 373.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615p of this title.

§ 615r. Authorization of appropriations.

There are authorized to be appropriated for construction of the works authorized by sections 615o to 615r of this title $32,220,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Pub. L. 85–152, § 4, Aug. 16, 1957, 71 Stat. 374.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615p, 615q of this title.

SPOKANE VALLEY PROJECT, WASHINGTON AND IDAHO

§ 615s. Authorization of project; purposes and features.

For the purpose of providing water for the irrigation of approximately seven thousand two hundred and fifty acres of land along and near the Spokane River in the eastern part of the State of Washington and the western part of the State of Idaho and for domestic, municipal, and industrial uses, the Secretary of the Interior is authorized to construct, operate, and maintain the Spokane Valley Federal reclamation project. The principal engineering features of said project shall consist of wells, pumps, storage facilities, and distribution systems. (Pub. L. 86–276, § 1, Sept. 16, 1959, 73 Stat. 561; Pub. L. 87–630, § 1(a), Sept. 5, 1962, 76 Stat. 431.)

AMENDMENTS

1962—Pub. L. 87–630 substituted "seven thousand two hundred and fifty" for "ten thousand three hundred" and inserted "and for domestic, municipal, and industrial uses" following "the State of Idaho."

§ 615t. Construction, operation, and maintenance; law governing; interest on unpaid balance of allocations; accounting for remaining reimbursable cost; power for irrigation pumping; collection of repayments.

In constructing, operating, and maintaining the Spokane Valley project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto), except that (1) interest on the unpaid balance of the allocation to domestic, municipal, and industrial water supply shall be at a rate determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue; and (2) the remaining cost of the project beyond the amount to be reimbursed or returned by the water users shall be accounted for in the same manner as provided in item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568), and power and energy required for irrigation pumping for the Spokane Valley project shall be made available in the same manner as provided for therein. The mount to be repaid by the irrigators shall be collected by the contracting entity

through annual assessments based upon combination turnout and acreage charges and through the use of such other methods as it and the Secretary may agree upon. (Pub. L. 86–276, § 2, Sept. 16, 1959, 73 Stat. 562; Pub. L. 87–630, § 1(b), Sept. 5, 1962, 76 Stat. 431.)

REFERENCES IN TEXT

The "Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto)" referred to in the text, are classified generally to this title. Act June 17, 1902, is classified to sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 434, 439, 461, 491, and 498 of this title. Acts amendatory thereof or supplementary thereto are classified throughout this chapter.

"Item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568)", referred to in the text, was not classified to the Code.

AMENDMENTS

1962—Pub. L. 87–630 substituted provisions authorizing the Secretary to determine the interest rate on the unpaid balance of the allocation to domestic, municipal, and industrial water supply on the basis of the average rate payable by the Treasury upon its outstanding marketable public obligations neither due nor callable for fifteen years, directing that power required for irrigation pumping be made available as provided in the Act of July 27, 1954, and that the amount repayable by the irrigators be collected by the contracting entity through annual assessments based upon combination turnout and acreage charges and such other methods as it and the Secretary agree upon, for provisions authorizing the Secretary to extend the base period of a contract entered into under section 485h(d) of this title to not more than 50 years, exclusive of a development period, requiring that at least $4,400,000 be repaid during the base period, and permitting him to transfer the care, operation, and maintenance of the project works to a contracting entity or entities upon its or their request, or to an agency designated by them and satisfactory to him.

§ 615u. Authorization of appropriations.

There is authorized to be appropriated for construction of the Spokane Valley project the sum of $7,232,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the costs of construction as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Pub. L. 86–276, § 3, Sept. 16, 1959, 73 Stat. 562; Pub. L. 87–630, § 1(c), Sept. 5, 1962, 76 Stat. 431.)

AMENDMENTS

1962—Pub. L. 87–630 increased the authorized appropriation from $5,100,000 to $7,232,000.

DALLES PROJECT, OREGON

§ 615v. Authorization for construction, operation, and maintenance.

For the purpose of furnishing water for the irrigation of approximately five thousand five hundred acres of arid land in Wasco County, Oregon, the Secretary of the Interior is authorized to construct, operate, and maintain the western division of The Dalles Federal reclamation project, Oregon. The western division shall consist of the following principal works: a main pumping plant to be located at a site on the Columbia River; a booster and relift pumping plants with reregulating reservoirs; and a distribution system. (Pub. L. 86–745, § 1, Sept. 13, 1960, 74 Stat. 882.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615w, 615x of this title.

§ 615w. Construction, operation, and maintenance.

(a) Law governing.

In constructing, operating, and maintaining the western division of The Dalles project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto).

(b) Extension of period for repayment of construction costs; repayment from surplus revenues derived from disposition of power; construction costs defined.

The period provided in subsection (d) of section 485h of this title for repayment of construction costs properly allocable to any block of lands and assigned to be repaid by the irrigators may be extended to fifty years, exclusive of a development period, from the time water is first delivered to that block or to as near that number of years as is consistent with the adoption and operation of a repayment formula as therein provided. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within a fifty-year period shall be returned to the reclamation fund within a fifty-year period from the date of the first delivery of water from the facilities authorized by this legislation from net revenues derived by the Secretary of the Interior from the disposition of power marketed through the Bonneville Power Administration, which are over and above those required to meet any present obligations assigned for repayment from such net revenues. The term "construction costs" used herein shall include any irrigation operation and maintenance costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the water users to pay during that period.

(c) Rates for power and energy.

Power and energy required for irrigation pumping for the western division of The Dalles Federal reclamation project shall be made available by the Secretary from The Dalles Dam powerplant and other Federal plants interconnected therewith at rates not to exceed the costs of such power and energy from The Dalles Dam taking into account all costs of the dam, reservoir, and powerplant which are determined by the Secretary under the provisions of the Federal reclamation laws to be properly allocable to such irrigation pumping power and energy.

(d) Nonreimbursable costs.

That portion of the cost of constructing the works authorized by sections 615v to 615x of this title which the Secretary finds to be properly allocable to the conservation and development of fish and wildlife, in accordance with the Fish and Wildlife Coordination Act, together with the portion of the operation, maintenance, and replacement costs allocated to this function, shall be nonreimbursable and nonreturnable under the reclamation laws. (Pub. L. 86–745, § 2, Sept. 13, 1960, 74 Stat. 882.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), Federal reclamation laws and reclamation laws, referred to in subsecs. (a), (c), and (d) respectively, are classified generally to this title. See Tables for distribution.

The Fish and Wildlife Coordination Act, referred to in subsec. (d), is classified to sections 661—666c of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615x of this title.

§ 615x. Authorization of appropriations.

There is authorized to be appropriated for construction of the works authorized by sections 615v to 615x of this title not to exceed $6,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein. (Pub. L. 86-745, § 3, Sept. 13, 1960, 74 Stat. 883.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615w of this title.

NORMAN PROJECT, OKLAHOMA

§ 615aa. Authorization for construction, operation, and maintenance; contracts and advances.

The Secretary of the Interior is authorized to construct, operate, and maintain the Norman Federal reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof or supplemental thereto), except so far as those laws are inconsistent with sections 615aa to 615hh of this title, for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and for controlling floods, and, as incidents to the foregoing for the additional purposes of regulating the flow of the Little River, providing for the conservation and development of fish and wildlife, and of enhancing recreational opportunities. The Norman project shall consist of the following principal work: A reservoir on Little River near Norman, Oklahoma, pumping plants, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use.

The Secretary may enter into suitable contracts with municipal organizations, or other organizations as defined in 485a of this title, to undertake with non-Federal financing the construction of pumping plants, pipelines, and other conduits, or of any of such works, for furnishing water for municipal, domestic, and industrial use, and to advance to such organizations during the construction period funds to cover an appropriate share of the costs thereof attributable to furnishing water to Tinker Air Force Base. (Pub. L. 86-529, § 1, June 27, 1960, 74 Stat. 225.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof or supplemental thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615cc, 615hh of this title.

§ 615bb. Allocation of costs; conditions.

In constructing, operating, and maintaining the Norman project, the Secretary shall allocate proper costs therof in accordance with the following conditions:

(a) Allocations to flood control, recreation, and the conservation and development of fish and wildlife and water supply for Tinker Air Force Base shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, with the exception of that for Tinker Air Force Base, shall be repayable to the United States by the water users through contracts with municipal corporations, or other organizations as defined by section 485a of this title, under the provisions of the Federal reclamation laws, and to the extent appropriate, under the Water Supply Act of 1958. Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs allocated to municipal water supply in not to exceed fifty years from the date water is first delivered for that purpose: *Provided,* That the water users' organization be responsible for the disposal and sale of all water surplus to its requirements, and that the revenues therefrom shall be used by the organization for the retirement of project debt payment, payment of interest, and payment of operation and maintenance cost. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

(c) Upon the completion of the payment of the water users' construction cost obligation, together with the interest thereon, the water users shall have a permanent right to the use of that portion of the project allocable to municipal water supply purposes, subject, if the project is then operated by the United States, to payment of a reasonable annual charge by the Secretary of the Interior sufficient to pay all operation and maintenance charges and a fair share of the administrative costs applicable to the project. (Pub. L. 86-529, § 2, June 27, 1960, 74 Stat. 225.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in clause (b), are classified generally to this title. See note under section 615aa of this title.

The Water Supply Act of 1958, referred to in the text, is classified to section 390b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc, 615hh of this title.

§ 615cc. Contracts with water users' organization.

Contracts may be entered into with the water users' organization pursuant to the provisions of sections 615aa to 615hh of this title without regard to the last sentence of subsection (c) of section

485h of this title. (Pub. L. 86–529, § 3, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615hh of this title.

§ 615dd. Transfer of care, operation, and maintenance of works.

The Secretary is authorized to transfer to the project water users the care, operation, and maintenance of the works herein authorized, and, if such transfer is made, to deduct from the obligation of the water users the reasonable capitalized equivalent of that portion of the estimated operation and maintenance cost of the undertaking which, if the United States continues to operate the project, would be allocated to flood control and fish and wildlife purposes. Prior to taking over the care, operation, and maintenance of said works, the water users' organization shall obligate itself to operate them in accordance with criteria specified by the Secretary of the Army with respect to flood control and the Secretary of the Interior with respect to fish and wildlife: *Provided,* That operation and maintenance and replacement cost of furnishing water supply to Tinker Air Force Base, as contemplated in the plan of development, shall be provided by an appropriate agreement between the Secretary of Defense and the water users' organization. (Pub. L. 86–529, § 4, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc, 615hh of this title.

§ 615ee. Construction in units or stages.

Construction of the Norman project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serves the project requirements and the relative needs for water of the several municipal users. Repayment contracts negotiated in connection with each unit or stage of construction shall be subject to the terms and conditions of section 615bb of this title. (Pub. L. 86–529, § 5, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc, 615hh of this title.

§ 615ff. Public park and recreational facilities; cost of facilities.

The Secretary may, upon conclusion of a suitable agreement with any qualified agency of the State of Oklahoma or a political subdivision thereof for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, construct or permit the construction of public park and recreational facilities on lands owned by the United States adjacent to the reservoirs of the Norman project, when such use is determined by the Secretary not to be contrary to the public interest, all under such rules and regulations as the Secretary may prescribe. No recreational use of any area to which this section applies shall be permitted which is inconsistent with the laws of the State of Oklahoma for the protection of fish and game and the protection of the public health, safety, and welfare. The Federal costs of constructing the facilities authorized by this section shall be limited to the nonreimbursable costs of the Norman project for minimum basic recreational facilities as determined by the Secretary. (Pub. L. 86–529, § 6, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc, 615hh of this title.

§ 615gg. Expenditures for Norman Reservoir.

Expenditures for the Norman Reservoir may be made without regard to the soil survey and land classification requirements of section 390a of this title. (Pub. L. 86–529, § 7, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc, 615hh of this title.

§ 615hh. Authorization of appropriations.

There is authorized to be appropriated for construction of the works authorized by sections 615aa to 615hh of this title not to exceed $19,042,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein: *Provided,* That such basic amount shall not exceed $12,920,000 in the event the aqueduct system is not constructed by the Federal Government. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Pub. L. 86–529, § 8, June 27, 1960, 74 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615aa, 615cc of this title.

NAVAJO IRRIGATION PROJECT, NEW MEXICO; SAN JUAN-CHAMA PROJECT, COLORADO-NEW MEXICO

§ 615ii. Congressional declaration of purpose; participating projects of Colorado River storage project.

For the purposes of furnishing water for the irrigation of irrigable and arable lands and for muncipal, domestic, and industrial uses, providing recreation and fish and wildlife benefits, and controlling silt, and for other beneficial purposes, the Congress approves as participating projects of the Colorado River storage project (sections 620 to 620o of this title) the Navajo Indian irrigation project, New Mexico, and the initial stage of the San Juan-Chama project, Colorado-New Mexico. The Navajo Indian irrigation project and the initial stage of the San Juan-Chama project herein approved are substantially those described in the proposed coordinated report of the Acting Commissioner of Reclamation and the Commissioner of Indian Affairs, approved and adopted by the Secretary of the Interior on October 16, 1957, as conditioned, modified, and limited herein. (Pub. L. 87–483, § 1, June 13, 1962, 76 Stat. 96.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615jj. Navajo Indian irrigation project; construction, operation and maintenance; average annual diversion; repayment of construction costs.

Pursuant to the provisions of sections 620 to 620o of this title, the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian irrigation project for the principal purpose of furnishing irrigation water to approximately one hundred and ten thousand six hundred and thirty acres of land, said project to have an average annual diversion of five hundred and eight thousand acre-feet of water and the repayment of the costs of construction thereof to be in accordance with the provisions of said sections, including, but not limited to, section 620c(d) of this title. (Pub. L. 87–483, § 2, June 13, 1962, 76 Stat. 96.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615ll, 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615kk. Same; lands susceptible to irrigation or necessary for location of works or canals of project; payment of appraised value for federal lands; conveyance of Indian lands and acquisition of other lands; United States trusteeship of such lands; permits: term, annual renewals, cancellation, notice, finality; compensation for permanent range improvements; reduction of payments to United States by amount of compensation to permittees

(a) In order to provide for the most economical development of the Navajo Indian irrigation project, the Secretary shall declare by publication in the Federal Register that the United States of America holds in trust for the Navajo Tribe of Indians any legal subdivisions or unsurveyed tracts of federally owned land outside the present boundary of the Navajo Indian Reservation in New Mexico in townships 28 and 29 north, ranges 10 and 11 west, and townships 27 and 28 north, ranges 12 and 13 west, townships 26 and 27 north, range 11 west, and townships 24, 25, and 26 north, ranges 12 and 13 west, New Mexico principal meridian, susceptible to irrigation as part of the project or necessary for location of any of the works or canals of such project: *Provided, however,* That no such legal subdivision or unsurveyed tract shall be so declared to be held in trust by the United States for the Navajo Tribe until the Navajo Tribe shall have paid the United States the full appraised value thereof: *And provided further,* That in making appraisals of such lands the Secretary shall consider their values as of June 13, 1962, excluding therefrom the value of minerals subject to leasing under the Act of February 25, 1920, as amended, and such leasable minerals shall not be held in trust for the Navajo Tribe but shall continue to be subject to leasing under the Act of February 25, 1920, as amended, after the lands containing them have been declared to held in trust by the United States for the Navajo Tribe.

(b) The Navajo Tribe is authorized to convey to the United States, and the Secretary shall accept on behalf of the United States, title to any land or interest in land within the above-described townships, susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project, acquired in fee simple by the Navajo Tribe, and after such conveyance said land or interest in land shall be held in trust by the United States for the Navajo Tribe as a part of the project.

(c) The Secretary is authorized to acquire by purchase, exchange, or condemnation any other land or interest in land within the townships above described susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project. After such acquisition, said lands or interest in lands shall be held by the United States in trust for the Navajo Tribe of Indians.

(d) Each permit that is in effect on lands declared to be held in trust for the Navajo Tribe pursuant to subsection (a) of this section shall continue in effect for the term thereof unless the land is needed for irrigation purposes, subject to regulations applicable to permits of Indian lands, and upon its expiration it shall only be renewed on an annual basis until the land is required for irrigation purposes. When, in the judgment of the Secretary of the Interior, such land is required for irrigation purposes, the Secretary shall notify the permittee and the permit shall be deemed to be canceled, with no right of appeal. The permittee shall be compensated by the Navajo Tribe for the reasonable value of any range improvements of a permanent nature placed on the lands under authority of a permit or agreement with the United States, as determined by the Secretary of the Interior. Amounts paid to the United States by the Navajo Tribe out of tribal funds for the full appraised value of lands declared to be held in trust for the Navajo Tribe pursuant to subsection (a) of this section shall be reduced by the amount of compensation paid by the Navajo Tribe to permittees pursuant to this subsection. (Pub. L. 87–483, §3, June 13, 1962, 76 Stat. 96; Pub. L. 91–416, § 1(a), (c), Sept. 25, 1970, 84 Stat. 867.)

REFERENCES IN TEXT

The Act of February 25, 1920, referred to in subsec. (a), is classified to chapter 3A of Title 30, Mineral Lands and Mining.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–416, § 1(a), included in trust for the Navajo Tribe of Indians legal subdivisions or unsurveyed tracts of federally owned land outside the present boundary of the Navajo Indian Reservation in New Mexico in townships 26 and 27 north, range 11 west, and townships 24, 25, and 26 north, ranges 12 and 13 west, New Mexico principal meridian.

Subsec. (d). Pub. L. 91–416, § 1(c), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615oo, 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615*ll*. Same; contractual assurance of repayment of costs and interest for construction of additional capacity.

In developing the Navajo Indian irrigation project, the Secretary is authorized to provide capacity for municipal and industrial water supplies or miscellaneous purposes over and above the diversion requirements for irrigation stated in section 615jj of this title, but such additional capacity shall not be constructed and no appropriation of funds for such construction shall be made until contracts have been executed which, in the judgment of the Secretary, provide satisfactory assurance of repayment

of all costs properly allocated to the purposes aforesaid with interest as provided by law. (Pub. L. 87-483, § 4, June 13, 1962, 76 Stat. 97.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615mm. Same; payment of operation and maintenance charges; transfers of project works and title to property.

Payment of operation and maintenance charges of the irrigation features of the Navajo Indian irrigation project shall be in accordance with the provisions of section 385 of Title 25: *Provided,* That the Secretary may transfer to the Navajo Tribe of Indians the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe and, in such event, the Secretary may transfer to the Navajo Tribe title to movable property necessary to the operation and maintenance of those works. (Pub. L. 87-483, § 5, June 13, 1962, 76 Stat. 97.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615nn. Same; restriction on delivery of water for production of excessive basic commodities.

For the period ending ten years after completion of construction of the Navajo Indian irrigation project no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in section 1428(c) of Title 7, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 87-483, § 6, June 13, 1962, 76 Stat. 97.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615*oo*. Same; authorization of appropriations.

There are authorized to be appropriated to the Bureau of Indian Affairs such sums as may be required to construct the Navajo Indian irrigation project, including the purchase of lands under section 615kk(c) of this title, but not more than $206,000,000 (April 1970 prices) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering costs indices applicable to the types of construction involved therein. (Pub. L. 87-483, § 7, June 13, 1962, 76 Stat. 97; Pub. L. 91-416, § 1(b), Sept. 25, 1970, 84 Stat. 867.)

AMENDMENT

1970—Pub. L. 91-416 increased appropriations authorization to $206,000,000 (April 1970 prices) from $135,000,000 (June 1961 prices).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615pp. San Juan-Chama Reclamation Project, Initial Stage; construction, operation and maintenance; purposes; construction and operation of diversion facilities; principal engineering works; construction of recreation facilities; conditions.

Pursuant to the provisions of sections 620 to 620*o* of this title, the Secretary is authorized to construct, operate, and maintain the initial stage of the San Juan-Chama project, Colorado-New Mexico, for the principal purposes of furnishing water supplies to approximately thirty-nine thousand three hundred acres of land in the Cerro, Taos, Llano, and Pojoaque tributary irrigation units in the Rio Grande Basin and approximately eighty-one thousand six hundred acres of land in the existing Middle Rio Grande Conservancy District and for municipal, domestic, and industrial uses, and providing recreation and fish and wildlife benefits. The diversion facilities of the initial stage authorized herein shall be so constructed and operated as to divert only natural flow of the Navajo, Little Navajo, and Blanco Rivers in Colorado as set forth in the supplemental project report dated May 1957. The principal engineering works of the initial stage development, involving three major elements, shall include diversion dams and conduits, storage and regulation facilities at the Heron Numbered 4 Reservoir site, enlarged outlet works of the existing El Vado Dam, and water use facilities consisting of reservoirs, dams, canals, lateral and drainage systems, and associated works and appurtenances. The construction of recreation facilities at the Nambe Reservoir shall be contingent upon the Secretary's making appropriate arrangements with the governing body of the Nambe Pueblo for the operation and maintenance of such facilities, and the construction of recreation facilities at the Heron Numbered 4, Valdez, and Indian Camp Reservoirs shall be contingent upon his making appropriate arrangements with a State or local agency or organization for the operation and maintenance of those facilities: *Provided,* That—

(a) the Secretary shall so operate the initial stage of the project authorized herein that diversions to the Rio Grande Valley shall not exceed one million three hundred and fifty thousand acre-feet of water in any period of ten consecutive years, reckoned in continuing progressive series starting with the first day of October after the project shall have commenced operation: *Provided, however,* That not more than two hundred and seventy thousand acre-feet shall be diverted in any one year;

(b) the Secretary shall operate the project so that there shall be no injury, impairment, or depletion of existing or future beneficial uses of water within the State of Colorado, the use of which is within the apportionment made to the State of Colorado by article III of the Upper Colorado River Basin compact, as provided by article IX of the Upper Colorado River Basin compact and article IX of the Rio Grande compact;

(c) all works of the project shall be constructed so as to permit compliance physically with all provisions of the Rio Grande compact, and all such works shall be operated at all times in conformity with said compact;

(d) the amount of water diverted in the Rio Grande Basin for uses served by the San Juan-Chama project shall be limited in any calendar year to the amount of imported water available to such uses from importation to and storage in the Rio Grande Basin in that year;

(e) details of project operation essential to accounting for diverted San Juan and Rio Grande flows shall be developed through the joint efforts of the Rio Grande Compact Commission, the Upper Colorado River Commission, the appropriate agencies of the United States and of the States of Colorado, New Mexico, and Texas, and the various project entities. In this connection the States of Texas and New Mexico shall agree, within a reasonable time, on a system of gaging devices and measurements to secure data necessary to determine the present effects of tributary irrigation, as well as present river channel losses: *Provided,* That if the State of Texas shall require, as a condition precedent to such agreement, gaging devices and measurements in addition to or different from those considered by the Department of the Interior and the State of New Mexico to be necessary to this determination, the State of Texas shall pay one-half of all costs of constructing and operating such additional or different devices and making such additional or different measurements which are not borne by the United States. The results of the action required by this subsection shall be incorporated in a written report transmitted to the States of Colorado, Texas, and New Mexico for comment in the manner provided in the Flood Control Act of 1944 before any appropriation shall be made for project construction.

(f) the Secretary shall operate the project so that for the preservation of fish and aquatic life the flow of the Navajo River and the flow of the Blanco River shall not be depleted at the project diversion points below the values set forth at page D2-7 of appendix D of the United States Bureau of Reclamation report entitled "San Juan-Chama Project, Colorado-New Mexico", dated November 1955;

(g) the Secretary is authorized to construct the tunnel and conduit works of the initial stage of the San Juan-Chama project with sufficent capacity for future diversion of an average of two hundred and thirty-five thousand acre-feet per annum: *Provided, however,* That nothing contained in sections 615ii to 615yy of this title shall be construed as committing the Congress of the United States to future authorization of any additional stage of the San Juan-Chama project. (Pub. L. 87-483, § 8, June 13, 1962, 76 Stat. 97.)

REFERENCES IN TEXT

The Flood Control Act of 1944, referred to in clause (e), is classified in part to sections 460d and 825s of Title 16, Conservation, sections 701-1, 701a-1, 701b-1, 701c note, 708 and 709 of Title 33, Navigation and Navigable Waters, and section 390 of this title.

CODIFICATION

Sections 615ii—615yy of this title, referred to in clause (g), read "this Act" in Pub. L. 87-483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615qq. Same; restriction on delivery of water for production of excessive basic commodities.

For the period ending ten years after completion of construction of the initial stage of the San Juan-Chama project no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in section 1428(c) of Title 7, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 87-483, § 9, June 13, 1962, 76 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615rr. Same; appropriations.

The amount which section 620k of this title authorizes to be appropriated is increased by $85,828,000 (June 1961 prices) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved, which increase shall be available solely for construction of the San Juan-Chama project and shall not be used for any other purpose. (Pub. L. 87-483, § 10, June 13, 1962, 76 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615ss. Navajo Reservoir, San Juan River and tributary waters.

(a) Contracts for water use; sharing of available waters; diversion requirements of Navajo Indian irrigation project and San Juan-Chama project; long term contracts; temporary supply contracts in San Juan River Basin.

No person shall have or be entitled to have the use for any purpose, including uses under the Navajo Indian irrigation project and the San Juan-Chama project authorized by sections 615jj and 615pp of this title, of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries originating above Navajo Reservoir to the use of which the United States is entitled under these projects except under contract satisfactory to the Secretary and conforming to the provisions of sections 615ii to 615yy of this title. Such contracts, which, in the case of water for Indian uses, shall be executed with the Navajo Tribe, shall make provision, in any year in which the Secretary anticipates a shortage, taking into account both prospective runoff originating above Navajo Reservoir and the available water in storage in Navajo Reservoir, for a sharing of the available water in the following manner: The prospective runoff shall be apportioned between the contractors diverting above and those diverting at or below Navajo Reservoir in the

proportion that the total normal diversion requirement of each group bears to the total of all normal diversion requirements. In the case of contractors diverting above Navajo Reservoir, each such contract shall provide for a sharing of the runoff apportioned to said group in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements of all such contracts that have been made hereunder: *Provided,* That for any year in which the foregoing sharing procedure either would apportion to any contractor diverting above Navajo Reservoir an amount in excess of the runoff anticipated to be physically available at the point of his diversion, or would result in no water being available to one or more such contractors, the runoff apportioned to said group shall be reapportioned, as near as may be, among the contractors diverting above Navajo Reservoir in the proportion that the normal diversion requirements of each bears to the total normal diversion requirements of the group. In the case of contractors diverting from or below Navajo Reservoir, each such contract shall provide for a sharing of the remaining runoff together with the available storage in the same proportion as then normal diversion requirement under said contract bears to the total normal diversion requirements under all such contracts that have been made hereunder.

The Secretary shall not enter into contracts for a total amount of water beyond that which, in his judgment, in the event of shortage, will result in a reasonable amount being available for the diversion requirements for the Navajo Indian irrigation project and the initial stage of the San Juan-Chama project as specified in sections 615jj and 615pp of this title.

No long-term contract, except contracts for the benefit of the lands and for the purposes specified in sections 615jj and 615pp of this title, shall be entered into for the delivery of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries, as aforesaid, until the Secretary has determined by hydrologic investigations that sufficient water to fulfill said contract is reasonably likely to be available for use in the State of New Mexico during the term thereof under the allocations made in articles III and XIV of the Upper Colorado River Basin compact, and has submitted such determination to the Congress of the United States and the Congress had approved such contracts: *Provided,* That nothing contained in the foregoing shall be construed to forbid the Secretary from entering into temporary water supply contracts in the San Juan River Basin for any year in which he determines that water legally available for use in the upper basin of the Colorado River system would otherwise not be used there and is not needed to fulfill the obligations of the upper division States with respect to delivery of water at Lee Ferry.

(b) Other water delivery contracts subject to sharing provisions in event of shortage.

If contracts are entered into for delivery from storage in Navajo Reservoir of water not covered by subsection (a) of this section, such contracts shall be subject to the same provision for sharing of available water supply in the event of shortage as in the case of contracts required to be made pursuant to subsection (a) of this section.

(c) Provisions inapplicable to water requirements of certain Indian irrigation projects.

This section shall not be applicable to the water requirements of the existing Fruitland, Hogback, Cudai, and Cambridge Indian irrigation projects, nor to the water required in connection with the extension of the irrigated acreages of the Fruitland and Hogback Indian irrigation projects in a total amount of approximately eleven thousand acres. (Pub. L. 87–483, § 11, June 13, 1962, 76 Stat. 99.)

CODIFICATION

Sections 615ii—615yy of this title, referred to in subsec. (a), read "this Act" in Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615tt. New Mexico and Arizona compact water use rights and allocation unaffected by preferential right of United States or any Indian tribe or excessive water diversion.

(a) None of the project works or structures authorized by sections 615ii to 615yy of this title shall be so operated as to create, implement, or satisfy any preferential right in the United States or any Indian tribe to the waters impounded, diverted, or used by means of such project works or structures, other than contained in those rights to the uses of water granted to the States of New Mexico or Arizona pursuant to the provisions of the Upper Colorado River Basin compact.

(b) The projects authorized by sections 615ii to 615yy of this title shall be so operated that no waters shall be diverted or used by means of the project works, which, together with all other waters used in or diverted from the San Juan River Basin in New Mexico, will exceed the water available to the States of New Mexico and Arizona under the allocation contained in article III of the Upper Colorado River Basin compact for any water year. (Pub. L. 87–483, § 12, June 13, 1962, 76 Stat. 100.)

CODIFICATION

Sections 615ii—615yy of this title, referred to in subsecs. (a) and (b), read "this Act" in Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615uu, 615vv, 615xx, 615yy of this title.

§ 615uu. Water use controlled by compacts, laws and treaties.

(a) New Mexico water use limitation unaffected; contract recitals.

The use of water, including that diverted from the Colorado River system to the Rio Grande Basin, through works constructed under authority of sections 615ii to 615yy of this title shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project

Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of New Mexico is entitled and limited under said compacts, statutes, and treaty, and every contract entered into under section 615ii to 615yy of this title for the storage, use, and delivery of such water shall so recite.

(b) Works, personnel, permittees, licensees and contractees subject to compacts, laws and treaties in diversion, delivery and use of Colorado River system water; covenant in law.

All works constructed under authority of sections 615ii to 615yy of this title, and all officers, employees, permittees, licensees, and contractees of the United States and of the State of New Mexico acting pursuant thereto and all users and appropriators of water of the Colorado River system diverted or delivered through the works constructed under authority of sections 615ii to 615yy of this title and any enlargements or additions thereto shall observe and be subject to said compacts, statutes, and treaty, as hereinbefore provided, in the diversion, delivery, and use of water of the Colorado River system, and such condition and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense or otherwise in any litigation respecting the waters of the Colorado River system.

(c) Colorado River system water use unaffected; provisions of compacts, laws and treaties not construed.

No right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by sections 615ii to 615yy of this title, and Congress does not, by enactment of such sections, construe or interpret any provision of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, or the Mexican Water Treaty or subject the United States to, or approve or disapprove any interpretation of, said compacts, statutes, or treaty, anything in such sections to the contrary notwithstanding. (Pub. L. 87–483, § 13, June 13, 1962, 76 Stat. 101.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in subsecs. (a) and (c), is classified to subchapter I of chapter 12A of this title.

The Boulder Canyon Project Adjustment Act, referred to in subsecs. (a) and (c), is classified to subchapter II of chapter 12A of this title.

The Colorado River Storage Project Act, referred to in subsecs. (a) and (c), is classified to chapter 12B of this title.

CODIFICATION

Sections 615ii—615yy of this title, referred to in subsecs. (a)—(c), read "this Act" Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615vv, 615xx, 615yy of this title.

§ 615vv. Compliance with compacts, laws and treaties concerning storage and release of water from reservoirs in Colorado River Basin; enforcement; consent to suits.

In the operation and maintenance of all facilities under the jurisdiction and supervision of the Secretary of the Interior authorized by sections 615ii to 615yy of this title, the Secretary is directed to comply with the applicable provisions of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act and the treaty with the United Mexican States in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise. (Pub. L. 87–483, § 14, June 13, 1962, 76 Stat. 101.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in the text, is classified to subchapter I of chapter 12A of this title.

The Colorado River Storage Project Act, referred to in the text, is classified to chapter 12B of this title.

The Boulder Canyon Project Adjustment Act, referred to in the text, is classified to subchapter II of chapter 12A of this title.

CODIFICATION

Sections 615ii—615yy of this title, referred to in the text, read "this Act" in Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615xx, 615yy of this title.

§ 615ww. Studies of quality of water of Colorado River system; reports to Congress.

The Secretary of the Interior is directed to continue his studies of the quality of water of the Colorado River system, to appraise its suitability for municipal, domestic, and industrial use and for irrigation in the various areas in the United States in which it is used or proposed to be used, to estimate the effect of additional developments involving its storage and use (whether heretofore authorized or contemplated for authorization) on the remaining water available for use in United States, to study all possible means of improving the quality of such water and of alleviating the ill effects of water of poor quality, and to report the results of his studies and estimates to the Eighty-seventh Congress and every two years thereafter. (Pub. L. 87–483, § 15, June 13, 1962, 76 Stat. 102.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx, 615yy of this title.

§ 615xx. Compact obligations of "States of the upper division" concerning flow depletion at Lee Ferry; share of Mexican Treaty burden.

(a) The diversion of water for either or both of the projects authorized in sections 615ii to 615yy of this title shall in no way impair or diminish the obligation of the "States of the upper division" as

provided in article III(d) of the Colorado River compact "not to cause the flow of the river at Lee Ferry to be depleted below an aggregate of seventy-five million acre-feet for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification of this compact".

(b) The diversion of water for either or both of the projects authorized in sections 615ii to 615yy of this title shall in no way impair or diminish the obligation of the "States of the upper division" to meet their share of the Mexican Treaty burden as provided in article III(c) of the Colorado River compact. (Pub. L. 87–483, § 16, June 13, 1962, 76 Stat. 102.)

CODIFICATION

Sections 615ii—615yy of this title, referred to in subsecs. (a) and (b), read "this Act" in Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615yy of this title.

§ 615yy. Applicable appropriation.

Section 620k of this title, shall not apply to the works authorized by sections 615ii to 615yy of this title except as otherwise provided by section 615rr of this title. (Pub. L. 87–483, § 17, June 13, 1962, 76 Stat. 102.)

CODIFICATION

Sections 615ii—615yy of this title, referred to in the text, read "this Act" in Pub. L. 87–483, which enacted such sections and amended sections 620, 620a, 620d(e) and 620f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615pp, 615ss, 615tt, 615uu, 615vv, 615xx of this title.

§ 615zz. Water quality standards; operation of project without violation of standards

The Navajo Indian irrigation project shall be operated in such manner that identifiable flows of water will not cause the project to be in violation of water quality standards promulgated pursuant to the Water Quality Act of 1965 (79 Stat. 903). (Pub. L. 91–416, § 2, Sept. 25, 1970, 84 Stat. 867.)

REFERENCES IN TEXT

The Water Quality Act of 1965, referred to in the text, is classified to sections 1151, 1152, 1152 nt., 1156–1158, 1160, 1171, and 1172 of Title 33, Navigation and Navigable Waters.

FRYINGPAN-ARKANSAS PROJECT, COLORADO

§ 616. Authorization of project.

(a) Purposes; construction, operation and maintenance; modification of plans; exportation of water from the Colorado River system; law governing.

For the purposes of supplying water for irrigation, municipal, domestic, and industrial uses, generating and transmitting hydroelectric power and energy, and controlling floods, and for other useful and beneficial purposes incidental thereto, including recreation and the conservation and development of fish and wildlife, the Secretary of the Interior is authorized to construct, operate, and maintain the Fryingpan-Arkansas project, Colorado, in substantial accordance with the engineering plans therefor set forth in House Document Numbered 187, Eighty-third Congress, modified as proposed in the September 1959 report of the Bureau of Reclamation entitled "Ruedi Dam and Reservoir, Colorado", with such minor modifications of, omissions from, or additions to the works described in those reports as he may find necessary or proper for accomplishing the objectives of the project. Such modifications or additions as may be required in connection therewith shall not, however, extend to or contemplate the so-called Gunnison-Arkansas project; and nothing in sections 616 to 616f of this title shall constitute a commitment, real or implied, to exportations of water from the Colorado River system in Colorado beyond those required for projects heretofore or herein authorized. In constructing, operating, and maintaining the Fryingpan-Arkansas project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto).

(b) Reservoir sites; report to President and Congress on feasibility of reservoir near Ashcroft site; completion of report on Basalt project, Colorado.

A reservoir at the Ruedi site on the Fryingpan River with an active capacity of approximately one hundred thousand acre-feet shall be constructed in lieu of the reservoir on the Roaring Fork River at the Aspen site contemplated in House Document Numbered 187, Eighty-third Congress. The Secretary shall investigate and prepare a report on the feasibility of a replacement reservoir at or near the Ashcroft site on Castle Creek, a tributary of the Roaring Fork River above its confluence with the Fryingpan River with a capacity of approximately five thousand acre-feet, but construction thereof shall not be commenced unless said report, which shall be submitted to the President and the Congress, demonstrates the feasibility of said reservoir and is approved by the Congress. The Secretary shall expedite completion of his planning report on the Basalt project, Colorado, as a participating project under the Act of April 11, 1956 (70 Stat. 105), and said report shall have the priority status of the reports to which reference is made in section 620a of this title.

(c) Construction of water supply works prohibited unless communities are incapable; contract for repayment of costs; conditions.

No part of the single purpose municipal and industrial water supply works involved in the Fryingpan-Arkansas project shall be constructed by the Secretary in the absence of evidence satisfactory to him that it would be infeasible for the communities involved to construct the works themselves, singly or jointly. In the event it is determined that these works, or any of them, are to be constructed by the Secretary, a contract providing, among other things, for payment of the actual cost thereof, with interest as hereinafter provided, as rapidly as is consistent with the contracting parties' ability to pay, but in any event, within fifty years from the time the works are first available for the delivery of water, and for assumption by the contracting parties of the care, operation, maintenance, and replacement of the works shall be a condition precedent

to construction thereof. (Pub. L. 87-590, § 1, Aug. 16, 1962, 76 Stat. 389.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in subsec. (a), are classified generally to this title. See Tables for distribution.

The Act of April 11, 1956 (70 Stat. 105), referred to in subsec. (b), is classified to chapter 12B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616b, 616c, 616d of this title.

§ 616a. Project repayment.

(a) Irrigation repayment contracts; period for repayment; eligible organizations.

Contracts to repay the portion of the cost of the Fryingpan-Arkansas project allocated to irrigation and assigned to be repaid by irrigation water users (exclusive of such portion of said cost as may be derived from temporary water supply contracts or from other sources) which are entered into pursuant to subsection (d), section 485h of this title, shall provide for a basic repayment period of not more than fifty years after completion of construction and shall not provide for any development period. Such contracts shall be entered into only with organizations which have the capacity to levy assessments upon all taxable real property located within their boundaries.

(b) Rates for power and water designed to repay costs within fifty years; aid in repayment of irrigation costs.

Rates charged for commercial power and for water for municipal, domestic or industrial use or for the use of facilities for the storage and/or delivery of such water shall be designed to return to the United States, within not more than fifty years from the completion of each unit of the project which serves those purposes, those costs of constructing, operating and maintaining that unit which are allocated to said purposes and interest on the unamortized balance of said construction allocation and, in addition, within the period fixed by subsection (a) of this section, so much of the irrigation allocation as is beyond the ability of the water users and their organizations to repay.

(c) Interest rates; basis for determination by Secretary of the Treasury.

The interest rate on the unamortized balance of the commercial power and municipal, domestic, and industrial water supply allocations shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue. (Pub. L. 87-590, § 2, Aug. 16, 1962, 76 Stat. 390.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616b, 616c, 616d of this title.

§ 616b. Operation of project.

(a) Principles governing direction by Secretary.

The Fryingpan-Arkansas project shall be operated under the direction of the Secretary in accordance with the operating principles adopted by the State of Colorado on December 9, 1960, and reproduced in House Document Numbered 130, Eighty-seventh Congress.

(b) Appointment of representatives to Commission; adoption of modifications to operating principles.

The Secretary may appoint the two representatives of the United States to the Commission referred to in paragraph 19 of said principles and may, upon unanimous recommendation of the parties signatory to the operating principles, adopt such modifications therein as are not inconsistent with the provisions of sections 616 to 616f of this title.

(c) Rights of western Colorado water users protected.

Any and all benefits and rights of western Colorado water users in and to water stored in the Green Mountain Reservoir, Colorado-Big Thompson project, as described, set forth and defined in Senate Document Numbered 80, Seventy-fifth Congress, shall not be impaired, prejudiced, abrogated, nullified, or diminished in any manner whatever by reason of the authorization, construction, operation, and maintenance of the Fryingpan-Arkansas project.

(d) Prohibition against eminent domain for acquisition of River Basin Water for use outside Basin; use of project works for transportation of such water.

Except for such rights as are appurtenant to lands which are acquired for project purposes, no valid right to the storage or use of water within the natural basin of the Colorado River in the State of Colorado shall be acquired by the Secretary of the Interior through eminent domain proceedings for the purpose of storing or using outside of said basin the water embraced within that right, and no water, the right to the storage or use of which is so acquired by anyone other than the Secretary, shall be transported through or by means of any works of the Fryingpan-Arkansas project from the Colorado River Basin to the Arkansas River Basin. (Pub. L. 87-590, § 3, Aug. 16, 1962, 76 Stat. 391.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616c, 616d of this title.

§ 616c. Public recreational facilities; conservation; public use and enjoyment; conservation and development of fish and wildlife; acquisition and withdrawal of public lands; nonreimbursable costs; availability of funds.

(a) The Secretary is authorized and directed (1) to investigate, plan, construct, operate, and maintain public recreational facilities on lands withdrawn or acquired for the development of said project, (2) to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, (3) to provide for public use and enjoyment of the same and of the water areas created by this project by such means as are consistent with the purposes of said project, and (4) to investigate, plan, construct, operate, and maintain facilities for the conservation and development of fish and wildlife resources. The Secretary is authorized to acquire lands and to withdraw public lands from entry or other disposition under the public land laws

necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest: *Provided,* That all lands within the exterior boundaries of a national forest acquired for recreational or other project purposes which are not determined by the Secretary of the Interior to be needed for actual use in connection with the reclamation works shall become national forest lands: *Provided further,* That the Secretary of the Interior shall make his determination hereunder within five years after approval of sections 616 to 616f of this title or, in the case of individual tracts of land, within five years after their acquisition by the United States: *And provided further,* That the authority contained in this section shall not be exercised by the Secretary of the Interior with respect to national forest lands without the concurrence of the Secretary of Agriculture.

(b) The costs, including the operation and maintenance costs, of the undertakings described in subsection (a) of this section shall be nonreimbursable and nonreturnable under the reclamation laws. The funds appropriated for carrying out the authorization contained in section 616 of this title shall, without prejudice to the availability of other appropriated moneys for the same purpose, also be available for carrying out the investigations and programs authorized in this section. (Pub. L. 87–590, § 4, Aug. 16, 1962, 76 Stat. 391.)

REFERENCES IN TEXT

The reclamation laws, referred to in the text, are classified generally to this title. See note under section 616 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616b, 616d, 616f of this title.

§ 616d. Rights of States of the Colorado River Basin under compacts, statutes, and treaty, protected.

(a) Use of diverted water.

The use of water diverted from the Colorado River system to the Arkansas River Basin through works constructed under authority of sections 616 to 616f of this title shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of Colorado is entitled and limited under said compacts, statutes, and treaty, and every contract entered into under sections 616 to 616f of this title for the storage, use, and delivery of such water shall so recite.

(b) Works and persons subject to compacts, statutes, and treaty.

All works constructed under authority of sections 616 to 616f of this title, and all officers, employees, permittees, licensees, and contractees of the United States and of the State of Colorado acting pursuant thereto, and all users and appropriators of water of the Colorado River system diverted or delivered through the works constructed under authority of sections 616 to 616f of this title and any enlargements or additions thereto shall observe and be subject to said compacts, statutes, and treaty, as hereinbefore provided, in the diversion, delivery, and use of water of the Colorado River system, and such condition and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River system.

(c) Exportation of water from system; obligations under Arkansas River compact.

None of the waters of the Colorado River system shall be exported from the natural basin of that system by means of works constructed under authority of sections 616 to 616f of this title, or extensions and enlargements of such works, to the Arkansas River Basin for consumptive use outside of the State of Colorado, and no such waters shall be made available for consumptive use in any State not a party to the Colorado River compact by exchange or substitution; nor shall the obligations of the State of Colorado under the provisions of the Arkansas River compact (63 Stat. 145) be altered by any operations of the Fryingpan-Arkansas project.

(d) Rights to waters unaffected; Congressional construction of compacts, statutes, or treaty.

No right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by sections 616 to 616f of this title, and the Congress does not, by its enactment, construe or interpret any provision of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, or the Mexican Water Treaty or subject the United States to, or approve or disapprove any interpretation of, said compacts, statutes, or treaty, anything in sections 616 to 616f of this title to the contrary notwithstanding.

(e) Compliance with compacts, statutes, and treaty; action to enforce; joinder of United States.

In the operation and maintenance of all facilities under the jurisdiction and supervision of the Secretary of the Interior authorized by sections 616 to 616f of this title, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act (and any contract lawfully entered into by the United States under any of said Acts), the treaty with the United Mexican States, and the operating principles, and to comply with the laws of the State of Colorado relating to the control, appropriation, use, and distribution of water therein. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an

action in the Supreme Court of the United States to enforce the provisions of this section and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise. (Pub. L. 87–590, § 5, Aug. 16, 1962, 76 Stat. 392.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in subsecs. (a), (d), and (e), is classified to subchapter I of chapter 12A of this title.

The Boulder Canyon Project Adjustment Act, referred to in subsecs. (a), (d), and (e), is classified to subchapter II of chapter 12A of this title.

The Colorado River Storage Project Act referred to in subsecs. (a), (d), and (e), is classified to chapter 12B of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616b, 616c of this title.

§ 616e. Studies of water quality and means of improvement thereof to continue; reports to Congress.

The Secretary of the Interior is directed to continue his studies of the quality of water of the Colorado River system, to appraise its suitability for municipal, domestic, and industrial use and for irrigation in the various areas in the United States in which it is used or proposed to be used, to estimate the effect of additional developments involving its storage and use (whether heretofore authorized or contemplated for authorization) on the remaining water available for use in the United States, to study all possible means of improving the quality of such water and of alleviating the ill effects thereof, and to report the results of his studies and estimates to the Congress on January 3, 1963, and every two years thereafter, the expense of said studies to be no part of the financial obligation of the Fryingpan-Arkansas project. (Pub. L. 87–590, § 6, Aug. 16, 1962, 76 Stat. 393.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616b, 616c, 616d of this title.

§ 616f. Authorization of appropriations.

There is authorized to be appropriated for construction of the Fryingpan-Arkansas project, the sum of $170,000,000 (June 1961 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. There are also authorized to be appropriate such additional sums as may be required for operation and maintenance of the project and for future costs incurred under section 616c of this title. (Pub. L. 87–590, § 7, Aug. 16, 1962, 76 Stat. 393.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 616b, 616c, 616d of this title.

MANN CREEK PROJECT, IDAHO

§ 616g. Authorization for construction, operation, and maintenance; law governing.

For the purposes of providing irrigation water for approximately fifty-one hundred acres, conserving and developing fish and wildlife, and providing recreational benefits, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the facilities of the Mann Creek Federal reclamation project, Idaho. The principal works of the project shall consist of a dam and reservoir, diversion facilities from the reservoir, and drainage facilities. (Pub. L. 87–589, § 1, Aug. 16, 1962, 76 Stat. 388.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616i of this title.

§ 616h. Repayment of construction costs; costs allocated to irrigation.

The base period provided in subsection (d), section 485h of this title, for repayment of the construction costs properly chargeable to any block of lands and assigned to be repaid by irrigators shall be forty years, exclusive of any development period, from the time water is first delivered to that block. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within the repayment period or periods herein specified, shall be returned to the reclamation fund within such period or periods from revenues derived by the Secretary of the Interior from the disposition of power marketed through the Federal power system in southern Idaho. (Pub. L. 87–589, § 2, Aug. 16, 1962, 76 Stat. 388.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616i of this title.

§ 616i. Public recreational facilities; arrangements for operation and maintenance; irrigation costs; fish and wildlife conservation; nonreimbursable costs; operation of works for benefit of fish and wildlife.

(a) The Secretary of the Interior is authorized, in connection with the Mann Creek project, to construct minimum basic public recreation facilities, and to acquire such lands as may be necessary for that purpose, substantially in accordance with the plan in the report of the Secretary of the Interior, but such facilities (other than those necessary to protect the project works and the visiting public) shall not be constructed until an agreement has been executed by the State of Idaho, an agency or political subdivision thereof, or an appropriate local agency or organization to assume the management and operation of the facilities. The cost of constructing such facilities shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) The Secretary may make such reasonable provision in the works authorized by sections 616g to 616j of this title as he finds to be required for the conservation and development of fish and wildlife in accordance with the provisions of the Fish and Wildlife Coordination Act and the portion of the construction costs allocated to these purposes, together with an appropriate share of the operation, maintenance, and replacement costs therefor, shall be nonreimbursable and nonreturnable. Before the

works are transferred to an irrigation water users' organization for care, operation, and maintenance the organization shall have agreed to operate them in such fashion, satisfactory to the Secretary, as to achieve the benefits to fish and wildlife on which the allocation of costs therefor is predicated, and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with his requirements to achieve such benefits. (Pub. L. 87–589, § 3, Aug. 16, 1962, 76 Stat. 389.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is classified to sections 661—666c of Title 16, Conservation.

§ 616j. Authorization of appropriations.

There is authorized to be appropriated for construction of the works herein authorized the sum of $4,180,000 (January 1965 prices) including $120,000 heretofore appropriated for preauthorization investigations, plus or minus such amounts, if any, as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Pub. L. 87–589, § 4, Aug. 16, 1962, 76 Stat. 389; Pub. L. 89–60, June 30, 1965, 79 Stat. 207.)

AMENDMENTS

1965—Pub. L. 89–60 increased the appropriation authorization from "$3,490,000 (April 1961 prices)" to "$4,180,000 (January 1965 prices) including $120,000 heretofore appropriated for preauthorization investigations, plus or minus such amounts, if any, as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616i of this title.

ARBUCKLE PROJECT, OKLAHOMA

§ 616k. Authorization of project; law governing; purposes and functions.

The Secretary of the Interior is authorized to construct, operate, and maintain the Arbuckle Federal reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and for controlling floods and for the conservation and development of fish and wildlife, and the enhancement of recreational opportunities. The project shall consist of the following principal works: A reservoir on Rock Creek near Sulphur, Oklahoma, pumping plants, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use, and minimum basic recreational facilities. (Pub. L. 87–594, § 1, Aug. 24, 1962, 76 Stat. 395.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

§ 616*l*. Construction, operation, and maintenance; allocation of costs among different functions.

In constructing, operating, and maintaining the Arbuckle project, the Secretary shall allocate the costs thereof among different functions resulting from multiple-purpose development under the following conditions:

(a) Flood control, recreation, conservation of fish and wildlife; nonreimbursible costs.

Allocations to flood control, recreation, and the conservation and development of fish and wildlife shall be nonreimbursable and nonreturnable under the reclamation laws;

(b) Municipal water supply; repayment contracts; water revenues to retire debt, pay interest, and operation and maintenance costs; basis of interest rates.

Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable to the United States by the water users through contracts with municipal corporations, or other organizations as defined by section 485a of this title under the provisions of the Federal reclamation laws, and to the extent appropriate, under the Water Supply Act of 1958, as amended. Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipality or industrial users, and shall provide for repayment of construction cost allocated to municipal water supply in not to exceed fifty years from the date water is first delivered for that purpose: *Provided,* That the water users' organization be responsible for the disposal and sale of all water surplus to its requirements, and that the revenues therefrom shall be used by the organization for the retirement of project debt payment, payment of interest, and payment of operation and maintenance cost. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue;

(c) Water users' rights; conditions; annual charge for operation and maintenance; title to pipelines and facilities.

Upon the completion of the payment of the water users' construction cost obligation, together with the interest thereon, the water users, their designee or designees, shall (1) have a permanent right to the use of that portion of the project allocable to municipal water supply purposes, so long as the space designated for those purposes may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, subject, if the project is then operated by the United States, to payment of a reasonable annual charge to the Secretary of the Interior sufficient to pay all operation and maintenance charges and a fair share of the administrative costs applicable to the project; (2) be conveyed title to such portions of the pipeline and related facilities as

are used solely for delivering project water to the water users. (Pub. L. 87–594, § 2, Aug. 24, 1962, 76 Stat. 395.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (b), are classified generally to this title. See Tables for distribution.

The Water Supply Act of 1958, as amended, referred to in subsec. (b), is classified to section 390b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616m, 616o of this title.

§ 616m. Contracts with water users' organization; law governing.

Contracts may be entered into with the water users' organization pursuant to the provisions of sections 616k to 616s of this title without regard to the last sentence of subsection (c) of section 485h of this title. (Pub. L. 87–594, § 3, Aug. 24, 1962, 76 Stat. 396.)

§ 616n. Transfer of care, operation and maintenance to water users' organization; adjustment of water users' obligation; criteria for operation of works.

The Secretary is authorized to transfer to a water users' organization the care, operation, and maintenance of the works herein authorized and, if such transfer is made, may deduct from the obligation of the water users the reasonable capitalized equivalent of that portion of the estimated operation and maintenance cost of the undertaking which, if the United States continues to operate the project, would be allocated to flood control and fish and wildlife purposes. Prior to taking over the care, operation, and maintenance of said works, the water users' organization shall obligate itself to operate them in accordance with criteria specified by the Secretary of the Army with respect to flood control and the Secretary of the Interior with respect to fish and wildlife and recreation. (Pub. L. 87–594, § 4, Aug. 24, 1962, 76 Stat. 396.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

§ 616o. Stages of construction; terms and conditions of repayment contracts.

Construction of the Arbuckle project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serve the project requirements and the relative needs for water. Repayment contracts negotiated in connection with each unit or stage of construction shall be subject to the terms and conditions of section 616l of this title. (Pub. L. 87–594, § 5, Aug. 24, 1962, 76 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

616p. Recreational facilities; construction and operation; law governing use; nonreimbursable costs.

The Secretary may (1) contract for the construction of any part of the minimum basic recreational facilities with any qualified agency of the State of Oklahoma or a political subdivision thereof, and (2) upon conclusion of a suitable agreement with any such agency or political subdivision for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, construct or permit the construction of public park and recreational facilities on lands owned by the United States adjacent to the reservoir of the Arbuckle project, when such use is determined by the Secretary not to be contrary to the public interest, all under such rules and regulations as the Secretary may prescribe. No recreational use of any area to which this section applies shall be permitted which is inconsistent with the laws of the State of Oklahoma for the protection of fish and game and the protection of the public health, safety, and welfare. The Federal costs of constructing the facilities authorized by this section shall be limited to the nonreimbursable costs of the Arbuckle project for minimum basic recreational facilities as determined by the Secretary. (Pub. L. 87–594, § 6, Aug. 24, 1962, 76 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

616q. Provisions for conservation and development of fish and wildlife.

The Secretary may make such reasonable provision in connection with the works of the Arbuckle Federal reclamation project, in accordance with section 662 of Title 16, as he finds to be required for the conservation and development of fish and wildlife. (Pub. L. 87–594, § 7, Aug. 24, 1962, 76 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

§ 616r. Expenditures for reservoir and aqueduct system.

Expenditures for Arbuckle Reservoir, and the water supply aqueduct system, may be made without regard to the soil survey and land classification requirements of section 390a of this title. (Pub. L. 87–594, § 8, Aug. 24, 1962, 76 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

§ 616s. Authorization of appropriations.

There is authorized to be appropriated for construction of the Arbuckle reclamation project the sum of $13,340,000 (March 1962 prices), plus or minus such amounts as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project. (Pub. L. 87–594, § 9, Aug. 24 1962, 76 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616m of this title.

BAKER PROJECT, OREGON

§ 616t. Authorization for construction, operation, and maintenance.

For the purposes of providing irrigation water, controlling floods, conserving and developing fish and wildlife, and providing recreational benefits, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate,

and maintain the facilities of the upper division of the Baker Federal reclamation project, Oregon. The principal works of the project shall consist of a dam and reservoir, pumping plants, and related facilities. (Pub. L. 87–706, § 1, Sept. 27, 1962, 76 Stat. 634.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616v of this title.

§ 616u. Extension of period for repayment of construction costs; repayment from revenues derived from disposition of power; excess lands defined; conditions for furnishing water to excess lands; computation of acreage.

(a) The period provided in section 485h(d) of this title, for repayment of the construction cost properly chargeable to any block of lands and assigned to be repaid by irrigators, may be extended to fifty years, exclusive of any development period, from the time water is first delivered to that block or to as near that number of years as is consistent with the adoption and operation of a variable repayment plan as is provided therein. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay, within the repayment period or periods herein specified, shall be returned to the reclamation fund within such period or periods from revenues derived by the Secretary of the Interior from the disposition of power from the McNary project power facilities.

(b) Any lands in the upper division of the Baker project, Oregon, which are held in private ownership by a person whose holdings exceed the equivalent of one hundred and twenty acres of class 1 land shall, to the extent they exceed that acreage, be deemed excess lands. No water shall be furnished to such excess lands from, through, or by means of project works unless (1) the owner's total holdings do not exceed one hundred and sixty irrigable acres or (2) said owner shall have executed a valid recordable contract with respect to the excess in like manner as provided in the third sentence of section 423e of this title. In computing "the equivalent of one hundred and twenty acres of class 1 land" under the first sentence of this section, each acre of class 2 land shall be counted as seventy-five one-hundredths of an acre, each acre of class 3 land shall be counted as fifty-five one-hundredths of an acre, and each acre of class 4 land shall be counted as thirty-eight one-hundredths of an acre. (Pub. L. 87–706, § 2, Sept. 27, 1962, 76 Stat. 634.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616v of this title.

§ 616v. Operation of project.

(a) Public recreation facilities; arrangements for operation and maintenance; cost of facilities.

The Secretary of the Interior is authorized, in connection with the upper division of the Baker project, to construct minimum basic public recreation facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. The cost of constructing such facilities shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) Conservation of fish and wildlife; nonreimbursable costs; transfer of works; agreement for satisfactory operation; return of works upon noncompliance.

The Secretary may make such reasonable provision in the works authorized by sections 616t to 616w of this title as he finds to be required for the conservation and development of fish and wildlife in accordance with the provisions of the Fish and Wildlife Coordination Act, and the portion of the construction costs allocated to these purposes and to flood control, together with an appropriate share of the operation, maintenance, and replacement costs therefor, shall be nonreimbursable and nonreturnable. Before the works are transferred to an irrigation water user's organization for care, operation, and maintenance, the organization shall have agreed to operate them in a manner satisfactory to the Secretary of the Interior with respect to achieving the fish and wildlife benefits, and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with the requirements to achieve such benefits.

(c) Operation of works for flood control; regulations.

The works authorized in sections 616t to 616w of this title shall be operated for flood control in accordance with regulations prescribed by the Secretary of the Army pursuant to section 709 of Title 33. (Pub. L. 87–706, § 3, Sept. 27, 1962, 76 Stat. 634.)

REFERENCES IN TEXT

The reclamation laws, referred to in subsec. (a), are classified generally to this title. See note under section 616t of this title.

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is classified to sections 661–666c of Title 16, Conservation.

§ 616w. Authorization of appropriations.

There is authorized to be appropriated for construction of the Baker Federal reclamation project the sum of $6,168,000 (February 1962 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the project. (Pub. L. 87–706, § 4, Sept. 27, 1962, 76 Stat. 635.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616v of this title.

DIXIE PROJECT, UTAH

§ 616aa. Authorization for construction, operation, and maintenance; purposes and scope; coordination with Cedar City water development program.

For the purposes of developing the water resources of the Virgin and Santa Clara Rivers, including the furnishing of municipal and industrial water supplies, the furnishing of an irrigation water supply to approximately twenty-one thousand acres of land, the control of floods, the generation and sale of electric energy, the conservation and development

of fish and wildlife resources, and the enhancement of recreation opportunities, the Secretary of the Interior is authorized to construct, operate, and maintain the Dixie project, Utah. The project shall consist of the Virgin City Dam and Reservoir, tunnels, canals, siphons, pumping plants, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Virgin River; a dam on the Santa Clara River near Gunlock, Utah, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Santa Clara River and on Ivins Bench; and hydroelectric plants and transmission facilities at the Virgin City Dam and at such other points as are desirable. The Dixie project shall be coordinated with the Cedar City water development program which includes the diversion of the waters of Crystal Creek into the Kolob Reservoir, and after completion of the Dixie project said waters of Crystal Creek and of the natural watershed of said Kolob Reservoir shall be exported for use of Cedar City and vicinity in accordance with an agreement entered by Cedar City and Iron County, Utah, on the 26th day of August 1953, with Kolob Reservoir and Storage Association, Incorporated, and Washington County, Utah. (Pub. L. 88–565, § 1, Sept. 2, 1964, 78 Stat. 848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616aa–1. Reauthorization for construction; integration and participation in Lower Colorado River Basin Development Fund.

The Dixie Project, heretofore authorized in the State of Utah, is hereby reauthorized for construction at the site determined feasible by the Secretary, and the Secretary shall integrate such project into the repayment arrangement and participation in the Lower Colorado River Basin Development Fund established by title IV of the Colorado River Basin Project Act consistent with the provisions of the Act. (Pub. L. 90–537, title III, § 307, Sept. 30, 1968, 82 Stat. 893.)

REFERENCES IN TEXT

Title IV of the Colorado River Basin Project Act, referred to in text, is title IV of Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 894, which is classified to section 1541 et seq. of this title.

CODIFICATION

Section consists of a part of section 307 of Pub. L. 90–537. Remainder of section 307 amended section 616hh of this title by substituting "$58,000,000" for "$42,700,000" as the amount of the authorized appropriation for the Dixie Project.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

§ 616bb. Protection of downstream water users against impairment of water quality from operations of project; indemnification.

The project shall include such measures for the disposition of saline waters of La Verkin Springs as are necessary in the opinion of the Secretary to insure the delivery of water at downstream points along the Virgin River for water users in the States of Arizona and Nevada of suitable quality for irrigation, or provision shall be made to indemnify such water users for any impairment of water quality for irrigation purposes directly attributable to Dixie project operations. (Pub. L. 88–565, § 2, Sept. 2, 1964, 78 Stat. 848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616cc. Law governing.

In constructing, operating, and maintaining the works authorized by sections 616aa, and 616bb to 616hh of this title, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), except as is otherwise provided in sections 616aa, and 616bb to 616hh of this title. (Pub. L. 88–565, § 3, Sept. 2, 1964, 78 Stat. 848.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

§ 616dd. Conservancy district or similar organization; establishment prerequisite to construction of project; powers of district.

Construction of the project shall not be commenced until there shall be established a conservancy district or similar organization with such powers as may be required by the Secretary, these to include powers to tax both real and personal property within the boundary of the district and to enter into contracts with the United States for the repayment of reimbursable costs. (Pub. L. 88–565, § 4, Sept. 2, 1964, 78 Stat. 848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616ee. Interest rate; basis for determination by the Secretary of the Treasury; repayment of construction costs; period for repayment.

The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance of those portions of the reimbursable costs which are properly allocable to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which this bill is enacted, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue. If the interest rate so computed is not a multiple of one-eighth of 1 per centum, the rate of interest to be used for these purposes shall be the multiple of one-eighth of 1 per centum next lower than the rate so computed. The portions of the costs which are allocable to commercial power development and to municipal and industrial water supply shall be repaid over a period of fifty years with interest at the rate determined in accordance with this section. The portion of the cost which is allocable to irrigation shall be repaid, pursuant to reclamation law, within fifty years plus any authorized development period. (Pub. L. 88–565, § 5, Sept. 2, 1964, 78 Stat. 848.)

REFERENCES IN TEXT

The beginning of the fiscal year in which this bill is enacted, referred to in the text, means the fiscal year in

which Pub. L. 88–565, which added sections 616aa, and 616bb to 616hh of this title, was enacted, namely Sept. 2, 1964.

The reclamation law, referred to in the text, is classified generally to this title. See note under section 616cc of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616ff. Public recreation facilities; nonreimbursable costs; limitation of authority under existing provisions of law.

The Secretary is authorized in connection with the project to construct, operate, and maintain or otherwise provide for the basic public outdoor recreation facilities, to acquire or otherwise to include within the project area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for the public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of project lands or facilities, or to dispose of project lands or facilities to Federal agencies, or State or local public bodies by lease, transfer, conveyance, or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, and the costs of the project allocated to fish and wildlife enhancement, including costs of investigation, planning, Federal operation and maintenance, and an appropriate share of joint costs of the project, shall be nonreimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resource projects, or disposition of public lands for recreational purposes. (Pub. L. 88–565, § 6, Sept. 2, 1964, 78 Stat. 849.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616gg. Water use controlled by compact, law, and treaty.

The use of all water diverted for this project from the Colorado River system shall be subject to and controlled by the Colorado River compact, the Boulder Canyon Project Act, and the Mexican Water Treaty (Treaty Series 994) (59 Stat. 1219). (Pub. L. 88–565, § 7, Sept. 2, 1964, 78 Stat. 849.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in the text, is classified to subchapter I of chapter 12A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

§ 616hh. Authorization of appropriations.

There is hereby authorized to be appropriated for the construction of the Dixie project, the sum of $58,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said project. (Pub. L. 88–565, § 8, Sept. 2, 1964, 78 Stat. 849; Pub. L. 90–537, title III, § 307, Sept. 30, 1968, 82 Stat. 893.)

AMENDMENTS

1968—Pub. L. 90–537 substituted "$58,000,000" for "$42,700,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616cc of this title.

SAVERY-POT HOOK PROJECT, COLORADO-WYOMING; BOSTWICK PARK AND FRUITLAND MESA PROJECTS, COLORADO

§ 616ii. Construction and operation; engineering plans; acreage modification.

The Savery-Pot Hook Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior transmitted to the Congress on June 25, 1962, and printed as House Document 461, Eighty-seventh Congress. The Bostwick Park Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior submitted to the Congress on July 20, 1962, and printed as House Document 487, Eighty-seventh Congress. The Fruitland Mesa Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior transmitted to Congress on April 19, 1963, and printed as House Document 107, Eighty-eighth Congress. Acreage equivalents expressed in those reports may be modified at the discretion of the Secretary of the Interior. (Pub. L. 88–568, § 2, Sept. 2, 1964, 78 Stat. 852.)

§ 616jj. Provisions applicable to the projects; acreage limitation in single ownership for reception of project water.

For the purpose of assisting in the permanent settlement of farm families, protecting project land, facilitating project development, and other beneficial purposes, the provisions of the Act of August 28, 1958 (72 Stat. 963), relating to the Seedskadee project in Wyoming, are hereby made equally applicable to the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa projects and all references therein to "Wyoming", "the State of Wyoming", "the laws of the State of Wyoming", or "said State" shall also refer to the State of Colorado to the extent that lands of the said projects are situated therein, except that on the said projects the limitation on lands held in single ownership which may be eligible to receive project water from, through, or by means of project works shall be one hundred and sixty acres of class 1 land as defined for the Bostwick Park project or the equivalent thereof in other land classes as determined by the Secretary of the Interior. (Pub. L. 88–568, § 3, Sept. 2, 1964, 78 Stat. 852.)

REFERENCES IN TEXT

The Act of August 28, 1958 (72 Stat. 963), referred to in the text, was not classified to the Code.

§ 616kk. Recreational and fish and wildlife facilities.

(a) Nonreimbursable costs; provisions for reimbursement, contributions by non-Federal interests, and reallocation of joint costs; methods deemed appropriate by Secretary of Interior.

Costs of the Bostwick Park, Fruitland Mesa, and Savery-Pot Hook projects, incurred pursuant to section 620g of this title, including an appropriate share of the aggregate of joint costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable: *Provided,* That in the case of the Bostwick Park project joint costs allocated to recreation and fish and wildlife enhancement shall in the aggregate be nonreimbursable only to the extent they do not exceed 25 per centum of the cost of joint use land and facilities of that project (joint use land and facilities being defined as land or facilities serving two or more project purposes one of which is recreation or fish and wildlife enhancement) and: *Provided further,* That provisions shall be made for the reimbursement, for the contribution by non-Federal interests, or for the reallocation of joint costs of said project allocated to recreation and fish and wildlife enhancement in excess of the foregoing limit under one or a combination of the following methods as may be determined appropriate by the Secretary: (1) provision by non-Federal interests of lands or interests therein, or facilities required for the project; (2) payment, or repayment, with interest at a rate determined in accordance with section 620d(d) of this title pursuant to agreement with one or more non-Federal public bodies; (3) reallocation to other project functions in the same proportion as joint costs are allocated among such functions.

(b) Transfer of lands by Secretary of Interior for administration as national forest; jurisdiction and operational control of project lands within national forests.

In connection with the Bostwick Park and Fruitland Mesa projects the Secretary of the Interior shall transfer lands acquired for the projects within exerior national forest boundaries for administration as national forest, and jurisdiction of national forests lands within the projects shall remain with the Secretary of Agriculture for recreation and other national forest system purposes: *Provided,* That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the projects for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation.

(c) Allocation of fish and wildlife damage-mitigation costs among other project functions.

Costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among other project functions. (Pub. L. 88–568, § 4, Sept. 2, 1964, 78 Stat. 852.)

§ 616*ll*. Restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from September 2, 1964, no water from the projects authorized by this Act shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 88–568, § 5, Sept. 2, 1964, 78 Stat. 853.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 88–568, which enacted sections 616ii—616mm and amended sections 620 and 620a of this title.

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of title 7, Agriculture. See short title note under section 1421 of title 7.

CROSS REFERENCES

Basic agricultural commodity defined in Agricultural Act of 1949, see section 1428(c) of Title 7, Agriculture.

§ 616mm. Appropriations.

The amount which section 620k of this title authorizes to be appropriated is hereby increased by the sum of $47,000,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for the construction of the projects herein authorized. (Pub. L. 88–568, § 1, Sept. 2, 1964, 78 Stat. 852.)

LOWER TETON DIVISION OF TETON BASIN PROJECT, IDAHO

§ 616nn. Authorization for construction, operation, and maintenance; purposes; principal engineering features; law governing; operation consistent with storage rights agreements.

In order to assist in the irrigation of arid and semiarid lands in the upper Snake River Valley, Idaho, to provide facilities for river power opportunities created thereby and, as incidents to the foregoing purposes, to enhance recreational opportunities and provide for the conservation and development of fish and wildlife, the Secretary of the Interior is authorized to construct, operate, and maintain the Lower Teton division of the Teton Basin Federal reclamation project. The principal engineering features of the said project shall be a dam and reservoir at the Fremont site, a pumping plant, powerplant, canals and water distribution facilities, ground water development, and related facilities in the upper Snake River Valley, Idaho. In the construction, operation, and maintenance of the said project and project works the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto). The project shall be operated consistent with the existing agreements as to storage rights in the Federal reclamation reservoirs in the upper Snake River Basin. (Pub. L. 88–583, § 1, Sept. 7, 1964, 78 Stat. 925.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

§ 616oo. Extension of period for repayment of construction costs; repayment from revenues derived from disposition of power.

The period provided in subsection (d) of section 485h of this title for repayment of construction costs properly allocable to any block of lands and assigned to be repaid by the irrigators may be extended to fifty years, exclusive of a development period, from the time water is first delivered to that block, or as near that number of years as is consistent with the adoption and operation of a repayment formula as therein provided. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within a fifty-year period shall be returned to the reclamation fund from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration and attributable to Federal projects in Idaho. (Pub. L. 88–583, § 2, Sept. 7, 1964, 78 Stat. 925.)

§ 616pp. Public recreation facilities; nonreimbursable costs; limitation of authority under existing provisions of law.

(a) The Secretary is authorized to construct, operate, and maintain or otherwise provide for basic public outdoor recreation facilities, to acquire or otherwise to include within the division area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for the public use and enjoyment of division lands, facilities, and water areas in a manner coordinated with the other division functions. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, or additional development of division lands or facilities, or to dispose of division lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance, or exchange upon such terms and conditions as will best promote the development and operation of such lands and facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, including costs of investigation, planning, Federal operation and maintenance, shall be nonreimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resource projects or to disposition of public lands for recreation purposes.

(b) Costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among other division functions. (Pub. L. 88–583, § 3, Sept. 7, 1964, 78 Stat. 925.)

§ 616qq. Water users contracts; amendment; new contracts; power operations to absorb cost of reduction of annual obligations for winter water power replacements; conditions for construction of facilities; subscription of conservation capacity in Fremont reservoir, negotiations, and reports to President and Congress.

(a) The Secretary is authorized to amend contracts heretofore made under the Acts of September 30, 1950 (64 Stat. 1083), and of August 31, 1954 (68 Stat. 1026), whereby the water users assumed an obligation for winter power replacement based on the winter water savings program at the Minidoka powerplant to relieve the contractors ratably by one-third of that obligation, and to make new contracts under these Acts on a like basis. To the extent such annual obligations are reduced, the cost thereof shall be included in the cost to be absorbed by the power operations of the Federal power system in Idaho.

(b) The actual construction of the facilities herein authorized shall not be undertaken until at least 80 per centum of the conservation capacity in Fremont Reservoir is under subscription, nor until negotiations have been undertaken in accordance with the provisions of (a) of this section.

(c) No construction shall be undertaken on facilities of the Lower Teton division which are required solely to provide a full water supply to lands in the Rexburg Bench area until the Secretary has submitted his report and finding of feasibility on this phase of the division to the President and to the Congress. (Pub. L. 88–583, § 4, Sept. 7, 1964, 78 Stat. 926.)

REFERENCES IN TEXT

The Acts of September 30, 1950 (64 Stat. 1083), and of August 31, 1954 (68 Stat. 1026), referred to in subsec. (a), provided for the Palisades Dam and Reservoir and Michaud Flats projects, Idaho, respectively, and were not classified to the Code.

§ 616rr. Authorization of appropriations.

There is hereby authorized to be appropriated for the construction of the Lower Teton division of the Teton Basin Federal reclamation project, the sum of $52,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said division. (Pub. L. 88–583, § 5, Sept. 7, 1964, 78 Stat. 926.)

WHITESTONE COULEE UNIT, CHIEF JOSEPH DAM PROJECT, WASHINGTON

§ 616ss. Authorization for construction, operation, and maintenance.

For the purpose of furnishing a new and a supplemental water supply for the irrigation of approximately two thousand five hundred and fifty acres of land in Okanogan County, Washington, for the purpose of undertaking the rehabilitation and betterment of existing works serving a major portion of these lands, and for conservation and development of fish and wildlife resources and improvement of public recreation facilities, the Secretary of the Interior is authorized to construct, operate, and maintain the Whitestone Coulee unit of the Okanogan-Similkameen division of the Chief Joseph Dam project, in accordance with the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the unit shall consist of: facilities to permit enlargement and utilization of Spectacle Lake storage; related canal and conduits, diversion dam, pumping plants, and distribution systems; and necessary works incidental to the rehabilitation and expansion of the existing

irrigation system. (Pub. L. 88-599, § 1, Sept. 18, 1964, 78 Stat. 955.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 39 Stat. 388, and Acts amendatory thereof or supplementary thereto), are classified generally to this title. See Tables for distribution.

§ 616tt. Application of other laws; construction costs.

The provisions of section 2 of the Act of July 27, 1954 (68 Stat. 568, 569), shall be applicable to the Whitestone Coulee unit of the Okanogan-Similkameen division of the Chief Joseph Dam project. The term "construction costs" used therein shall include any irrigation operation, maintenance, and replacement costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the water users to pay during that period. (Pub. L. 88-599, § 2, Sept. 18, 1964, 78 Stat. 955.)

§ 616uu. Recreational facilities; construction and operation; agreements with Federal agencies, State, or local public bodies; nonreimbursable costs; project costs.

(a) The Secretary is authorized as a part of the Whitestone Coulee unit to construct, operate, and maintain or otherwise provide for basic public outdoor recreation facilities, to acquire or otherwise to include within the unit area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for public use and enjoyment of unit lands, facilities, and water areas in a manner coordinated with the other unit purposes. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of unit lands or facilities, or to dispose of unit lands or facilities to Federal agencies or State or local public bodies by lease, transfer, exchange, or conveyance, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, including costs of investigation, planning, Federal operation and maintenance, and an appropriate share of the joint costs of the unit, shall be nonreimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resources projects or the disposition of public lands for recreational purposes.

(b) The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among the project functions. (Pub. L. 88-599, § 3, Sept. 18, 1964, 78 Stat. 955.)

§ 616vv. Authorization of appropriations.

There are hereby authorized to be appropriated for construction of the new works involved in the Whitestone Coulee unit, of the Okanogan-Similkameen division of the Chief Joseph Dam project $5,312,000, plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indices and, in addition thereto, such sums as may be required to operate and maintain said division. (Pub. L. 88-599, § 4, Sept. 18, 1964, 78 Stat. 956.)

§ 616vv-1. Manson unit; authorization for construction, operation, and maintenance; purposes; principal works.

For the purposes of supplying irrigation water for approximately five thousand eight hundred acres of land, undertaking the rehabilitation and betterment of works serving a major portion of these lands, conservation and development of fish and wildlife resources, and enhancement of recreation opportunities, the Secretary of the Interior is authorized to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto). The principal works of the unit shall consist of dams and related works for enlargement of Antilon Lake storage, related canals, conduits, and distribution systems, and works incidental to the rehabilitation of the existing irrigation systems. (Pub. L. 89-557, § 1, Sept. 7, 1966, 80 Stat. 704.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

§ 616vv-2. Same; irrigation repayment contracts; period for repayment; repayment from revenues derived from disposition of power; construction costs defined; charges for power and energy for irrigation water pumping.

Irrigation repayment contracts shall provide for repayment of the obligation assumed thereunder with respect to any contract unit over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. The term "construction costs", as used herein, shall include any irrigation operation, maintenance, and replacement costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the irrigators to pay during that period. Power and energy required for irrigation water pumping for the Manson unit shall be made available by the Secretary from the Federal Columbia River power system at charges determined by the Secretary. (Pub. L. 89-557, § 2, Sept. 7, 1966, 80 Stat. 704.)

§ 616vv-3. Same; conservation and development of fish and wildlife and enhancement of recreation.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Manson unit shall be in accordance with provisions of the Federal Water Project Recreation Act. (Pub. L. 89-557, § 3, Sept. 7, 1966, 80 Stat. 704.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in the text, is classified to section 460*l*-12 et seq. of Title 16, Conservation.

§ 616vv-4. Same; restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from September 7, 1966, no water shall be delivered to any water user on the Manson unit, Chelan division, for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 89-557, § 4, Sept. 7, 1966, 80 Stat. 704.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

CROSS REFERENCES

Basic agricultural commodity defined in Agricultural Act of 1949, see section 1428(c) of Title 7, Agriculture.

§ 616vv-5. Same; authorization of appropriations.

There are hereby authorized to be appropriated for construction of the new works involved in the Manson unit, $13,344,000 (April 1965 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes and, in addition thereto, such sums as may be required to operate and maintain said unit. (Pub. L. 89-557, § 5, Sept. 7, 1966, 80 Stat. 705.)

AUBURN-FOLSOM SOUTH UNIT; SAN FELIPE DIVISION: CENTRAL VALLEY PROJECT, CALIFORNIA

§ 616aaa. Authorization for construction, operation. and maintenance; purpose; principal works.

For the principal purpose of increasing the supply of water available for irrigation and other beneficial uses in the Central Valley of California, the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain, as an addition to, and an integral part of, the Central Valley project, California, the Auburn-Folsom South unit, American River division. The principal works of the unit shall consist of—

(1) the Auburn Dam and Reservoir with maximum water surface elevation of one thousand one hundred and forty feet above mean sea level, and capacity of approximately two and one-half million acre-feet;

(2) a hydroelectric powerplant at Auburn Dam with initial installed capacity of approximately two hundred and forty thousand kilowatts and necessary electric transmission system for interconnection with the Central Valley project power system: *Provided,* That provision may be made for the ultimate development of the hydroelectric capacity (now estimated at approximately four hundred thousand kilowatts) and such installation may be made when duly authorized by an Act of Congress: *Provided further,* That no facilities, except those required for interconnecting the Auburn powerplant and the Folsom switchyard and those interconnecting the Folsom switchyard and the Elverta substation, shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of a firm offer of a fifty-year contract from a local public or private agency, can be obtained at less cost to the Federal Government than by construction and operation of Government facilities;

(3) the Sugar Pine Dam and Reservoir;

(4) the County Line Dam and Reservoir;

(5) necessary diversion works, conduits, and other appurtenant works for the delivery of water supplies to projects on the Forest Hill Divide in Placer County and in the Folsom-Malby area in Sacramento and El Dorado Counties;

(6) the Folsom South canal and such related structures, including pumping plants, regulating reservoirs, floodways, channels, levees, and other appurtenant works for the delivery of water as the Secretary determines will best serve the needs of Sacramento and San Joaquin Counties: *Provided,* That the Secretary is authorized to include in such canal and related operating structures such additional works or capacity as he deems necessary and economically justified to provide for the future construction of the East Side division of the Central Valley project, and the incremental costs of providing additional works or capacity in the Folsom South canal to serve the East Side division of the Central Valley project shall be assigned to deferred use for repayment from Central Valley project revenues. In the event that the East Side division is authorized, such costs shall be deemed a part of the cost of that division and shall be reallocated as the Secretary deems right and proper.

(Pub. L. 89-161, § 1, Sept. 2, 1965, 79 Stat. 615.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616bbb, 616ccc, 616ddd, 616eee of this title.

§ 616bbb. Financial and operational integration and coordination of unit and project; flood control.

Subject to the provisions of sections 616aaa to 616fff of this title, the operation of the Auburn-Folsom South unit, American River division, shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project, as presently authorized and as may in the future be authorized by Act of Congress, in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made

available. Auburn and County Line Dams shall be operated for flood control in accordance with criteria established by the Secretary of the Army as provided for in section 709 of Title 33. (Pub. L. 89–161, § 2, Sept. 2, 1965, 79 Stat. 616.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ccc, 616ddd, 616eee of this title.

§ 616ccc. Public outdoor recreation and fish and wildlife facilities.

(a) Construction, operation, and maintenance; acquisition of and inclusion of lands in unit area; allocation of water; public use and enjoyment; agreements with Federal agencies, State, or local public bodies; transfers of lands and facilities for development and operation.

Subject to the provisions of subsections (b), (c), (d), and (e) of this section, the Secretary is authorized in connection with the Auburn-Folsom South unit (i) to construct, operate, and maintain or provide for the construction, operation, and maintenance of public outdoor recreation and fish and wildlife enhancement facilities, (ii) to acquire or otherwise to include within the unit area such adjacent lands or interests in land as are necessary for present or future public recreation or fish and wildlife use, (iii) to allocate water and reservoir capacity to recreation and fish and wildlife enhancement, and (iv) to provide for the public use and enjoyment of unit lands, facilities, and water areas in a manner coordinated with other unit purposes. The Secretary is further authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and replacement of unit facilities, and to transfer unit lands or facilities to Federal agencies or State or local public bodies by lease or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(b) Sugar Pine Reservoir recreation facilities; nonreimbursable provisions inapplicable.

Costs of recreation facilities at Sugar Pine Reservoir shall be nonreimbursable, and the provisions of subsections (c), (d), and (e) of this section shall not be applicable to such facilities.

(c) Non-Federal administration of unit land and water areas; costs; preconstruction agreement; nonreimbursable costs; absence of agreement; public health and safety requirement of minimum facilities at access points and allocation of unit costs.

(1) If, before commencement of construction of the unit, non-Federal public bodies agree to administer unit land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the unit approved by the Secretary and to bear not less than one-half the separable costs of the unit allocated to either or both of said purposes, as the case may be, and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated shall be nonreimbursable.

(2) In the absence of such a preconstruction agreement recreation and fish and wildlife enhancement facilities (other than minimum facilities for the public health and safety at reservoir access points) shall not be provided, and the allocation of unit costs shall reflect only the number of visitor days and the value per visitor day estimated to result from such diminished recreation development without reference to lands which may be provided pursuant to subsection (e) of this section.

(d) Non-Federal share of costs.

The non-Federal share of the separable capital costs of the unit allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the Secretary: (i) payment, or provision of lands, interests therein, or facilities for the unit; or (ii) repayment, with interest, within fifty years of first use of unit recreation or fish and wildlife enhancement facilities: *Provided,* That the source of repayment may be limited to entrance and user fees or charges collected at the unit by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

(e) Preservation of recreation and fish and wildlife enhancement potential; execution of agreements within ten year period; disposition of lands in absence of such agreements; prohibition against uses conflicting with project purposes, and preference to uses promoting and not detracting from such potential.

Notwithstanding the absence of preconstruction agreements as specified in subsection (c) of this section lands may be acquired in connection with construction of the unit to preserve its recreation potential, its fish and wildlife enhancement potential, or both.

(1) If non-Federal public bodies agree within ten years after initial unit operation to administer unit land and water areas for recreation and fish and wildlife enhancement pursuant to the plan for development of the unit approved by the Secretary and to bear not less than one-half the costs of land acquired therefor pursuant to this subsection and facilities and project modifications provided for those purposes and all costs of operation, maintenance, and replacement incurred therefor, the remainder of the costs of such lands, facilities, and project modifications shall be nonreimbursable. Such agreement and subsequent development shall not be the basis for any allocation of joint costs of the unit to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the unit, there is not an executed agreement as specified in paragraph (1) of this subsection, the Secretary may utilize the lands for any lawful purpose within the jurisdiction of the Department of the Interior, or may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with

the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

(f) Nonreimbursable costs.

Subject to the limitations hereinbefore stated, joint capital costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable.

(g) Allocation of fish and wildlife damage-mitigation among all unit purpose.

Costs of means and measures to prevent loss of and damage to fish and wildlife shall be treated as unit costs and allocated among all unit purposes.

(h) Interpretation of "nonreimbursable".

As used in sections 616aaa to 616fff of this title, the term "nonreimbursable" shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges. (Pub. L. 89–161, § 3, Sept. 2, 1965, 79 Stat. 616.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616bbb, 616ddd, 616eee of this title.

§ 616ddd. Consideration of State water plan reports; consultation of local interests: public hearings or other expression of views.

In locating and designing the works and facilities authorized for construction by sections 616aaa to 616fff of this title, and in acquiring or withdrawing any lands as authorized by sections 616aaa to 616fff of this title, the Secretary shall give due consideration to the reports upon the California water ties authorized for construction by sections 616aaa plant prepared by the State of California, and shall consult the local interests who may be affected by the construction and operation of said works and facilities or by the acquisition or withdrawal of lands, through public hearings or in such manner as in his discretion may be found best suited to a maximum expression of the views of such local interests. (Pub. L. 89–161, § 4, Sept. 2, 1965, 79 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616bbb, 616ccc, 616eee of this title.

§ 616eee. Allocation of water; limitation.

Nothing contained in sections 616aaa to 616fff of this title shall be construed by implication or otherwise as an allocation of water, and in the studies for the purposes of developing plans for dispoal of water as herein authorized the Secretary shall make recommendations for the use of water in accord with State water laws, including but not limited to such laws giving priority to the counties and areas of origin for present and future needs. (Pub. L. 89–161, § 5, Sept. 2, 1965, 79 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616bbb, 616ccc, 616ddd of this title.

§ 616fff. Authorization of appropriations.

There is hereby authorized to be appropriated for construction of the Auburn-Folsom South unit, American River division, the sum of $425,000,000 (1965 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the project. (Pub. L. 89–161, § 6, Sept. 2, 1965, 79 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616bbb, 616ccc, 616ddd, 616eee of this title.

§ 616fff–1. San Felipe division; authorization for construction, operation, and maintenance; purposes; principal works; service contract with local public or private agency.

For the purposes of providing irrigation and municipal and industrial water supplies, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities and other related purposes, the Secretary of the Interior acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain, as an addition to, and an integral part of, the Central Valley project, California, the San Felipe division. The principal works of the division shall consist of the Pacheco tunnel, pumping plants, power transmission facilities, canals, pipelines, regulating reservoirs, and distribution facilities. No facilities shall be constructed for electric transmission and distribution service which the Secretary determines, on the basis of an offer of a firm fifty-year contract from a local public or private agency, can through such a contract be obtained at less cost to the Federal Government than by construction and operation of Government facilities. (Pub. L. 90–72, § 1, Aug. 27, 1967, 81 Stat. 173.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–4, 616fff–6 of this title.

§ 616fff–2. Same; application of other laws.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the San Felipe division shall be in accordance with the provisions of the Federal Water Project Recreation Act. (Pub. L. 90–72, § 2, Aug. 27, 1967, 81 Stat. 174.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in the text, is classified to section 460*l*–12 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–4, 616fff–6 of this title.

§ 616fff–3. Same; contract for delivery of water through State facilities.

The Secretary may contract with the State of California for the delivery through facilities of the State water project to the San Luis forebay reservoir

of all or any part of the water of the Central Valley project assigned to the San Felipe division. (Pub. L. 90–72, § 3, Aug. 27, 1967, 81 Stat. 174.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–4, 616fff–6 of this title.

§ 616fff–4. Same; consideration of State water plan reports; consultation with local interests; public hearings or other expression of local views.

In locating and designing the works and facilities authorized for construction by sections 616fff–1 to 616fff-7 of this title, and in acquiring or withdrawing any lands as authorized by such sections, the Secretary shall give due consideration to reports prepared by the State of California on the California water plan, and shall consult with local interests who may be affected by the construction and operation of said works and facilities or by the acquisition or withdrawal of lands, through public hearings or in such manner as in his discretion may be found best suited to a maximum expression of the views of such local interests. (Pub. L. 90–72, § 4, Aug. 27, 1967, 81 Stat. 174.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–6 of this title.

§ 616fff–5. Same; nonapplication of other laws.

In view of the special circumstances of the San Felipe division, neither the provisions of the third sentence of section 423e of this title nor any other similar provision of the Federal reclamation laws shall be applicable in the south and north Santa Clara subareas so long as the water utilized on project lands is acquired by pumping from the underground reservoir. (Pub. L. 90–72, § 5, Aug. 27, 1967, 81 Stat. 174.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–4, 616fff–6 of this title.

§ 616fff–6. Same; restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from August 27, 1967, no water from the project authorized by sections 616fff–1 to 616fff–7 of this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 90–72, § 6, Aug. 27, 1967, 81 Stat. 174.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

CROSS REFERENCE

Basic agricultural commodity defined in Agricultural Act of 1949, see section 1428(c) of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616fff–4 of this title.

§ 616fff–7. Same; authorization of appropriations.

There are hereby authorized to be appropriated for construction of the new works involved in the San Felipe division $92,380 (October 1966 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes and, in addition thereto, such sums as may be required to operate and maintain said division. (Pub. L. 90–72, § 7, Aug. 27, 1967, 81 Stat. 174.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616fff–4, 616ffff–6 of this title.

SOUTHERN NEVADA PROJECT, NEVADA

§ 616ggg. Authorization for construction, operation, and maintenance of project; distribution of water within Clark County, Nevada.

The Secretary of the Interior is authorized to construct, operate, and maintain the southern Nevada water project, Nevada, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), except as those laws are inconsistent with sections 616ggg to 616mmm of this title for the principal purpose of delivering water for municipal and industrial use. The principal features of the southern Nevada water project shall consist of intake facilities, pumping plants, aqueduct and laterals, transmission lines, substations, and storage and regulatory facilities required to provide water from Lake Mead on the Colorado River for distribution to municipalities and industrial centers within Clark County, Nevada. (Pub. L. 89–292, § 1, Oct. 22, 1965, 79 Stat. 1068.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616*lll* of this title.

§ 616hhh. Allocation of project costs.

(a) Allocation to municipal and industrial water supply; fish, wildlife, and recreation.

The Secretary shall make appropriate allocations of project costs to municipal and industrial water supply and, if appropriate, to fish and wildlife and recreation: *Provided,* That all operation and maintenance costs for the southern Nevada water project shall be allocated to municipal and industrial water supply. Construction costs of the River Mountains dam and reservoir allocated to fish and wildlife and recreation shall be nonreimburseable in accordance with the Federal Water Project Recreation Act.

(b) Repayment of allocated project costs; interest.

Allocations of project costs made to municipal and industrial water supply shall be repayable to the

United States in not more than fifty years under either the provisions of the Federal reclamation laws or under the provisions of Water Supply Act of 1958 (title III of Public Law 85–500, 72 Stat. 319 and Acts amendatory thereof or supplementary thereto): *Provided*, That, in either case, repayment of costs allocated to municipal and industrial water supply shall include interest on the unamortized balance of such allocations at a rate equal to the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on October 22, 1965, and adjusted to the nearest one-eighth of 1 per centum. (Pub. L. 89–292, § 2, Oct. 22, 1965, 79 Stat. 1068.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72 and is classified to section 460*l*–12 et seq. of Title 16, Conservation.

The Federal reclamation laws, referred to in text, are classified generally to this title. See Tables for distribution.

The Water Suply Act of 1958 (title III of Public Law 85–500, 72 Stat. 319), is classified to section 390b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ggg, 616*lll* of this title.

§ 616iii. Commencement of construction.

(a) Contract with Nevada or Nevada state agency.

The Secretary is authorized to enter into a contract with the State of Nevada, acting through the Colorado River Commission of Nevada or other duly authorized State agency, for the delivery of water and for repayment of the reimbursable construction cost.

(b) Execution of contract prerequisite to commencement of project.

Construction of the project shall not be commenced until a suitable contract has been executed by the Secretary and the Colorado River Commission or other duly authorized State agency.

(c) Impairment of efficiency of project for irrigation purposes.

Such contract may be entered into without regard to the last sentence of section 485h(c) of this title.

(d) Transfer of project to state agency.

Upon execution of the contract referred to in subsection (a) of this section, and upon completion of construction of the project, the Secretary shall transfer to said Colorado River Commission of Nevada or other duly authorized State agency the care, operation, and maintenance of the intake, pumping plants, aqueducts, reservoirs, and related features of the southern Nevada water project upon the terms and conditions set out in the said contract.

(e) Permanent use of project facilities by Nevada.

When all of the costs allocable to reimbursable purposes incurred by the United States on constructing, operating, and maintaining the project, together with appropriate interest charges, have been returned to the United States by the State of Nevada, said State shall have the permanent right to use the intake, pumping plants, aqueducts, reservoirs, and related features of the southern Nevada water supply project in accordance with said contract. (Pub. L. 89–292, § 3, Oct. 22, 1965, 79 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ggg, 616*lll* of this title.

§ 616jjj. Construction costs allocated to defense installations.

Such amount of the costs of construction as are allocated to the furnishing of a water supply to Nellis Air Force Base or other defense installations shall be nonreimbursable. (Pub. L. 89–292, § 4, Oct. 22, 1965, 79 Stat. 1069.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ggg, 616*lll* of this title.

§ 616kkk. Control of diverted waters.

The use of all water diverted for this project from the Colorado River system shall be subject to and controlled by the Colorado River compact, the Boulder Canyon Project Act, and the Mexican Water Treaty (Treaty Series 994) (59 Stat. 1219). (Pub. L. 89–292, § 5, Oct. 22, 1965, 79 Stat. 1069.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in text, is classified to subchapter I of chapter 12A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ggg, 616*lll* of this title.

§ 616*lll*. Contract provisions for subordination of rights of contracting party to those of Basic Management, Inc., or its assignees.

The contract for delivery of water and repayment of reimbursable construction costs of the Southern Nevada Water Project required by section 616iii of this title shall provide that if within five years from October 22, 1965, Basic Management, Inc., or its assignees applies for a contract for the storage and delivery of water in accordance with the provisions of section 5 of the Boulder Canyon Project Act and the regulations of the Secretary of the Interior issued pursuant to said Act, the rights of the party contracting pursuant to section 616iii of this title shall be subordinate to those of Basic Management, Inc., or its assignees to the extent of 41,266 acre-feet per annum or so much thereof as is required for beneficial consumptive use by it, its right to the storage and delivery of the same having been properly maintained in accordance with the terms of its contract. Northing contained in sections 616ggg to 616mmm of this title shall be construed as affecting the satisfaction of present perfected rights as defined by the decree of the United States Supreme Court in Arizona v. California, 367 U.S. 340. (Pub. L. 89–292, § 6, Oct. 22, 1965, 79 Stat. 1069; Pub. L. 89–510, July 19, 1966, 80 Stat. 312.)

REFERENCES IN TEXT

Section 5 of the Boulder Canyon Project Act, referred to in the text, is classified to section 617d of this title.

Said Act, referred to in the text, means the Boulder Canyon Project Act, which is classified to subchapter I of chapter 12A of this title.

AMENDMENTS

1966—Pub. L. 89–510 amended section generally by substituting provisions requiring the contract for delivery of water and repayment of reimbursable construction costs to provide for subordination of the rights of the

contracting party to those of Basic Management, Inc., or its assignees, if Basic Management, Inc., or its assignees applies for a contract for the storage and delivery of water within five years from October 22, 1965, for provisions which directed the Secretary, in all water supply contracts for the use of water in Nevada under sections 616ggg—616mmm of this title or section 617d of this title, to recognize the intrastate priorities of water rights to the use of water existing on October 22, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616ggg of this title.

§ 616mmm. Authorization of appropriations.

There is hereby authorized to be appropriated for construction of the southern Nevada water project, Nevada, the sum of $81,003,000 (September 1965 prices) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. (Pub. L. 89–292, § 7, Oct. 22, 1965, 79 Stat. 1069.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616ggg, 616*lll* of this title.

TUALATIN PROJECT, OREGON

§ 616nnn. Authorization for construction, operation, and maintenance; purposes; principal features.

In order to supply irrigation water to approximately seventeen thousand acres of land in the Tualatin River Valley, Oregon, to develop municipal and industrial water supplies, to provide facilities for river regulation and control of floods, to enhance recreation opportunities, to provide for the conservation and development of fish and wildlife resources, and for other purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Tualatin Federal reclamation project in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto). The principal features of the said project shall be a dam and reservoir on Scoggin Creek, canals, pumping plants and water distribution facilities. (Pub. L. 89–596, § 1, Sept. 20, 1966, 80 Stat. 822.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616qqq of this title.

§ 616*ooo*. Irrigation repayment contracts; repayment period; repayment from revenues derived from disposition of power; charges for power and energy.

Irrigation repayment contracts shall provide, with respect to any contract unit, for repayment of the irrigation construction costs assigned for repayment to the irrigators over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. Power and energy required for irrigation water pumping for the Tualatin project shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him. (Pub. L. 89–596, § 2, Sept. 20, 1966, 80 Stat. 822.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616qqq of this title.

§ 616ppp. Conservation and development of fish and wildlife resources and enhancement of recreation.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Tualatin project shall be in accordance with the provisions of the Federal Water Project Recreation Act. (Pub. L. 89–596, § 3, Sept. 20, 1966, 80 Stat. 822.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in the text, is classified to section 460*l*–12 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616qqq of this title.

§ 616qqq. Project repayment.

(a) Water users' contracts; period for repayment; interest.

Costs of the project allocated to municipal water supply shall be repayable, with interest, by the municipal water users over a period of not more than fifty years from the date that water is first delivered for that purpose, pursuant to contracts with municipal corporations, or other organizations, as defined in section 485a(g) of this title. Contracts may be entered into with water users' organizations pursuant to the provisions of sections 616nnn to 616sss of this title without regard to the last sentence of section 485h(c) of this title.

(b) Interest rate; basis for determination by Secretary of Treasury.

The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such interest rate to the nearest multiple of one-eighth of 1 per centum if the computed average interest rate is not a multiple of one-eighth of 1 per centum.

(c) Nonreimbursable costs.

Costs of the project allocated to highway transportation shall be nonreimbursable in accordance with section 701r–1 of Title 33. (Pub. L. 89–596, § 4, Sept. 20, 1966, 80 Stat. 822.)

§ 616rrr. Restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from September 20, 1966, no water shall be delivered to any water user on the Tualatin project for the production on newly irrigated lands of any basic agricultural commodity, as

defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 89–596, § 5, Sept. 20, 1966, 80 Stat. 823.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616qqq of this title.

§ 616sss. Authorization of appropriations.

There is hereby authorized to be appropriated for the construction of the Tualatin project the sum of $20,900,000 (January 1965 prices) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said project. (Pub. L. 89–596, § 6, Sept. 20, 1966, 80 Stat. 823.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616qqq of this title.

MISSOURI RIVER BASIN PROJECT, SOUTH DAKOTA

§ 616ttt. Authorization for construction, operation, and maintenance; purposes; principal features.

The Secretary of the Interior is hereby authorized to construct, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto) the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, for the principal purposes of furnishing a surface irrigation water supply for approximately one hundred and ninety thousand acres of land, furnishing water for municipal and industrial uses, controlling floods, conserving and developing fish and wildlife resources, and enhancing outdoor recreation opportunities, and other purposes. The principal features of the initial stage of the Oahe unit shall consist of the Oahe pumping plant (designed to provide for future enlargement) to pump water from the Oahe Reservoir, a system of main canals, regulating reservoirs, and the James diversion dam and the James pumping plant on the James River. The remaining works will include appurtenant pumping plants, canalas, and laterals for distributing water to the land, and a drainage system. (Pub. L. 90–453, § 1, Aug. 3, 1968, 82 Stat. 624.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616www, 616yyy of this title.

§ 616uuu. Conservation and development of fish and wildlife resources and enhancement of recreation; commencement of construction upon elimination of State prohibition against hunting by nonresidents in waterfowl enhancement areas.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the initial stage of the Oahe unit shall be in accordance with the provisions of the Federal Water Project Recreation Act. Construction of the initial stage of the Oahe unit shall not be commenced as long as the State of South Dakota retains in its laws provisions that prohibit the hunting of migratory waterfowl by nonresidents in the waterfowl enhnacement areas included within the area served by the project herein authorized. (Pub. L. 90–453, § 2, Aug. 3, 1968, 82 Stat. 624.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in the text, is classified to section 460*l*–12 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616www, 616yyy of this title.

§ 616vvv. Physical and financial integration with other Federal works.

The Oahe unit shall be integrated physically and financially with the other Federal works constructed or authorized to be constructed under the comprehensive plan approved by section 9 of the Act of December 22, 1944, as amended and supplemented. (Pub. L. 90–453, § 3, Aug. 3, 1968, 82 Stat. 625.)

REFERENCES IN TEXT

Act of Dec. 22, 1944, as amended and supplemented, referred to in the text, is act Dec. 22, 1944, ch. 665, 58 Stat. 887, popularly known as the Flood Control Act of 1944. Section 9 of such Act is not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616www, 616yyy of this title.

§ 616www. Restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from August 3, 1968, no water from the project authorized by sections 616ttt to 616yyy of this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marked is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 90–453, § 4, Aug. 3, 1968, 82 Stat. 625.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616yyy of this title.

§ 616xxx. Interest rate; basis for determination by Secretary of Treasury.

The interest rate used for purposes of computing interest during construction and interest on the un-

paid balance of the capital costs allocated to interest-bearing features of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue. (Pub. L. 90–453, § 5, Aug. 3, 1968, 82 Stat. 625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616www, 616yyy of this title.

§ 616yyy. Authorization of appropriations.

There is hereby authorized to be appropriated for construction of the initial stage of the Oahe unit as authorized in sections 616ttt to 616yyy of this title the sum of $191,670,000 (based upon January 1964 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit. (Pub. L. 90–453, § 6, Aug. 3, 1968, 82 Stat. 625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616www of this title.

MOUNTAIN PARK PROJECT, OKLAHOMA

§ 616aaaa. Authorization for construction, operation, and maintenance.

The Secretary of the Interior is authorized to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, under the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial uses, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, and controlling floods. The principal features of the project shall consist of a dam and reservoir on Otter Creek, a diversion dam on Elk Creek, a canal from the diversion dam to a storage reservoir on Otter Creek, aqueducts from the storage reservoir to the cities of Altus and Snyder, Oklahoma, a wildlife management area, and basic public outdoor recreation facilities. Construction of the project may be undertaken in such units or stages as in the determination of the Secretary will best serve project requirements and meet water needs. (Pub. L. 90–503, § 1, Sept. 21, 1968, 82 Stat. 853.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), referred to in text, are classified generally to this title. See Tables for classification.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616bbbb of this title.

§ 616bbbb. Repayment of costs; interest rate.

(a) Costs of the project, or any unit or stage thereof, allocated to municipal water supply, shall be repayable, with interest, by the municipal water users over a period of not more than fifty years from the date that water is first delivered for that purpose, pursuant to contracts with municipal corporations or other organizations, as defined in section 485a(g) of this title. Such contracts shall be precedent to the commencement of construction of any unit or stage of the project. The contracting organization shall be responsible for the disposal and sale of water surplus to its requirements, but revenues therefrom shall be used only for payment of operation and maintenance costs, interest, and retirement of the obligation assumed in the contract. Contracts may be entered into with water users' organizations pursuant to the provisions of sections 616aaaa to 616ffff of this title without regard to the last sentence of subsection (c) of section 485h of this title.

(b) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such interest rate to the nearest multiple of one-eighth of 1 per centum if the computed average interest rate is not a multiple of one-eighth of 1 per centum. (Pub. L. 90–503, § 2, Sept. 21, 1968, 82 Stat. 853.)

§ 616cccc. Transfer of operation to water users' organization.

The Secretary is authorized to transfer to a water users' organization the care, operation, and maintenance of the project works, and, if such transfer is made to credit annually against the organization's repayment obligation that portion of the year's operation and maintenance costs which, if the United States had continued to operate the project, would have been allocated to flood control, fish and wildlife, and recreation purposes. Prior to assuming care, operation, and maintenance of the project works the water users' organization shall obligate itself to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish and wildlife and recreation. Upon complete payment of the obligation assumed, the water users' organization, its designee or designees, shall be conveyed title to such portions of the aqueducts and related facilities as are used solely for delivering project water to water users, and shall have a permanent right to use that portion of project reservoir capacity which is or may be allocated to municipal and industrial water supply purposes by the Secretary of the Interior, so long as the space designated for those purposes may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes to be served by the project as may be necessary due to sedimentation, subject, if the project is then operated by the United States, to payment to the United

States of a reasonable annual charge to cover operation and maintenance costs and a fair share of administrative costs applicable to the project. (Pub. L. 90–503, § 3, Sept. 21, 1968, 82 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616bbbb of this title.

§ 616dddd. Soil survey and land classification.

Expenditures for the Mountain Park project may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act of 1954. (Pub. L. 90–503, § 4, Sept. 21, 1968, 82 Stat. 854.)

REFERENCES IN TEXT

The Interior Department Appropriation Act of 1954, referred to in text, is act July 31, 1953, ch. 298, 67 Stat. 261. The soil survey and land classification requirements referred to are classified to section 390a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616bbbb of this title.

§ 616eeee. Conservation; recreation opportunities.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Mountain Park reclamation project shall be in accordance with the Federal Water Project Recreation Act. (Pub. L. 90–503, § 5, Sept. 21, 1968, 82 Stat. 854.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, which is classified to section 460*l*–12 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616bbbb of this title.

§ 616ffff. Authorization of appropriations.

There is hereby authorized to be appropriated for construction of the Mountain Park Reclamation Project the sum of $19,978,000 (January 1965 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project. (Pub. L. 90–503, § 6, Sept. 21, 1968, 82 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616bbbb of this title.

PALMETTO BEND PROJECT, TEXAS

§ 616gggg. Authorization for construction, operation, and maintenance.

The Secretary of the Interior is authorized to construct, operate, and maintain the first stage and to acquire lands for the second stage of the Palmetto Bend Federal reclamation project, Texas, in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto) for the purposes of storing, regulating, and furnishing water for municipal and industrial use, conserving and developing fish and wildlife resources, and enhancing outdoor recreation opportunities. The stage 1 development of the project shall consist of the following principal works: Palmetto Bend Dam and Reservoir on the Navidad River near Edna, Texas, and recreation facilities. (Pub. L. 90–562, § 1, Oct. 12, 1968, 82 Stat. 999.)

REFERENCES IN TEXT

Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), referred to in text, are classified generally to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616hhhh of this title.

§ 616hhhh. Repayment of costs.

(a) Costs of the project or any unit or stage thereof allocated to municipal and industrial water supply shall be repayable with interest, by the municipal and industrial water users over a period of not more than fifty years from the date that water is first delivered for that purpose, pursuant to contracts with municipal corporations, organizations, or other entities as defined in section 485a(g) of this title. Such contracts shall be precedent to the commencement of construction of the project. Contracts may be entered into with a qualified entity or entities pursuant to the provisions of sections 616gggg to 616*lll* of this title without regard to the last sentence of section 485h(c) of this title.

(b) If contracts for the repayment of all of the costs allocated to municipal and industrial water supply shall not have been executed within five years of October 12, 1968, the authorization herein granted to the Secretary shall thereupon terminate.

(c) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue. (Pub. L. 90–562, § 2, Oct. 12, 1968, 82 Stat. 999.)

§ 616iiii. Transfer of project care and operation to contractor; permanent usage rights.

(a) The Secretary is authorized to transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works, and, if such transfer is made, to credit annually against the contractor's repayment obligation that portion of the year's joint operation and maintenance costs which, if the United States had continued to operate the project, would have been allocated to fish and wildlife and recreation purposes. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall be obligated to operate them in accordance with criteria established by the Secretary of the Interior with respect to fish and wildlife and recreation.

(b) Upon complete payment of the obligation assumed, the contracting entity or entities, their designee or designees, shall have a permanent right

to use that portion of project reservoir capacity which is or may be allocated to municipal and industrial water supply purposes by the Secretary of the Interior, so long as the space designated for those purposes may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, subject, if the project is then operated by the United States, to payment to the United States of a reasonable annual charge to cover operation and maintenance costs and a fair share of administrative costs applicable to the project.

(c) Expenditures for the Palmetto Bend project may be made without regard to the soil survey and land classification requirements of section 390a of this title. (Pub. L. 90-652, § 3, Oct. 12, 1968, 82 Stat. 999.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616hhhh of this title.

§ 616jjjj. Conservation; development of fish and wildlife resources; recreation.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Palmetto Bend project shall be in accordance with the Federal Water Project Recreation Act. (Pub. L. 90-562, § 4, Oct. 12, 1968, 82 Stat. 1000.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89-72, July 9, 1965, 79 Stat. 213, which is classified to section 460*l*-12 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616hhhh of this title.

§ 616kkkk. Authorization of appropriations for construction, operation, and maintenance of first stage.

There is authorized to be appropriated for construction of the first stage of the Palmetto Bend reclamation project the sum of $34,100,000 (January 1967 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the first stage of the project. (Pub. L. 90-562, § 5, Oct. 12, 1968, 82 Stat. 1000.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616hhhh of this title.

§ 616*llll*. Authorization of appropriations for acquisition of land for second stage.

There is authorized to be appropriated for the acquisition of lands for the second stage of the Palmetto Bend reclamation project the sum of $2,700,000. If, within twenty years after the initial operation of stage 1 of the project, Congress has not authorized construction of stage 2, the lands acquired pursuant to this section shall be utilized or disposed of in accordance with the provisions of section 460*l*-14(b)(2) of Title 16. (Pub. L. 90-562, § 6, Oct. 12, 1968, 82 Stat. 1000.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616hhhh of this title.

MERLIN DIVISION; ROGUE RIVER BASIN PROJECT, OREGON

§ 616mmmm. Authorization for construction, operation, and maintenance; purpose; principal works.

For the purposes of providing irrigation water for approximately nine thousand three hundred acres, flood control, area redevelopment, and providing municipal and industrial water supply, fish and wildlife enhancement, and recreation benefits, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Act amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Merlin division, Rogue River Basin project, Oregon. The principal works of the division shall consist of Sexton Dam and Reservoir, diversion and distribution facilities, and drainage facilities. (Pub. L. 91-270, § 1, May 28, 1970, 84 Stat. 273.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Act amendatory thereof or supplementary thereto), referred to in the text, are classified generally to this title. See Tables for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616rrrr, 616ssss of this title.

§ 616nnnn. Irrigation repayment contracts; assessment and collection of service charges.

Irrigation repayment contracts shall provide with respect to any contract unit, for repayment of the irrigation construction costs assigned for repayment to the irrigators over a period of not more than fifty years, exclusive of any development period authorized by law. Irrigation repayment contracts shall further provide for the assessment and collection of a service charge of not less than $40 per annum for each identifiable ownership receiving irrigation service from and through the works of the Merlin division, such charge to be in addition to the repayment capacity of the lands as determined by the Secretary on the basis of studies of the value of water for full-time family-size farm operations. Construction costs allocated to irrigation beyond the ability of irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of sections 835j to 835m of Title 16. (Pub. L. 91-270, § 2, May 28, 1970, 84 Stat. 273.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616rrrr, 616ssss of this title.

§ 616*oooo*. Conservation of fish and wildlife and enhancement of recreattion.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Merlin division shall be in accordance with the provisions of the Federal Water Project Recreation Act. (Pub. L. 91-270, § 3, May 28, 1970, 84 Stat. 273.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act referred to in the text, is classified to section 460*l*–12 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616rrrr, 616ssss of this title.

§ 616pppp. Authority to transfer and repossess works; compliance with regulations.

Before the works are transferred to an irrigation water user's organization for care, operation, and maintenance, the organization shall have agreed to operate them in such fashion, satisfactory to the Secretary, as to achieve the benefits to fish and wildlife enhancement, and recreation on which the allocations of costs therefor are predicated, and to operate them in accordance with regulations prescribed by the Secretary of the Army to achieve the benefits to flood control on which the allocation of casts[1] therefor is predicated, and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with the requirements to achieve such benefits. (Pub. L. 91–270, § 4, May 28, 1970, 84 Stat. 273.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616rrrr, 616ssss of this title.

§ 616qqqq. Power for irrigation water pumping.

Power and energy required for irrigation water pumping for the Merlin division shall be made available by the Secretary from the Federal Columbia River system at charges determined by him. (Pub. L. 91–270, § 5, May 28, 1970, 84 Stat. 273.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616rrrr, 616ssss of this title.

616rrrr. Restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from May 28, 1970, no water from the project authorized by sections 616 mmmm to 616ssss of this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 91–270, § 6, May 28, 1970, 84 Stat. 273.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616ssss of this title.

§ 616ssss. Authorization of appropriations.

There is hereby authorized to be appropriated for construction of the works authorized in sections 616 mmmm to 616ssss of this title the sum of $28,470,000 (July 1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the costs of construction as indicated by engineering costs indexes applicable to the type of construction involved therein. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (Pub. L. 91–270, § 7, May 28, 1970, 84 Stat. 274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616rrrr of this title.

TOUCHET DIVISION; WALLA WALLA PROJECT, OREGON–WASHINGTON

§ 616tttt. Authorization for construction, operation, and maintenance.

(a) Purposes; principal works.

For purposes of supplying irrigation water initially for approximately ten thousand acres of land, providing municipal and industrial water, flood control, the enhancement of fish and wildlife resources, and the enhancement of recreation opportunities, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the Touchet division of the Walla Walla project, Oregon-Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the division (hereinafter referred to as the project) shall consist of the Dayton Dam and Reservoir, fish passage facilities, a diversion dam, and associated drainage facilities.

(b) Construction of Dayton Dam and Reservoir; payment of costs.

The Secretary is authorized to construct the Dayton Dam and Reservoir to the physical limitations of the site and to recognize the cost of providing such additional capacity as a deferred obligation to be paid, in accordance with section 616uuuu of this title, at such time as the additional storage capacity is contracted for: *Provided,* That until such additional storage capacity is contracted for, operation and maintenance costs attributable to the excess capacity shall be funded and added to the construction costs allocated to deferred capacity.

(c) Maintenance of streamflow to insure fish and wildlife conservation.

In order to assure a realization of the fish and wildlife enhancement benefits contemplated by sections 616tttt to 616yyyy of this title, the Secretary shall adopt appropriate measures to insure the maintenance of a streamflow between Dayton Dam and the mouth of the Walla Walla River that is not less than thirty cubic feet per second unless he determines that a water shortage or other emergencies exist or that lesser flows would be adequate for the maintenance of fish life. (Pub. L. 91–307, § 1, July 7, 1970, 84 Stat. 409.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in subsec. (a), are classified generally to this title. See Tables Volume for distribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616xxxx of this title.

[1] So in original.

§ 616uuuu. Irrigation repayment contracts; repayment of construction costs.

Irrigation repayment contracts shall provide for repayment of the obligation assumed thereunder with respect to any contract unit over a period of not more than fifty years, exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of sections 835j to 835m of Title 16. (Pub. L. 91–307, § 2, July 7, 1970, 84 Stat. 409.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616tttt, 616xxxx of this title.

§ 616vvvv. Conservation of fish and wildlife and enhancement of recreation; reimbursement of costs allocated to enhancement of anadromous fish species.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Touchet division shall be in accordance with the provisions of the Federal Water Project Recreation Act. All costs allocated to the enhancement of anadromous fish species shall be nonreimbursable. (Pub. L. 91–307, § 3, July 7, 1970, 84 Stat. 409.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in the text, is classified to section 406*l*–12 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616tttt, 616xxxx of this title.

§ 616wwww. Interest rate; basis for determination by Secretary of the Treasury.

The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid balance of the reimbursable obligations assumed by non-Federal entities shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption from fifteen years from the date of issue, adjusted to the nearest one-eighth of 1 per centum. (Pub. L. 91–307, § 4, July 7, 1970, 84 Stat. 409.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616tttt, 616xxxx of this title.

§ 616xxxx. Restriction on delivery of water for production of excessive basic commodities.

For a period of ten years from July 7, 1970, no water from the project authorized by sections 616tttt to 616yyyy of this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 91–307, § 5, July 7, 1970, 84 Stat. 410.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in the text, is classified principally to chapter 35A of Title 7, Agriculture. See Short Title note set out under section 1421 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 616tttt of this title.

§ 616yyyy. Authorization of appropriations.

(a) Separable and joint construction costs allocable to enhancement of anadromous fish.

There are authorized to be appropriated to the United States Fish and Wildlife Service, for transfer to the Bureau of Reclamation, such sums as may be required to cover separable and joint construction costs of the Touchet division, Walla Walla project, allocable to the enhancement of anadromous fish as determined by cost allocation studies comparable to those set forth in House Document Numbered 155, Eighty-ninth Congress, second session.

(b) Construction of works involved in Touchet division.

There are authorized to be appropriated to the Bureau of Reclamation for construction of the works involved in the Touchet division $22,774,000 (January 1969 prices), less the amounts authorized by subsection (a) of this section.

(c) Adjustment of appropriated amounts.

The total sums authorized to be appropriated by subsection (a) and subsection (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes, and, in addition thereto, such sums as may be required to operate and maintain such division: *Provided*, That funds appropriated pursuant to the authority contained in subsection (b) of this section shall be expended only if the amount thereof is increased in any given fiscal year by a proportionate amount appropriated pursuant to subsection (a) of this section. (Pub. L. 91–307, § 6, July 7, 1970, 84 Stat. 410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616tttt, 616xxxx of this title.

Chapter 12A.—BOULDER CANYON PROJECT

SUBCHAPTER I.—BOULDER CANYON PROJECT ACT

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CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS CHAPTER

Act May 28, 1954, ch. 241, 68 Stat. 143, provided that:

"For the purposes of effecting economies and increased efficiency in the construction, operation, and maintenance thereof and of accounting for the return of reimbursable costs, the Secretary of the Interior is authorized and directed to consolidate and administer as a single project to be known as the Parker-Davis project, Arizona-California-Nevada, the projects known as the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada: *Provided,* That nothing in this Act shall be construed to alter or affect in any way the Boulder Canyon Project Act (45 Stat. 1057) [subchapter I of this chapter], the Boulder Canyon Project Adjustment Act (54 Stat. 774) [subchapter II of this chapter], or the treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico: *Provided further,* That nothing in this Act shall be construed to alter or affect in any way any right or obligation of the United States or any other party under contracts heretofore entered into by the United States.

"SEC. 2. Funds heretofore appropriated for the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada, shall be consolidated and shall be and remain available for the purposes for which they were appropriated."

SUBCHAPTER I.—BOULDER CANYON PROJECT ACT

CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS SUBCHAPTER

Consolidation of Parker and Davis Dam projects as not affecting this subchapter, see note preceding this subchapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 618a, 618j, 618k, 618m of this title.

§ 617. Colorado River Basin; protection and development; dam, reservoir, and incidental works; water, water power, and electrical energy; eminent domain.

For the purpose of controlling the floods, improving navigation, and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters thereof for reclamation of public lands and other beneficial uses exclusively within the United States, and for the generation of electrical energy as a means of making the project herein authorized a self-supporting and financially solvent undertaking, the Secretary of the Interior subject to the terms of the Colorado River compact hereinafter mentioned in this chapter, is authorized to construct, operate, and maintain a dam and

incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary of the Interior is authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable, as provided in the reclamation law, and shall not be paid out of revenues derived from the sale or disposal of water power or electric energy at the dam authorized to be constructed at said Black Canyon or Boulder Canyon, or for water for potable purposes outside of the Imperial and Coachella Valleys: *Provided, however,* That no charge shall be made for water for the use, storage, or delivery of water for irrigation or water for potable purposes in the Imperial or Coachella Valleys; also to construct and equip, operate, and maintain at or near said dam, or cause to be constructed, a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from said reservoir; and to acquire by proceedings in eminent domain, or otherwise, all lands, rights-of-way, and other property necessary for said purposes. (Dec. 21, 1928, ch. 42, § 1, 45 Stat. 1057.)

CHANGE OF NAME

Act Apr. 30, 1947, ch. 46, 61 Stat. 56 restored the name Hoover Dam to the dam on the Colorado River in Black Canyon known previously as Boulder Dam, and provided that any law, regulation, document, or record in which that dam is designated or referred to as Boulder Dam shall be held to refer to that dam under and by the name of Hoover Dam.

CONSTRUCTION WITH OTHER LAWS

Act Aug. 4, 1939, ch. 418, § 18, provided that nothing in that act should be construed to amend the Boulder Canyon Project Act (this subchapter). See note under section 485j of this title.

CROSS REFERENCES

Gila project, Arizona, as not amending this subchapter, see note under section 613 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 617e of this title.

§ 617a. "Colorado River Dam Fund."

(a) Creation of fund; purpose; receipts and expenditures under control of the Secretary of the Interior.

There is established a special fund, to be known as the "Colorado River Dam fund" (hereinafter referred to as the "fund"), and to be available, as hereafter provided for, only for carrying out the provisions of this subchapter. All revenues received in carrying out the provisions of this subchapter shall be paid into and expenditures shall be made out of the fund, under the direction of the Secretary of the Interior.

(b) Advancements to fund by the Secretary of the Treasury; allocation; repayment; interest.

The Secretary of the Treasury is authorized to advance to the fund, from time to time and within the appropriations therefor, such amounts as the Secretary of the Interior deems necessary for carrying out the provisions of this subchapter, except that the aggregate amount of such advances shall not exceed the sum of $165,000,000. Of this amount the sum of $25,000,000 shall be allocated to flood control and shall be repaid to the United States out of 62½ per centum of revenues, if any, in excess of the amount necessary to meet periodical payments during the period of amortization, as provided in section 617c of this title. If said sum of $25,000,000 is not repaid in full during the period of amortization, then 62½ per centum of all net revenues shall be applied to payment of the remainder. Interest at the rate of 4 percentum per annum accruing during the year upon the amounts so advanced and remaining unpaid shall be paid annually out of the fund, except as herein otherwise provided.

(c) Limitation on use made of advancements.

Moneys in the fund advanced under subsection (b) of this section shall be available only for expenditures for construction and the payment of interest, during construction, upon the amounts so advanced. No expenditures out of the fund shall be made for operation and maintenance except from appropriations therefor.

(d) Unpaid interest on advancements; charge on fund; rate of interest.

The Secretary of the Treasury shall charge the fund as of June 30 in each year with such amount as may be necessary for the payment of interest on advances made under subsection (b) of this section at the rate of 4 per centum per annum accrued during the year upon the amounts so advanced and remaining unpaid, except that if the fund is insufficient to meet the payment of interest the Secretary of the Treasury may, in his discretion, defer any part of such payment, and the amount so deferred shall bear interest at the rate of 4 per centum per annum until paid.

(e) Money in fund in excess of amount needed; certification of fact; disposition.

The Secretary of the Interior shall certify to the Secretary of the Treasury, at the close of each fiscal year, the amount of money in the fund in excess of the amount necessary for construction, operation, and maintenance, and payment of interest. Upon receipt of each such certificate the Secretary of the Treasury is authorized and directed to charge the fund with the amount so certified as repayment of the advances made under subsection (b) of this section, which amount shall be covered into the Treasury to the credit of miscellaneous receipts. (Dec. 21, 1928, ch. 42, § 2, 45 Stat. 1057.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 617c, 617n, 617u, 618, 618a, 618f of this title.

§ 617b. Authorization of appropriations.

There is authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to carry out the purposes of this subchapter, not exceeding in the aggregate $165,000,000. (Dec. 21, 1928, ch. 42, § 3, 45 Stat. 1058.)

§ 617c. Condition precedent to taking effect of provisions.

(a) Ratification by interested States of Colorado River compact; agreements for apportionment of waters.

This subchapter shall not take effect and no authority shall be exercised under such sections and no work shall be begun and no moneys expended on or in connection with the works or structures provided for in this subchapter, and no water rights shall be claimed or initiated thereunder, and no steps shall be taken by the United States or by others to initiate or perfect any claims to the use of water pertinent to such works or structures unless and until (1) the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall have ratified the Colorado River compact, mentioned in section 617*l* of this title, and the President by public proclamation shall have so declared, or (2) if said States fail to ratify the said compact within six months from December 21, 1928, then, until six of said States, including the State of California, shall ratify said compact and shall consent to waive the provisions of the first paragraph of Article XI of said compact, which makes the same binding and obligatory only when approved by each of the seven States signatory thereto, and shall have approved said compact without conditions, save that of such six-State approval, and the President by public proclamation shall have so declared, and, further, until the State of California, by act of its legislature, shall agree irrevocably and unconditionally with the United States and for the benefit of the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, as an express covenant and in consideration of the passage of this subchapter, that the aggregate annual consumptive use (diversions less returns to the river) of water of and from the Colorado River for use in the State of California, including all uses under contracts made under the provisions of this subchapter and all water necessary for the supply of any rights which existed on December 21, 1928, shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin States by paragraph (a) of Article III of the Colorado River compact, plus not more than one-half of any excess or surplus waters unapportioned by said compact, such uses always to be subject to the terms of said compact.

The States of Arizona, California, and Nevada are authorized to enter into an agreement which shall provide (1) that of the 7,500,000 acre-feet annually apportioned to the lower basin by paragraph (a) of Article III of the Colorado River compact, there shall be apportioned to the State of Nevada 300,000 acre-feet and to the State of Arizona 2,800,000 acre-feet for exclusive beneficial consumptive use in perpetuity, and (2) that the State of Arizona may annually use one-half of the excess or surplus waters unapportioned by the Colorado River compact, and (3) that the State of Arizona shall have the exclusive beneficial consumptive use of the Gila River and its tributaries within the boundaries of said State, and (4) that the waters of the Gila River and its tributaries, except return flow after the same enters the Colorado River, shall never be subject to any diminution whatever by any allowance of water which may be made by treaty or otherwise to the United States of Mexico but if, as provided in paragraph (c) of Article III of the Colorado River compact, it shall become necessary to supply water to the United States of Mexico from waters over and above the quantities which are surplus as defined by said compact, then the State of California shall and will mutually agree with the State of Arizona to supply out of the main stream of the Colorado River, one-half of any deficiency which must be supplied to Mexico by the lower basin, and (5) that the State of California shall and will further mutually agree with the States of Arizona and Nevada that none of said three States shall withhold water and none shall require the delivery of water, which cannot reasonably be applied to domestic and agricultural uses, and (6) that all of the provisions of said tri-State agreement shall be subject in all particulars to the provisions of the Colorado River compact, and (7) said agreement to take effect upon the ratification of the Colorado River compact by Arizona, California, and Nevada.

(b) Agreements for revenues to meet expenses of construction, operation, and maintenance of works.

Before any money is appropriated for the construction of said dam or power plant, or any construction work done or contracted for, the Secretary of the Interior shall make provision for revenues by contract, in accordance with the provisions of this subchapter, adequate in his judgment to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within fifty years from the date of the completion of said works, of all amounts advanced to the fund under subsection (b) of section 617a of this title for such works together with interest thereon made reimbursable under this subchapter.

Before any money is appropriated for the construction of said main canal and appurtenant structures to connect the Laguna Dam with the Imperial and Coachella Valleys in California, or any construction work is done upon said canal or contracted for, the Secretary of the Interior shall make provision for revenues, by contract or otherwise, adequate in his judgment to insure payment of all expenses of construction, operation, and maintenance of said main canal and appurtenant structures in the manner provided in the reclamation law.

If during the period of amortization the Secretary of the Interior shall receive revenues in excess of the amount necessary to meet the periodical payments to the United States as provided in the contract, or contracts, executed under this subchapter, then, immediately after the settlement of such periodical payments, he shall pay to the State of Arizona 18¾ per centum of such excess revenues and to the State of Nevada 18¾ per centum of such excess revenues. (Dec. 21, 1928, ch. 42, § 4, 45 Stat. 1058.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 617a, 617d, 617e, 617*o*, 618a of this title.

§ 617d. Contracts for storage and use of waters for irrigation and domestic purposes; generation and sale of electrical energy.

The Secretary of the Interior is authorized, under such general regulations as he may prescribe, to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon, for irrigation and domestic uses, and generation of electrical energy and delivery at the switchboard to States, municipal corporations, political subdivisions, and private corporations of electrical energy generated at said dam, upon charges that will provide revenue which, in addition to other revenue accruing under the reclamation law and under this subchapter, will in his judgment cover all expenses of operation and maintenance incurred by the United States on account of works constructed under this subchapter and the payments to the United States under subsection (b) of section 617c of this title. Contracts respecting water for irrigation and domestic uses shall be for permanent service and shall conform to subsection (a) of section 617c of this title. No person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract made as herein stated.

After the repayments to the United States of all money advanced with interest, charges shall be on such basis and the revenues derived therefrom shall be kept in a separate fund to be expended within the Colorado River Basin as may hereafter be prescribed by the Congress.

General and uniform regulations shall be prescribed by the said Secretary for the awarding of contracts for the sale and delivery of electrical energy, and for renewals under subsection (b) of this section, and in making such contracts the following shall govern:

(a) Duration of contracts for electrical energy; price of water and electrical energy to yield reasonable returns; readjustments of prices.

No contract for electrical energy or for generation of electrical energy shall be of longer duration than fifty years from the date at which such energy is ready for delivery.

Contracts made pursuant to subsection (a) of this section shall be made with a view to obtaining reasonable returns and shall contain provisions whereby at the end of fifteen years from the date of their execution and every ten years thereafter, there shall be readjustment of the contract, upon the demand of either party thereto, either upward or downward as to price, as the Secretary of the Interior may find to be justified by competitive conditions at distributing points or competitive centers, and with provisions under which disputes or disagreements as to interpretation or performance of such contract shall be determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such readjustments or proceedings.

(b) Renewal of contracts for electrical energy.

The holder of any contract for electrical energy not in default thereunder shall be entitled to a renewal thereof upon such terms and conditions as may be authorized or required under the then existing laws and regulations, unless the property of such holder dependent for its usefulness on a continuation of the contract be purchased or acquired and such holder be compensated for damages to its property, used and useful in the transmission and distribution of such electrical energy and not taken, resulting from the termination of the supply.

(c) Applicants for purchase of water and electrical energy; preferences.

Contracts for the use of water and necessary privileges for the generation and distribution of hydroelectric energy or for the sale and delivery of electrical energy shall be made with responsible applicants therefor who will pay the price fixed by the said Secretary with a view to meeting the revenue requirements herein provided for. In case of conflicting applications, if any, such conflicts shall be resolved by the said Secretary, after hearing, with due regard to the public interest, and in conformity with the policy expressed in the Federal Power Act as to conflicting applications for permits and licenses, except that preference to applicants for the use of water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy, or for delivery at the switchboard of a hydroelectric plant, shall be given, first, to a State for the generation or purchase of electric energy for use in the State, and the States of Arizona, California, and Nevada shall be given equal opportunity as such applicants.

The rights covered by such preference shall be contracted for by such State within six months after notice by the Secretary of the Interior and to be paid for on the same terms and conditions as may be provided in other similar contracts made by said Secretary: *Provided, however,* That no application of a State or a political subdivision for an allocation of water for power purposes or of electrical energy shall be denied or another application in conflict therewith be granted on the ground that the bond issue of such State or political subdivision necessary to enable the applicant to utilize such water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy or the electrical energy applied for, has not been authorized or marketed, until after a reasonable time, to be determined by the said Secretary, has been given to such applicant to have such bond issue authorized and marketed.

(d) Transmission lines for electrical energy; use; rights-of-way over public and reserved lands.

Any agency receiving a contract for electrical energy equivalent to one hundred thousand firm horsepower, or more, may, when deemed feasible by the said Secretary, from engineering and economic considerations and under general regulations prescribed by him, be required to permit any other agency having contracts hereunder for less than the equivalent of twenty-five thousand firm horsepower, upon application to the Secretary of the Interior made within sixty days from the execution of the contract of the agency the use of whose transmission line is applied for, to participate in the benefits and use of any main transmission line constructed or to be constructed

by the former for carrying such energy (not exceeding, however, one-fourth the capacity of such line), upon payment by such other agencies of a reasonable share of the cost of construction, operation, and maintenance thereof.

The use is authorized of such public and reserved lands of the United States as may be necessary or convenient for the construction, operation, and maintenance of main transmission lines to transmit said electrical energy. (Dec. 21, 1928, ch. 42, § 5, 45 Stat. 1060; June 10, 1920, ch. 285, § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

REFERENCES IN TEXT

Federal Power Act, referred to in subd. (c), is classified to chapter 12 of Title 16, Conservation.

CODIFICATION

In subd. (c), "Federal Power Act" was substituted for "Federal Water Power Act" in view of act Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847, which repealed section 791 of Title 16, Conservation, providing the short title "Federal Water Power Act", and act June 10, 1920, § 320, as added Aug. 26, 1935, § 213, which redesignated the short title "Federal Water Power Act" to be the "Federal Power Act" and is classified to section 791a of Title 16.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 617e, 617g, 617o of this title.

§ 617e. Uses to be made of dam and reservoir; title in whom; leases, regulations; limitation on authority of Federal Power Commission.

The dam and reservoir provided for by section 617 of this title shall be used: First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights in pursuance of Article VIII of said Colorado River compact; and third, for power. The title to said dam, reservoir, plant, and incidental works shall forever remain in the United States, and the United States shall, until otherwise provided by Congress, control, manage, and operate the same, except as herein otherwise provided: *Provided, however,* That the Secretary of the Interior may, in his discretion, enter into contracts of lease of a unit or units of any Government-built plant, with right to generate electrical energy, or alternatively, to enter into contracts of lease for the use of water for the generation of electrical energy as herein provided, in either of which events the provisions of section 617d of this title relating to revenue, term, renewals, determination of conflicting applications, and joint use of transmission lines under contracts for the sale of electrical energy, shall apply.

The Secretary of the Interior shall prescribe and enforce rules and regulations conforming with the requirements of the Federal Power Act, so far as applicable, respecting maintenance of works in condition of repair adequate for their efficient operation, maintenance of a system of accounting, control of rates and service in the absence of State regulation or interstate agreement, valuation for rate-making purposes, transfers of contracts, contracts extending beyond the lease period, expropriation of excessive profits, recapture and/or emergency use by the United States of property of lessees, and penalties for enforcing regulations made under this subchapter or penalizing failure to comply with such regulations or with the provisions of this subchapter. He shall also conform with other provisions of the Federal Power Act and of the rules and regulations of the Federal Power Commission, which have been devised or which may be hereafter devised, for the protection of the investor and consumer.

The Federal Power Commission is directed not to issue or approve any permits or licenses under said Federal Power Act upon or affecting the Colorado River or any of its tributaries, except the Gila River, in the States of Colorado, Wyoming, Utah, New Mexico, Nevada, Arizona, and California until this subchapter shall become effective as provided in sections 617c of this title. (Dec. 21, 1928, ch. 42, § 6, 45 Stat. 1061; June 10, 1920, ch. 285, § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

REFERENCES IN TEXT

Federal Power Act, referred to in the text, is classified to chapter 12 of Title 16, Conservation.

CODIFICATION

"Federal Power Act" was substituted for "Federal Water Power Act" in view of act Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847, which repealed section 791 of Title 16, Conservation, providing the short title "Federal Water Power Act", and act June 10, 1920, § 320, as added Aug. 26, 1935, § 213, which redesignated the short title "Federal Water Power Act" to be the "Federal Power Act" and is classified to section 791a of Title 16.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of that Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan. No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

§ 617f. Canals and appurtenant structures; transfer of title; power development.

The Secretary of the Interior may, in his discretion, when repayments to the United States of all money advanced, with interest, reimbursable hereunder, shall have been made, transfer the title to said canal and appurtenant structures, except the Laguna Dam and the main canal and appurtenant structures down to and including Syphon Drop, to the districts or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form of organization as may be acceptable to him. The said districts or other agencies shall have the privilege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal, in proportion to their respective contributions or obligations toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located. The net proceeds from any power development on said canal shall be paid into the fund and credited to said districts or other agencies on their said contracts, in proportion to their rights to develop power, until the districts or other agencies using said canal shall have paid thereby and under any contract or otherwise an

amount of money equivalent to the operation and maintenance expense and cost of construction thereof. (Dec. 21, 1928, ch. 42, § 7, 45 Stat. 1062.)

§ 617g. Colorado River compact as controlling authority in construction and maintenance of dam, reservoir, canals, and other works.

(a) The United States, its permittees, licensees, and contractees, and all users and appropriators of water stored, diverted, carried, and/or distributed by the reservoir, canals, and other works herein, authorized shall observe and be subject to and controlled by said Colorado River compact in the construction, management, and operation of said reservoir, canals, and other works and the storage, diversion, delivery, and use of water for the generation of power, irrigation, and other purposes, anything in this subchapter to the contrary notwithstanding, and all permits, licenses, and contracts shall so provide.

(b) Also the United States, in constructing, managing, and operating the dam, reservoir, canals, and other works herein authorized in including the appropriation, delivery, and use of water for the generation of power, irrigation, or other uses, and all users of water thus delivered and all users and appropriators of waters stored by said reservoir and/or carried by said canal, including all permittees and licensees of the United States or any of its agencies, shall observe and be subject to and controlled, anything to the contrary herein notwithstanding, by the terms of such compact, if any, between the States of Arizona, California, and Nevada, or any two thereof, for the equitable division of the benefits, including power, arising from the use of water accruing to said States, subsidiary to and consistent with said Colorado River compact, which may have been negotiated and approved by said States and to which Congress shall have given its consent and approval on or before January 1, 1929; and the terms of any such compact concluded between said States and approved and consented to by Congress after said date: *Provided*, That in the latter case such compact shall be subject to all contracts, if any, made by the Secretary of the Interior under section 617d of this title prior to the date of such approval and consent by Congress. (Dec. 21, 1928, ch. 42, § 8, 45 Stat. 1062.)

§ 617h. Lands not capable of irrigation and reclamation by irrigation works provided for; public entry; preferences.

All lands of the United States found by the Secretary of the Interior to be practicable of irrigation herein shall be withdrawn from public entry. Thereafter, at the direction of the Secretary of the Interior, such lands shall be opened for entry, in tracts varying in size but not exceeding one hundred and sixty acres, as may be determined by the Secretary of the Interior, in accordance with the provisions of the reclamation law, and any such entryman shall pay an equitable share in accordance with the benefits received, as determined by the said Secretary, of the construction cost of said canal and appurtenant structures; said payments to be made in such installments and at such times as may be specified by the Secretary of the Interior, in accordance with the provisions of the said reclamation law, and shall constitute revenue from said project and be covered into the fund herein provided for: *Provided*, That all persons who served in the United States Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve, shall have the exclusive preference right for a period of three months to enter said lands, subject, however, to the provisions of section 433 of this title; and also, so far as practicable, preference shall be given to said persons in all construction work authorized by this subchapter: *Provided further*, That the above exclusive preference rights shall apply to veteran settlers on lands watered from the Gila canal in Arizona the same as to veteran settlers on lands watered from the All-American canal in California: *Provided further*, That in the event such an entry shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, lands so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the local land office, and after the expiration of said sixty-day period such lands shall be open to entry, subject to the preference in this section provided. (Dec. 21, 1928, ch. 42, § 9, 45 Stat. 1063; Mar. 6, 1946, ch. 58, 60 Stat. 36.)

AMENDMENTS

1946—Act Mar. 6, 1946 omitted "or" preceding "Marine Corps", inserting "or Coast Guard during World War II" following "Marine Corps," and inserting the second proviso.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

§ 617i. Modification of existing compact relating to Laguna Dam.

Nothing in this subchapter shall be construed as modifying in any manner the existing contract, dated October 23, 1918, between the United States and the Imperial Irrigation District, providing for a connection with Laguna Dam; but the Secretary of the Interior is authorized to enter into contract or contracts with the said district or other districts, persons, or agencies for the construction, in accordance with this subchapter of said canal and appurtenant structures, and also for the operation and maintenance thereof, with the consent of the other users. (Dec. 21, 1928, ch. 42, § 10, 45 Stat. 1063.)

§ 617j. Parker-Gila Valley reclamation project.

CODIFICATION

Section, act Dec. 21, 1928, ch. 42, § 11, 45 Stat. 1063, authorized Secretary of the Interior to make surveys and investigations to determine what lands in Arizona should be included in the Parker-Gila Valley reclamation project and required him to make a report to Congress not later than December 10, 1931.

§ 617k. Definitions.

"Political subdivision" or "political subdivisions" as used in this subchapter shall be understood to include any State, irrigation or other district, municipality, or other governmental organization.

"Reclamation law" as used in this subchapter shall be understood to mean that certain Act of Congress of the United States approved June 17, 1902, and the Acts amendatory thereof and supplemental thereto.

"Maintenance" as used herein shall be deemed to include in each instance provision for keeping the works in good operating condition.

"The Federal Power Act," as used in this subchapter, shall be understood to mean that certain Act of Congress of the United States approved June 10, 1920, and the Acts amendatory thereof and supplemental thereto.

"Domestic", whenever employed in this subchapter, shall include water uses defined as "domestic" in said Colorado River compact. (Dec. 21, 1928, ch. 42, § 12, 45 Stat. 1064; June 10, 1920, ch. 285, § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

REFERENCES IN TEXT

Act June 17, 1902, and Acts amendatory thereof and supplemental thereto, referred to in definition of "reclamation law" are classified generally to this title. See Tables for distribution.

Federal Power Act, referred to in the text, is classified to chapter 12 of Title 16, Conservation.

CODIFICATION

"Federal Power Act" was substituted for "Federal Water Power Act" in view of act Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847, which repealed section 791 of Title 16, Conservation, providing the short title "Federal Water Power Act", and act June 10, 1920, § 320, as added Aug. 26, 1935, § 213, which redesignated the short title "Federal Water Power Act" to be the "Federal Power Act" and is classified to section 791a of Title 16.

§ 617*l*. Colorado River compact approval.

(a) Approval by Congress.

The Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes", is approved by the Congress of the United States, and the provisions of the first paragraph of article 11 of the said Colorado River compact, making said compact binding and obligatory when it shall have been approved by the legislature of each of the signatory States, are waived, and this approval shall become effective when the State of California and at least five of the other States mentioned, shall have approved or may hereafter approve said compact as aforesaid and shall consent to such waiver, as herein provided.

(b) Rights in waters of Colorado River and tributaries; Colorado River compact as controlling.

The rights of the United States in or to waters of the Colorado River and its tributaries howsoever claimed or acquired, as well as the rights of those claiming under the United States, shall be subject to and controlled by said Colorado River compact.

(c) Patents, grants, contracts, concessions, etc.; Colorado River compact as controlling.

Also all patents, grants, contracts, concessions, leases, permits, licenses, rights-of-way, or other privileges from the United States or under its authority, necessary or convenient for the use of waters of the Colorado River or its tributaries, or for the generation or transmission of electrical energy generated by means of the waters of said river or its tributaries, whether under this subchapter, the Federal Power Act, or otherwise, shall be upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, convenient, or incidental, and the use of the same shall likewise be subject to and controlled by said Colorado River compact.

(d) Conditions and covenants referred to herein; nature; how and by whom availed of in litigation.

The conditions and covenants referred to herein shall be deemed to run with the land and the right, interest, or privilege therein and water right, and shall attach as a matter of law, whether set out or referred to in the instrument evidencing any such patent, grant, contract, concession, lease, permit, license, right-of-way, or other privilege from the United States or under its authority, or not, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, and the users of water therein or thereunder, by way of suit, defense, or otherwise, in any litigation respecting the waters of the Colorado River or its tributaries. (Dec. 21, 1928, ch. 42, § 13, 45 Stat. 1064; June 10, 1920, ch. 285, § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

REFERENCES IN TEXT

Federal Power Act, referred to in subsec. (c), is classified to chapter 12 of Title 16, Conservation.

CODIFICATION

In subsec. (c), "Federal Power Act" was substituted for "Federal Water Power Act" in view of act Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847, which repealed section 791 of Title 16, Conservation, providing the short title "Federal Water Power Act", and act June 10, 1920, § 320, as added Aug. 26, 1935, § 213, which redesignated the short title "Federal Water Power Act" to be the "Federal Power Act" and is classified to section 791a of Title 16.

UPPER COLORADO RIVER BASIN COMPACT

The Upper Colorado River Basin Compact signed by the States of Arizona, Colorado, New Mexico, Utah, and Wyoming on October 11, 1948, was approved by Congress Apr. 6, 1949, ch. 48, 63 Stat. 31.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 617c, 618m of this title.

§ 617m. Reclamation law applicable.

This subchapter shall be deemed a supplement to the reclamation law, which said reclamation law shall govern the construction, operation, and management of the works herein authorized, except as otherwise therein provided. (Dec. 21, 1928, ch. 42, § 14, 45 Stat. 1065.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 617o of this title.

§ 617n. Projects for irrigation, generation of electric power, and other purposes; investigations and reports.

The Secretary of the Interior is authorized and directed to make investigation and public reports of the feasibility of projects for irrigation, generation of electric power, and other purposes in the States of Arizona, Nevada, Colorado, New Mexico, Utah, and Wyoming for the purpose of making such information available to said States and to the Congress and of formulating a comprehensive scheme of control and the improvement and utilization of the water of the Colorado River and its tributaries. The sum of $250,000 is authorized to be appropriated from said Colorado River Dam fund, created by section 617a of this title, for such purposes. (Dec. 21, 1928, ch. 42, § 15, 45 Stat. 1065.)

§ 617o. Officials of ratifying States; authority to act in advisory capacity; access to records.

In furtherance of any comprehensive plan formulated for the control, improvement, and utilization of the resources of the Colorado River system and to the end that the project authorized by this subchapter may constitute and be administered as a unit in such control, improvement, and utilization, any commission or commissioner duly authorized under the laws of any ratifying State in that behalf shall have the right to act in an advisory capacity to and in cooperation with the Secretary of the Interior in the exercise of any authority under the provisions of sections 617c, 617d, and 617m of this title and shall have at all times access to records of all Federal agencies empowered to act under said sections, and shall be entitled to have copies of said records on request. (Dec. 21, 1928, ch. 42, § 16, 45 Stat. 1065.)

§ 617p. Claims of United States; priority.

Claims of the United States arising out of any contract authorized by this subchapter shall have priority over all others, secured or unsecured. (Dec. 21, 1928, ch. 42, § 17, 45 Stat. 1065.)

§ 617q. Effect on authority of States to control waters within own borders.

Nothing herein shall be construed as interfering with such rights as the States had on December 21, 1928, either to the waters within their borders or to adopt such policies and enact such laws as they deem necessary with respect to the appropriation, control, and use of waters within their borders, except as modified by the Colorado River compact or other interstate agreement. (Dec. 21, 1928, ch. 42, § 18, 45 Stat. 1065.)

§ 617r. Consent given States to negotiate supplemental compacts for development of Colorado River.

The consent of Congress is given to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming to negotiate and enter into compacts or agreements, supplemental to and in conformity with the Colorado River compact and consistent with this subchapter for a comprehensive plan for the development of the Colorado River and providing for the storage, diversion, and use of the waters of said river. Any such compact or agreement may provide for the construction of dams, headworks, and other diversion works or structures for flood control, reclamation, improvement of navigation, division of water, or other purposes and/or the construction of power houses or other structures for the purpose of the development of water power and the financing of the same; and for such purposes may authorize the creation of interstate commissions and/or the creation of corporations, authorities, or other instrumentalities.

(a) Such consent is given upon condition that a representative of the United States, to be appointed by the President, shall participate in the negotiations and shall make report to Congress of the proceedings and of any compact or agreement entered into.

(b) No such compact or agreement shall be binding or obligatory upon any of such States unless and until it has been approved by the legislature of each of such States and by the Congress of the United States. (Dec. 21, 1928, ch. 42, § 19, 45 Stat. 1065.)

§ 617s. Recognition of rights of Mexico to Colorado River waters.

Nothing in this subchapter shall be construed as a denial or recognition of any rights, if any, in Mexico to the use of the waters of the Colorado River system. (Dec. 21, 1928, ch. 42, § 20, 45 Stat. 1066.)

§ 617t. Short title.

The short title of this subchapter shall be "Boulder Canyon Project Act." (Dec. 21, 1928, ch. 42, § 21, 45 Stat. 1066.)

§ 617u. Lease of reserved lands in Boulder City, Nevada; disposition of revenues.

The Secretary of the Interior is authorized and empowered, under such rules and regulations as he may prescribe, to establish rental rates for the lease of reserved lands of the United States situate within the exterior boundaries of Boulder City, Nevada, and, without prior advertising, to enter into leases therefor at not less than rates so established and for periods not exceeding fifty-three years from the date of such leases: *Provided,* That all revenues which may accrue to the United States under the provisions of such leases shall be deposited in the Treasury and credited to the Colorado River Dam fund established by section 617a of this title. (June 18, 1940, ch. 395, § 1, 54 Stat. 437.)

CODIFICATION

Section was not enacted as a part of the Boulder Canyon Project Act which comprises this chapter.

BOULDER CITY ACT OF 1958

Public Law 85-900, Sept. 2, 1958, 72 Stat. 1726, provides for the disposal of certain Federal property in Boulder City for purposes of establishment of a municipal corporation incorporated under the laws of Nevada.

§ 617v. Repealed. Pub. L. 85-900, § 17, Sept. 2, 1958, 72 Stat. 1735.

Section, act July 31, 1953, ch. 296, title II, § 201, 67 Stat. 250, provided for taxation of leaseholds lying within Boulder Canyon Project Reservation and deduction of certain school taxes in Boulder City Union School District.

SUBCHAPTER II.—BOULDER CANYON PROJECT ADJUSTMENT ACT

EFFECTIVE DATE

Effective date of subchapter, see section 618 of this title.

CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS SUBCHAPTER

Consolidation of Parker and Davis Dam projects as not affecting this subchapter, see note preceding subchapter I of this chapter.

§ 618. Promulgation of charges for electrical energy.

The Secretary of the Interior is authorized and directed to, and he shall, promulgate charges, or the basis of computation thereof, for electrical energy generated at Hoover Dam during the period beginning June 1, 1937, and ending May 31, 1987, computed to be sufficient, together with other net revenues from the project, to accomplish the following purposes:

(a) To meet the cost of operation and maintenance, and to provide for replacements, of the project during the period beginning June 1, 1937, and ending May 31, 1987;

(b) To repay to the Treasury, with interest, the advances to the Colorado River Dam Fund for the project made prior to June 1, 1937, within fifty years from that date (excluding advances allocated to flood control by section 617a (b) of this title, which shall be repayable as provided in section 618f of this title), and such portion of such advances made on and after June 1, 1937, as (on the basis of repayment thereof within such fifty-year period or periods as the Secretary may determine) will be repayable prior to June 1, 1987;

(c) To provide $600,000 for each of the years and for the purposes specified in section 618a (c) of this title; and

(d) To provide $500,000 for each of the years and for the purposes specified in section 618a (d) of this title.

Such charges may be made subject to revisions and adjustments at such times, to such extent, and in such manner, as by the terms of their promulgation the Secretary shall prescribe. (July 19, 1940, ch. 643, § 1, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

CROSS REFERENCES

Gila project, Arizona, as not amending this subchapter, see note under section 613 of this title.

§ 618a. Receipts from project; disposition.

All receipts from the project shall be paid into the Colorado River Dam Fund and shall be available for:

(a) Operation, maintenance, and replacements.

Annual appropriation for the operation, maintenance, and replacements of the project, including emergency replacements necessary to insure continuous operations;

(b) Repayment of cost of construction.

Repayment to the Treasury, with interest (after making provision for the payments and transfers provided in subdivisions (c) and (d) of this section), of advances to the Colorado River Dam Fund for the construction of the project (excluding the amount allocated to flood control by section 617a (b) of this title), and any readvances made to said fund under section 618d of this title, and

(c) Commutation payments to Arizona and Nevada.

Payment subject to the provisions of section 618b of this title, in commutation of the payments now provided for the States of Arizona and Nevada in section 617c (b) of this title to each of said States of the sum of $300,000 for each year of operation, beginning with the year of operation ending May 31, 1938, and continuing annually thereafter until and including the year of operation ending May 31, 1987, and such payments for any year of operation which shall have expired at the time when this subdivision shall become effective shall be due immediately, and be paid, without interest, as expeditiously as administration of this subchapter will permit, and each such payment for subsequent years of operation shall be made on or before July 31, following the close of the year of operation for which it is made. All such payments shall be made from revenues hereafter received in the Colorado River Dam Fund.

Notwithstanding the foregoing provisions of this subsection, in the event that there are levied and collected by or under authority of Arizona or Nevada or by any lawful taxing political subdivision thereof, taxes upon—

(i) the project as herein defined;

(ii) the electrical energy generated at Hoover Dam by means of facilities, machinery, or equipment both owned and operated by the United States, or owned by the United States and operated under contract with the United States;

(iii) the privilege of generating or transforming such electrical energy or of use of such facilities, machinery, or equipment or of falling water for such generation or transforming; or

(iv) the transmission or control of such electrical energy so generated or transformed (as distinguished from the transmission lines and other physical properties used for such transmission or control) or the use of such transmission lines or other physical properties for such transmission or control,

payments made hereunder to the State by or under the authority of which such taxes are collected shall be reduced by an amount equivalent to such taxes. Nothing herein shall in anywise impair the right of either the State of Arizona or the State of Nevada, or any lawful taxing political subdivision of either of them, to collect non-discriminatory taxes upon that portion of the transmission lines and all other physical properties, situated within such State and such political subdivision, respectively, and belonging to any of the lessees and/or allottees under subchapter I of this chapter and/or under this subchapter, and nothing herein shall exempt or be construed so as to exempt any such property from nondiscriminatory taxation, all in the manner provided by the constitution and laws of such State. Sums, if any, received by each State under the provisions of subchapter I of this chapter shall be deducted from the first payment or payments to said State authorized

by this subchapter. Payments under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(d) Transfer of sums to Colorado River Development Fund; expenditure of fund.

Transfer, subject to the provisions of section 618b of this title, from the Colorado River Dam Fund to a special fund in the Treasury, established and designated the "Colorado River Development Fund", of the sum of $500,000 for the year of operation ending May 31, 1938, and the like sum of $500,000 for each year of operation thereafter, until and including the year of operation ending May 31, 1987. The transfer of the said sum of $500,000 for each year of operation shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided,* That any such transfer for any year of operation which shall have ended at the time this subsection shall become effective, shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this subchapter will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 618b of this title, then the first receipts of said fund up to $1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however,* That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1987, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States of the lower division. The terms "Colorado River system", "States of the upper division", and "States of the lower division" as so used shall have the respective meanings defined in the Colorado River compact mentioned in subchapter I of this chapter. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in this subchapter shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall this subchapter be construed as affecting the right of any State to proceed independently of this subchapter or its provisions with the investigation or construction of any project or projects. Transfers under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title. (July 19, 1940, ch. 643, § 2, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56; May 14, 1948, ch. 292, 62 Stat. 235; June 1, 1948, ch. 364, § 1, 62 Stat. 284.)

CODIFICATION

Subd. (e) made available, receipts from the project paid into the Colorado River Dam Fund, for annual appropriation for fiscal years 1948–1951 for payment to Boulder City School District as reimbursement for pupil instructions not exceeding $65 per semester per pupil and has been omitted.

AMENDMENTS

1948—Subd. (d). Act June 1, 1948, added proviso to the fourth sentence to provide for the distribution of receipts for the fiscal years 1949 to 1955, inclusive.

Subd. (e). Act May 14, 1948 added subd. (e).

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

CROSS REFERENCES

Reimbursement of Upper Colorado River Basin Fund from Colorado River Development Fund for moneys expended to meet deficiencies in generation at Hoover Dam, see section 620d–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 620d–1, 618, 618c, 618d, 620d–1, 1543 of this title.

§ 618a–1. Availability of Colorado River Development Fund for investigation and construction purposes.

The availability of appropriations from the Colorado River Development Fund for the investigation and construction of projects in any of the States of the Colorado River Basin shall not be held to forbid the expenditure of other funds for those purposes in any of those States where such funds are otherwise available therefor. (June 1, 1948, ch. 364, § 2, 62 Stat. 285.)

CODIFICATION

Section was not enacted as a part of the Boulder Canyon Project Adjustment Act which comprises this subchapter.

§ 618b. Reduction of payments and transfers where revenue is insufficient.

If, by reason of any act of God, or of the public enemy, or any major catastrophe, or any other unforeseen and unavoidable cause, the revenues, for any year of operation, after making provision for costs of operation, maintenance, and the amount to be set aside for said year for replacements, should be insufficient to make the payments to the States of Arizona and Nevada and the transfers to the Colorado River Development Fund in this subchapter provided for, such payments and transfers shall be proportionately reduced, as the Secretary may find to be necessary by reason thereof. (July 19, 1940, ch. 643, § 3, 54 Stat. 776.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 618a of this title.

§ 618c. Charges as retroactive; adjustment of accounts.

(a) Upon the taking effect of this subchapter, pursuant to section 618i of this title, the charges, or the basis of computation thereof, promulgated under this subchapter, shall be applicable as from June 1, 1937, and adjustments of accounts by reason thereof, including charges by and against the United States, shall be made so that the United States and all parties that have contracted for energy, or for the privilege of generating energy, at the project, shall be placed in the same position, as nearly as may be, as determined by the Secretary, that they would have occupied had such charges, or the basis of computation thereof, and the method of operation which may be provided for under section 618h of this title, been effective on June 1, 1937: *Provided,* That such adjustments with contractors shall not be made in cash, but shall be made by means of credits extended over such period as the Secretary may determine.

(b) In the event payments to the States of Arizona and Nevada, or either of them, under section 618a (c) of this title, shall be reduced by reason of the collection of taxes mentioned in said section, adjustments shall be made, from time to time, with each allottee which shall have paid any such taxes, by credits or otherwise, for that proportion of the amount of such reductions which the amount of the payments of such taxes by such allottee bears to the total amount of such taxes collected. (July 19, 1940, ch. 643, § 4, 54 Stat. 776.)

§ 618d. Readvances from Treasury where Dam Fund is insufficient to meet cost of replacements.

If at any time there shall be insufficient sums in the Colorado River Dam Fund to meet the cost of replacements, however necessitated, in addition to meeting the other requirements of this subchapter, or of regulations authorized hereby and promulgated by the Secretary, the Secretary of the Treasury, upon request of the Secretary of the Interior, shall readvance to the said fund, in amounts not exceeding, in the aggregate, moneys repaid to the Treasury pursuant to section 618a(b) of this title, the amount required for replacements, however necessitated, in excess of the amount currently available therefor in said Colorado River Dam Fund. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums, not exceeding said aggregate amount, as may be necessary to permit the Secretary of the Treasury to make such readvances. All such readvances shall bear interest. (July 19, 1940, ch. 643, § 5, 54 Stat. 777.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 618a of this title.

§ 618e. Interest payments; rate.

Whenever by the terms of the Project Act or this subchapter payment of interest is provided for, and whenever interest shall enter into any computation thereunder, such interest shall be computed at the rate of 3 per centum per annum, compounded annually. (July 19, 1940, ch. 643, § 6, 54 Stat. 777.)

CROSS REFERENCE

Project Act defined, see section 618k of this title.

§ 618f. Repayment of advances for flood control.

The first $25,000,000 of advances made to the Colorado River Dam Fund for the project shall be deemed to be the sum allocated to flood control by section 617a(b) of this title and repayment thereof shall be deferred without interest until June 1, 1987, after which time such advances so allocated to flood control shall be repayable to the Treasury as the Congress shall determine. (July 19, 1940, ch. 643, § 7, 54 Stat. 777.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 618 of this title.

§ 618g. Regulations; contracts; modification of allotments of energy.

The Secretary is authorized from time to time to promulgate such regulations and enter into such contracts as he may find necessary or appropriate for carrying out the purposes of this subchapter and the Project Act, as modified hereby, and, by mutual consent, to terminate or modify any such contract: *Provided, however,* That no allotment of energy to any allottee made by any rule or regulation heretofore promulgated shall be modified or changed without the consent of such allottee. (July 19, 1940, ch. 643, § 8, 54 Stat. 777.)

CROSS REFERENCE

Project Act defined, see section 618k of this title.

§ 618h. Termination of existing lease of Hoover Power Plant; lessees as agents of United States; termination of agency.

The Secretary is authorized to negotiate for and enter into a contract for the termination of the existing lease of the Hoover Power Plant made pursuant to the Project Act, and in the event of such termination the operation and maintenance, and the making of replacements, however necessitated, of the Hoover Power Plant by the United States, directly or through such agent or agents as the Secretary may designate, is authorized. The powers, duties, and rights of such agent or agents shall be provided by contract, which may include provision that questions relating to the interpretation or performance thereof may be determined, to the extent provided therein, by arbitration or court proceedings. The Secretary in consideration of such termination of such existing lease is authorized to agree (a) that the lessees therein named shall be designated as the agents of the United States for the operation of said power plant; (b) that (except by mutual consent or in accordance with such provisions for termination for default as may be specified therein) such agency contract shall not be revocable or terminable; and (c) that suits or proceedings to restrain the termination of any such agency contract, otherwise than as therein provided, or for other appropriate equitable relief or remedies, may be maintained against the Secretary. Suits or other court proceedings pursuant to the foregoing provisions may be maintained in, and jurisdiction to hear and determine such suits or proceedings and to grant such relief or remedies is conferred upon, the District Court of the United States for the District of Columbia, with the like right of appeal or review as in other like suits or proceedings in said court. The Secretary is authorized to act for the

United States in such arbitration proceedings. (July 19, 1940, ch. 643, § 9, 54 Stat. 777; Apr. 30, 1947, ch. 46, 61 Stat. 56; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia."

HOOVER DAM POWER PLANT

The power plant's name has been changed from the Boulder Dam Power Plant to the Hoover Dam Power Plant to conform to the change of name of the dam from Boulder to Hoover Dam by act Apr. 30, 1947.

CROSS REFERENCE

Project Act defined, see section 618k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 618c, 618l of this title.

§ 618i. Effective date.

This subchapter shall be effective immediately for the purpose of the promulgation of charges, or the basis of computation thereof, and the execution of contracts authorized by the terms of this subchapter, but neither such charges, nor the basis of computation thereof, nor any such contract, shall be effective unless and until this subchapter shall be effective for all purposes. This subchapter shall take effect for all purposes when, but not before, the Secretary shall have found that provision has been made for the termination of the existing lease of the Hoover Power Plant and for the operation thereof as authorized by section 618h of this title, and that allottees obligated under contracts in force on the date of enactment of this subchapter to pay for at least 90 per centum of the firm energy shall have entered into contracts (1) consenting to such operation, and (2) containing such other provisions as the Secretary may deem necessary or proper for carrying out the purposes of this subchapter. For purposes of this section such 90 per centum shall be computed as of the end of the absorption periods provided for in regulations heretofore promulgated by the Secretary and in effect at the time of the enactment of this subchapter.

If contracts in accordance with the requirements of this section shall not have been entered into prior to June 1, 1941, this subchapter shall cease to be operative and shall be of no further force or effect. (July 19, 1940, ch. 643, § 10, 54 Stat. 778; Apr. 30, 1947, ch. 46, 61 Stat. 56.)

HOOVER DAM POWER PLANT

The power plant's name has been changed from the Boulder Dam Power Plant to the Hoover Dam Power Plant to conform to the change of name of the dam from Boulder to Hoover Dam by act Apr. 30, 1947.

SECTION REFERRED TO IN OTHER SDCTIONS

This section is referred to in section 618c of this title.

§ 618j. Effect of refusal to modify existing contracts.

Any contractor for energy from the project failing or refusing to execute a contract modifying its existing contract to conform to this subchapter shall continue to pay the rates and charges provided for in its existing contract, subject to such periodic readjustments as are therein provided, in all respects as if this subchapter had not been passed, and so far as necessary to support such existing contract all of the provisions of subchapter I of this chapter shall remain in effect, anything in this subchapter inconsistent therewith notwithstanding. (July 19, 1940, ch. 643, § 11, 54 Stat. 778.)

§ 618k. Definitions.

The following terms wherever used in this subchapter shall have the following respective meanings:

"Project Act" shall mean the Boulder Canyon Project Act;

"Project" shall mean the works authorized by subchapter I of this chapter to be constructed and owned by the United States, exclusive of the main canal and appurtenances mentioned therein, now known as the All-American Canal;

"Secretary" shall mean the Secretary of the Interior of the United States;

"Firm energy" and "allottees" shall have the meaning assigned to such terms in regulations promulgated before July 19, 1940, by the Secretary and in effect at the time of the enactment of this subchapter;

"Replacements" shall mean such replacements as may be necessary to keep the project in good operating condition during the period from June 1, 1937, to May 31, 1987, inclusive, but shall not include (except where used in conjunction with the word "emergency" or the words "however necessitated") replacements made necessary by any act of God, or of the public enemy, or by any major catastrophe; and

"Year of operation" shall mean the period from and including June 1 of any calendar year to and including May 31 of the following calendar year. (July 19, 1940, ch. 643, § 12, 54 Stat. 778.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in the definition of "Project Act", is classified to subchapter I of this chapter.

§ 618*l*. Repealed. Aug. 30, 1954, ch. 1076, § 1 (22), 68 Stat. 968.

Section, act July 19, 1940, ch. 643, § 13, 54 Stat. 779, required the Secretary of the Interior to submit an annual financial statement and report to Congress of operations under this subchapter.

§ 618m. Effect on existing laws and States' rights.

Nothing in this subchapter shall be construed as interfering with such rights as the States had on July 19, 1940, either to the waters within their borders or to adopt such policies and enact such laws as they deem necessary with respect to the appropriation, control, and use of waters within their borders, except as modified by the Colorado River compact or other interstate agreement. Neither the promulgation of charges, or the basis of charges, nor anything contained in this subchapter, or done thereunder, shall in anywise affect, limit, or prejudice any right of any State in or to the waters of the Colorado River system under the Colorado River compact. Section 617*l* (b), (c), (d) of this title and all other provisions of subchapter I of this chapter not inconsistent with the terms of this subchapter shall remain in full force and effect. (July 19, 1940, ch. 643, § 14, 54 Stat. 779.)

§ 618n. Wages of employees.

All laborers and mechanics employed in the construction of any part of the project, or in the operation, maintenance, or replacement of any part of the Hoover Dam, shall be paid not less than the prevailing rate of wages or compensation for work of a similar nature prevailing in the locality of the project. In the event any dispute arises as to what are the prevailing rates, the determination thereof shall be made by the Secretary of the Interior, and his decision, subject to the concurrence of the Secretary of Labor, shall be final. (July 19, 1940, ch. 643, § 15, 54 Stat. 779; Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

§ 618o. Short title.

This subchapter may be cited as "Boulder Canyon Project Adjustment Act". (July 19, 1940, ch. 643, § 16, 54 Stat. 779.)

§ 618p. Reports to Congressional Appropriations Committees on Colorado River dam fund investments and expenditures; diminution of repayment obligations.

CODIFICATION

Section was from "The Interior Department Appropriation Act, 1950", act Oct. 12, 1949, ch. 680, title I, § 101, 63 Stat. 784 and has not been repeated in subsequent appropriation acts.

Section was a part of section 1 of the Interior Department Appropriation Act, 1949, and was not a part of the Boulder Canyon Project Adjustment Act which comprises this subchapter.

SIMILAR PROVISIONS

Similar provisions were contained in act June 29, 1948, ch. 754, § 1, 62 Stat. 1130.

Chapter 12B.—COLORADO RIVER STORAGE PROJECT

Sec.
620. Upper Colorado River Basin; purpose of development of water resources; initial units; construction of Curecanti unit contingent upon certification; participating projects; Rainbow Bridge National Monument.
620a. Priority to planning reports of certain additional participating projects; reports to States; San Juan-Chama project; Juniper project.
620a-1. Construction of participating projects to be concurrent with Central Arizona Project.
620a-2. Establishment of nonexcess irrigable acreage for participating projects.
620b. Congressional intent; additional undesignated projects not precluded; construction not authorized within national park or monument.
620c. Laws governing; irrigation repayment contracts; time for making contract; contracts for municipal water; payment by Indian lands; restricted delivery of water for excess commodity; apportionments of use.
620c-1. Laws governing priority of appropriation.
620d. Upper Colorado River Basin Fund
(a) Authorization and availability.
(b) Crediting of appropriations.
(c) Crediting and availability of revenues.
(d) Payments of revenues in excess of operating needs to Treasury.
(e) Apportionment of excess revenues among States.
(f) Determination of interest rate.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 615ii, 615jj, 615pp of this title.

§ 620. Upper Colorado River Basin; purpose of development of water resources; initial units; construction of Curecanti unit contingent upon certification; participating projects; Rainbow Bridge National Monument.

In order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident of the foregoing purposes, the Secretary of the Interior is authorized (1) to construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Curecanti, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon: *Provided,* That the Curecanti Dam shall be constructed to a height which will impound not less than nine hundred and forty thousand acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at seven thousand five hundred and twenty feet above mean sea level, and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engineering and economic investigations, reexamined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and (2) to construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase and the Uintah unit), San Juan-Chama (initial stage), Emery County, Florida, Hammond, La Barge, Lyman, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Animas-La Plata, Dolores, Dallas Creek, West Divide, San Miguel, Seedskadee, Savery-Pot Hook, Bostwick Park, Fruitland Mesa, Silt and Smith Fork: *Provided,* That construction of the Uintah of the Central Utah project shall not be

undertaken by the Secretary until he has completed a feasibility report on such unit and submitted such report to the Congress, along with his certification that, in his judgment, the benefits of such unit or segment will exceed the costs and that such unit is physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof: *Provided further,* That as part of the Glen Canyon Unit the Secretary of the Interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument. (Apr. 11, 1956, ch. 203, § 1, 70 Stat. 105; June 13, 1962, Pub. L. 87–483, § 18, 76 Stat. 102; Sept. 2, 1964, Pub. L. 88–568, § 1, 78 Stat. 852; Sept. 30, 1968, Pub. L. 90–537, title V, § 501(a), 82 Stat. 896.)

CODIFICATION

The provisions of subsec. (a) of section 501 of Pub. L. 90–537 which amended this section are only a part of said subsec. (a). The remainder of said subsec. (a) amended section 620a of this title and enacted provisions set out as notes under this section and section 620k of this title. Subsecs. (b), (d), and (e) of section 501 of Pub. L. 90–537 were classsified respectively to sections 620a–1, 620a–2, and 620c–1 of this title. Subsecs. (c), and (f) of section 501 were not classified as to the Code.

AMENDMENTS

1968—Pub. L. 90–537 added the Uintah unit to the initial phase in the Central Utah project, substituted "Animas-La Plata, Dolores, Dallas Creek, West Divide, San Miguel" for "Pine River Extension", and added proviso prohibiting construction of the Uintah unit of the Central Utah project until a feasibility study is made, a determination is made that its benefits will exceed its costs and an authorization for appropriations is made by Congress.

1964—Pub. L. 88–568 included Savery-Pot Hook, Bostwick Park, and Fruitland Mesa as participating projects.

1962—Pub. L. 87–483 included San Juan-Chama (initial stage) and Navajo Indian as participating projects in clause (2).

PURPOSE OF 1968 AMENDMENT

Section 501(a) of Pub. L. 90–537 provided in part that the amendments of this section and section 620a of this title by section 501(a) of Pub. L. 90–537 were made in order to provide for the construction, operation, and maintenance of the Animas-La Plata Federal reclamation project, Colorado-New Mexico; the Dolores, Dallas Creek, West Divide, and San Miguel Federal reclamation projects, Colorado; and the Central Utah project (Uintah Unit), Utah, as participating projects under the Colorado River Storage Project Act, and to provide for the completion of planning reports on other participating projects.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 620b, 620c of this title.

§ 620a. Priority to planning reports of certain additional participating projects; reports to States; San Juan-Chama project; Juniper project.

In carrying out further investigations of projects under the Federal reclamation laws in the Upper Colorado River Basin, the Secretary shall give priority to completion of planning reports on the Gooseberry, Eagle Divide, Bluestone, Battlement Mesa, Grand Mesa, Yellow Jacket, Basalt, Middle Park (including the Troublesome, Rabbit Ear, and Azure units), Upper Gunnison (including the East River, Ohio Creek, and Tomichi Creek units), Lower Yampa (including the Juniper and Great Northern units), Upper Yampa (including the Hayden Mesa, Wessels, and Toponas units) and Sublette (including a diversion of water from the Green River to the North Platte River Basin in Wyoming), Ute Indian unit of the Central Utah Project, San Juan County (Utah), Price River, Grand County (Utah), Gray Canyon, and Juniper (Utah) participating projects: *Provided,* That the planning report for the Ute Indian unit of the Central Utah participating project shall be completed on or before December 31, 1974, to enable the United States of America to meet the commitments heretofore made to the Ute Indian Tribe of the Uintah and Ouray Indian Reservation under the agreement dated September 20, 1965 (Contract Numbered 14–06–W–194). Said reports shall be completed as expeditiously as funds are made available therefor and shall be submitted promptly to the affected States, which in the case of the San Juan-Chama project shall include the State of Texas, and thereafter to the President and the Congress: *Provided,* That with reference to the plans and specifications for the San Juan-Chama project, the storage for control and regulation of water imported from the San Juan River shall (1) be limited to a single offstream dam and reservoir on a tributary of the Chama River, (2) be used solely for control and regulation and no power facilities shall be established, installed or operated thereat, and (3) be operated at all times by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande Compact as administered by the Rio Grande Compact Commission. The preparation of detailed designs and specifications for the works proposed to be constructed in connection with projects shall be carried as far forward as the investigations thereof indicate is reasonable in the circumstances.

The Secretary, concurrently with the investigations directed by the preceding paragraph, shall also give priority to completion of a planning report on the Juniper project. (Apr. 11, 1956, ch. 203, § 2, 70 Stat. 106; June 13, 1962, Pub. L. 87–483, § 18, 76 Stat. 102; Sept. 2, 1964, Pub. L. 88–568, § 1, 78 Stat. 852; Sept. 30, 1968, Pub. L. 90–537, title V, § 501(a), 82 Stat. 897.)

CODIFICATION

The provisions of subsec. (a) of section 501 of Pub. L. 90–537 which amended this section are only a part of said subsec. (a). The remainder of subsec. (a) amended section 620 of this title and enacted provisions set out as notes under sections 620 and 620k of this title. Subsecs. (b), (d), and (e) of section 501 of Pub. L. 90–537 were classified respectively to sections 620a–1, 620a–2, and 620c–1 of this title, Subsecs. (c) and (f) of section 501 were not classified to the Code.

AMENDMENTS

1968—Pub. L. 90–537 substituted the Basalt, Middle Park (including the Troublesome, Rabbit Ear, and Azure units), Upper Gunnison (including the East River, Ohio Creek, and Tomichi Creek units), Lower Yampa (including the Juniper and Great Northern units), and Upper Yampa (including the Hayden Mesa, Wessels, and Toponas units) projects for the Parshall, Troublesome, Rabbit Ear, San Miguel, West Divide, Tomichi Creek, East River, Ohio Creek, Dallas Creek, Dolores, Fruit Growers Extension, and Animas-La Plata projects, added the Ute Indian unit of the Central Utah Project, San Juan County (Utah), Price River, Grand County (Utah), Gray Canyon, and Juniper (Utah) projects, and that portion of the Sublette projects consisting of a diversion of water from the Green River to the North Platte River Basin in Wyoming to the list of participating projects, and added proviso that the planning report for the Ute Indian unit of

the Central Utah project be completed on or before December 31, 1974.

1964—Pub. L. 88-568 deleted ", Fruitland Mesa, Bostwick Park" and ", Savery-Pot Hook" following "Ohio Creek" and "Dallas Creek", respectively.

1962—Pub. L. 87-483 deleted "San Juan-Chama, Navajo" following "Gooseberry," in the first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 620b of this title.

§ 620a-1. Construction of participating projects to be concurrent with Central Arizona Project.

The Secretary is directed to proceed as nearly as practicable with the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel participating Federal reclamation projects concurrently with the construction of the Central Arizona Project, to the end that such projects shall be completed not later than the date of the first delivery of water from said Central Arizona Project: *Provided,* That an appropriate repayment contract for each of said participating projects shall have been executed as provided in section 620c of this title before construction shall start on that particular project. (Pub. L. 90-537, title V, § 501(b), Sept. 30, 1968, 82 Stat. 897.)

CODIFICATION

Section consists of subsec. (b) of section 501 of Pub. L. 90-537. Subsecs. (a), (d), and (e) of section 501 are classified to sections 620, 620 note, 620a, 620a-2, 620c-1, and 620k note of this title. Subsec. (c) and (f) of section 501 were not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act, and not as part of the Colorado River Storage Project Act, which comprises this chapter.

§ 620a-2. Establishment of nonexcess irrigable acreage for participating projects.

The Secretary shall, for the Animas-La Plata, Dolores, Dallas Creek, San Miguel, West Divide, and Seedskadee participating projects of the Colorado River storage project, establish the nonexcess irrigable acreage for which any single ownership may receive project water at one hundred and sixty acres of class 1 land or the equivalent thereof, as determined by the Secretary, in other land classes. (Pub. L. 90-537, title V, § 501(d), Sept. 30, 1968, 82 Stat. 898.)

CODIFICATION

Section consists of subsec. (d) of section 501 of Pub. L. 90-537. Subsecs. (a), (b), and (e) of section 501 are classified to sections 620, 620 note, 620a, 620a-1, 620c-1, and 620k note of this title. Subsecs. (c) and (f) of section 501 were not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act, and not as part of the Colorado River Storage Project Act, which comprises this chapter.

§ 620b. Congressional intent; additional undesignated projects not precluded; construction not authorized within national park or monument.

It is not the intention of Congress, in authorizing only those projects designated in section 620 of this title, and in authorizing priority in planning only those additional projects designated in section 620a of this title, to limit, restrict, or otherwise interfere with such comprehensive development as will provide for the consumptive use by States of the Upper Colorado River Basin of waters, the use of which is apportioned to the Upper Colorado River Basin by the Colorado River Compact and to each State thereof by the Upper Colorado River Basin Compact, nor to preclude consideration and authorization by the Congress of additional projects under the allocations in the compacts as additional needs are indicated. It is the intention of Congress that no dam or reservoir constructed under the authorization of this chapter shall be within any national park or monument. (Apr. 11, 1956, ch. 203, § 3, 70 Stat. 107.)

§ 620c. Laws governing; irrigation repayment contracts; time for making contract; contracts for municipal water; payment by Indian lands; restricted delivery of water for excess commodity; apportionments of use.

Except as otherwise provided in this chapter, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 620 of this title, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided,* That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than fifty years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an "organization" as defined in section 485a (g) of this title which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 485h of this title; and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to section 386a of Title 25: *Provided further,* That for a period of ten years from April 11, 1956, no water from any participating project authorized by this chapter shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301 (b) (10) of Title 7 unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994). (Apr. 11, 1956, ch. 203, § 4, 70 Stat. 107.)

REFERENCES IN TEXT

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplemen-

tary thereto) are classified generally to this title. See Tables for distribution.

The Agricultural Act of 1949, referred to in the text is classified to chapter 35A and sections: 612c, 1301, 1328, 1343, 1344, 1345, 1353—1356 of Title 7, Agriculture; 1134c and 1134j of Title 12, Banks and Banking; 713a-4 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615jj, 620a-1, 620d of this title.

§ 620c-1. Laws governing priority of appropriation.

In the diversion and storage of water for any project or any parts thereof constructed under the authority of the Colorado River Basin Project Act or the Colorado River Storage Project Act within and for the benefit of the State of Colorado only, the Secretary is directed to comply with the constitution and statutes of the State of Colorado relating to priority of appropriation; with State and Federal court decrees entered pursuant thereto; and with operating principles, if any, adopted by the Secretary and approved by the State of Colorado. (Pub. L. 90-537, title V, § 501(e), Sept. 30, 1968, 82 Stat. 898.)

REFERENCES IN TEXT

The Colorado River Basin Project Act, referred to in text, is Pub. L. 90-537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to chapter 32 of this title. See Short Title note under section 1501 of this title.

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 105, which is classified to this chapter.

CODIFICATION

Sections consists of subsec. (e) of section 501 of Pub. L. 90-537. Subsecs. (a), (b), and (d) of section 501 are classified to sections 620, 620 note, 620a, 620a-1, 620a-2, and 620k note of this title. Subsecs. (c) and (f) of section 501 were not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act and not as part of the Colorado River Storage Project Act which comprises this chapter.

§ 620d. Upper Colorado River Basin Fund.

(a) Authorization and availability.

There is authorized a separate fund in the Treasury of the United States to be known as the Upper Colorado River Basin Fund (hereinafter referred to as the Basin Fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this chapter other than section 620g of this title.

(b) Crediting of appropriations.

All appropriations made for the purpose of carrying out the provisions of this chapter, other than section 620g of this title shall be credited to the Basin Fund as advances from the general fund of the Treasury.

(c) Crediting and availability of revenues.

All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appropriation acts: *Provided,* That with respect to each participating project, such costs shall be paid from revenues received from each such project; (2) payment as required by subsection (d) of this section; and (3) payment as required by subsection (e) of this section. Revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this chapter.

(d) Payments of revenues in excess of operating needs to Treasury.

Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 620e of this title, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 620e of this title, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project, or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (f), and interest due shall be a first charge; and

(4) the costs of each storage unit which are allocated to irrigation pursuant to section 620e of this title within a period not exceeding fifty years.

(e) Apportionment of excess revenues among States.

Revenues in the Basin Fund in excess of the amounts needed to meet the requirements of clause (1) of subsection (c) of this section, and to return to the general fund of the Treasury the costs set out in subsection (d) of this section, shall be apportioned among the States of the Upper Division in the following percentages: Colorado, 46 per centum; Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum: *Provided,* That prior to the application of such percentages, all revenues remaining in the Basin Fund from each participating project (or part thereof), herein or hereafter authorized, after payments, where applicable, with respect to such projects, to the general fund of the Treasury under subparagraphs (1), (2), and (3) of subsection (d) of this section shall be apportioned to the State in which such participating project, or part thereof, is located.

Revenues so apportioned to each State shall be used only for the repayment of construction costs of participating projects or parts of such projects in the State to which such revenues are apportioned and shall not be used for such purpose in any other State without the consent, as expressed through its legally constituted authority, of the State to which such revenues are apportioned. Subject to such requirement, there shall be paid annually into the general fund of the Treasury from the revenues

apportioned to each State (1) the costs of each participating project herein authorized (except Paonia) or any separable feature thereof, which are allocated to irrigation pursuant to section 620c of this title, within a period not exceeding fifty years, in addition to any development period authorized by law, from the date of completion of such participating project or separable feature thereof, or, in the case of Indian lands, payment in accordance with section 620c of this title; (2) costs of the Paonia project, which are beyond the ability of the water users to repay, within a period prescribed in the Act of June 25, 1947 (61 Stat. 181); and (3) costs in connection with the irrigation features of the Eden project as specified in the Act of June 28, 1949 (63 Stat. 277).

(f) Determination of interest rate.

The interest rate applicable to each unit of the storage project and each participating project for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue.

(g) Budget to be submitted to Congress.

Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund. (Apr. 11, 1956, ch. 203, § 5, 70 Stat. 107; June 27, 1960, Pub. L. 86-529, § 9 (part), 74 Stat. 227; June 13, 1962, Pub. L. 87-483, § 18, 76 Stat. 102.)

REFERENCES IN TEXT

Act of June 25, 1947 [ch. 148] (61 Stat. 181), referred to in subsec. (e), was an act to authorize the construction, operation, and maintenance of the Paonia Federal reclamation project, Colorado, and is not classified to the Code.

Act of June 28, 1949 [ch. 255] (63 Stat. 277), referred to in subsec. (e), was an act to authorize completion of construction and development of the Eden project, Wyoming, and is not classified to the Code.

AMENDMENTS

1962—Subsec. (e). Pub. L. 87-483 substituted "hereafter" for "hereinafter" in the proviso in the first paragraph.

1960—Subsec. (f). Pub. L. 86-529 required the Secretary, for purposes of computing interest during construction and interest on the unpaid balance, to determine the interest rate as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 9 of Pub. L. 86-529 provided in part that the amendment of subsec. (f) of this section shall be effective June 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section referred to in sections 616kk, 620d-1, of this title.

§ 620d-1. Reimbursement of Fund from Colorado River Development Fund; operation of Hoover Dam.

The Upper Colorado River Basin Fund established under section 620d of this title shall be reimbursed from the Colorado River Development Fund established by section 618a of this title for the money expended heretofore or hereafter from the Upper Colorado River Basin Fund to meet deficiencies in generation at Hoover Dam during the filling period of storage units of the Colorado River storage project pursuant to the criteria for the filling of Glen Canyon Reservoir (27 Fed. Reg. 6851, July 19, 1962). For this purpose, $500,000 for each year of operation of Hoover Dam and powerplant, commencing with fiscal year 1970, shall be transferred from the Colorado River Development Fund to the Upper Colorado River Basin Fund, in lieu of application of said amounts to the purposes stated in section 618a(d) of this title, until such reimbursement is accomplished. To the extent that any deficiency in such reimbursement remains as of June 1, 1987, the amount of the remaining deficiency shall then be transferred to the Upper Colorado River Basin Fund from the Lower Colorado River Basin Development Fund, as provided in section 1543(g) of this title. (Pub. L. 90-537, title V, § 502, Sept. 30, 1968, 82 Stat. 899.)

CODIFICATION

Section was enacted as part of the Colorado River Basin Project Act and not as part of the Colorado River Storage Project Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

§ 620e. Cost allocations; Indian lands; report to Congress.

Upon completion of each unit, participating project or separable feature thereof, the Secretary shall allocate the total costs (excluding any expenditures authorized by section 620g of this title) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this chapter. In the event that the Navajo participating project is authorized, the costs allocated to irrigation of Indian-owned tribal or restricted lands within, under, or served by such project, and beyond the capability of such lands to repay, shall be determined, and, in recognition of the fact that assistance to the Navajo Indians is the responsibility of the entire nation, such costs shall be nonreimbursable. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1957, upon the status of the revenues from, and the cost of, constructing, operating, and maintaining the Colorado River storage project and the participating projects. The Secretary's report shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment. (Apr. 11, 1956, ch. 203, § 6, 70 Stat. 109.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 620d of this title.

§ 620f. Powerplant operations.

The hydroelectric powerplants and transmission lines authorized by this chapter to be constructed,

operated, and maintained by the Secretary shall be operated in conjunction with other Federal powerplants, present and potential, so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates, but in the exercise of the authority hereby granted he shall not affect or interfere with the operation of the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act and any contract lawfully entered into under said Compacts and Acts. Subject to the provisions of the Colorado River Compact, neither the impounding nor the use of water for the generation of power and energy at the plants of the Colorado River storage project shall preclude or impair the appropriation of water for domestic or agricultural purposes pursuant to applicable State law. (Apr. 11, 1956, ch. 203, § 7, 70 Stat. 109; June 13, 1962, Pub. L. 87–483, § 18, 76 Stat. 102.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act, referred to in the text, are classified to subchapters I and II respectively of chapter 12A of this title. For Congressional approval of the Colorado River Compact and the Upper Colorado River Basin Compact, see section 617*l* of this title and note thereunder.

AMENDMENTS

1962—Pub. L. 87–483 substituted "into" for "unto."

CROSS REFERENCES

Administration of section in accordance with criteria established by Secretary, see section 1552 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 620g. Recreational and fish and wildlife facilities

In connection with the development of the Colorado River storage project and of the participating projects, the Secretary is authorized and directed to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of said project or of said participating projects, to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects; and (2) facilities to mitigate losses of, and improve conditions for, the propagation of fish and wildlife. The Secretary is authorized to acquire lands and to withdraw public lands from entry or other disposition under the public land laws necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable. (Apr. 11, 1956, ch. 203, § 8, 70 Stat. 110.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616kk, 620d, 620e of this title.

§ 620h. Saving provision.

Nothing contained in this chapter shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), the Colorado River Compact, the Upper Colorado River Basin Compact, the Rio Grande Compact of 1938, or the treaty with the United Mexican States (Treaty Series 994). (Apr. 11, 1956, ch. 203, § 9, 70 Stat. 110.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act, referred to in the text, are classified to subchapters I and II respectively of chapter 12A of this title. For Congressional approval of the Colorado River Compact and the Upper Colorado River Basin Compact, see section 617*l* and note thereunder of this title. For definition of the Rio Grande Compact of 1938, and the Treaty with the United Mexican States, see section 620*o* of this title.

§ 620i. Expenditures; units excepted from soil survey and land classification requirements.

Expenditures for the Flaming Gorge, Glen Canyon, Curecanti, and Navajo initial units of the Colorado River storage project may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954. (Apr. 11, 1956, ch. 203, § 10, 70 Stat. 110.)

REFERENCES IN TEXT

The Interior Department Appropriation Act, 1954, refered to in the text, is classified to sections 50, 377a, 390a, and 775 of this title, section 17b–1 of Title 16, Conservation, and sections 1401f, 1409 note, 1423*l*, 1665, 1681, 1682, 1683, 1684, and 1686 of Title 48, Territories and Insular Possessions.

§ 620j. Court decree, effectivity and approval.

The Final Judgment, Final Decree and stipulations incorporated therein in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, are approved, shall become effective immediately, and the proper agencies of the United States shall act in accordance therewith. (Apr. 11, 1956, ch. 203, § 11, 70 Stat. 110.)

§ 620k. Appropriation.

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this chapter, but not to exceed $760,000,000. (Apr. 11, 1956, ch. 203, § 12, 70 Stat. 110.)

ADDITIONAL APPROPRIATIONS AUTHORIZED FOR CONSTRUCTION OF ANIMAS-LA PLATA, DOLORES, DALLAS CREEK, WEST DIVIDE, AND SAN MIGUEL PROJECTS

Section 501(a) of Pub. L. 90–537, title V, Sept. 30, 1968, 82 Stat. 897, provided in part that: "The amount which section 12 of said Act [this section] authorizes to be appropriated is hereby further increased by the sum of $392,000,000 plus or minus such amounts, if any, as may be required, by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved. This additional sum shall be available solely for the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel projects herein authorized."

SAVERY-POT HOOK, BOSTWICK PARK, AND FRUITLAND MESA PROJECTS

Appropriations under this section increased by $47,000,000 for construction of Savery-Pot Hook project, Colorado-Wyoming, and Bostwick Park and Fruitland Mesa projects, Colorado, see section 616mm of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615rr, 615yy, 616mm of this title.

§ 620l. Net power revenues.

In planning the use of, and in using credits from, net power revenues available for the purpose of assisting in the pay-out of costs of participating projects herein and hereafter authorized in the States of Colorado, New Mexico, Utah, and Wyoming, the Secretary shall have regard for the achievement within each of said States of the fullest practicable use of the waters of the Upper Colorado River system, consistent with the apportionment thereof among such States. (Apr. 11, 1956, ch. 203, § 13, 70 Stat. 110.)

§ 620m. Compliance with law required in operation of facilities; enforcement of provisions.

In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suites, as a defendant or otherwise. (Apr. 11, 1956, ch. 203, § 14, 70 Stat. 110.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act, referred to in the text, are classified to subchapters I and II respectively of chapter 12A of this title. For Congressional approval of the Colorado River Compact and the Upper Colorado River Basin Compact, see section 617l and note thereunder of this title. For definition of the Treaty with the United Mexican States, see section 620o of this title.

§ 620n. Water quality study and reports.

The Secretary of the Interior is directed to continue studies and to make a report to the Congress and to the States of the Colorado River Basin on the quality of water of the Colorado River. (Apr. 11, 1956, ch. 203, § 15, 70 Stat. 111.)

§ 620o. Definitions.

As used in this chapter—

The terms "Colorado River Basin", "Colorado River Compact", "Colorado River System", "Lee Ferry", "States of the Upper Division", "Upper Basin", and "domestic use" shall have the meaning ascribed to them in article II of the Upper Colorado River Basin Compact;

The term "States of the Upper Colorado River Basin" shall mean the States of Arizona, Colorado, New Mexico, Utah, and Wyoming;

The term "Upper Colorado River Basin" shall have the same meaning as the term "Upper Basin";

The term "Upper Colorado River Basin Compact" shall mean that certain compact executed on October 11, 1948 by commissioners representing the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, and consented to by the Congress of the United States of America by Act of April 6, 1949 (63 Stat. 31);

The term "Rio Grande Compact" shall mean that certain compact executed on March 18, 1938, by commissioners representing the States of Colorado, New Mexico, and Texas and consented to by the Congress of the United States of America by Act of May 31, 1939 (53 Stat. 785);

The term "Treaty with the United Mexican States" shall mean that certain treaty between the United States of America and the United Mexican States, signed at Washington, District of Columbia, February 3, 1944, relating to the utilization of the waters of the Colorado River and other rivers, as amended and supplemented by the protocol dated November 14, 1944, and the understandings recited in the Senate resolution of April 18, 1945, advising and consenting to ratification thereof. (Apr. 11, 1956, ch. 203, § 16, 70 Stat. 111.)

REFERENCES IN TEXT

For approval of Colorado River Compact, referred to in the text, see section 617l of this title.

Chapter 13.—FEDERAL LANDS INCLUDED IN STATE IRRIGATION DISTRICTS

Sec.
621. Subjection of lands in State irrigation district to State laws generally.
622. Cost of construction and maintenance of irrigation project as charge on land.
623. Map of district and plan of irrigation project; approval by Secretary.
624. Entry of approval on land records.
625. Release of unentered land from lien on noncompletion of irrigation project.
626. Enforcement of lien against entered but unpatented land.
627. Sale of unpatented and unentered land prohibited; suspension of entry.
628. Patents to entered but unpatented land.
629. Delivery of notices required by State law; right to hearing, appeal, etc.
630. Disposition by Government of proceeds of land sold.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 513 of this title.

§ 621. Subjection of lands in State irrigation district to State laws generally.

When in any State of the United States under the irrigation district laws of said State there has, prior to August 11, 1916, been organized and created or shall thereafter be organized and created any irrigation district for the purpose of irrigating the lands situated within said irrigation district, and in which irrigation district so created or to be created there shall be included any of the public lands of the United States, such public lands so situated in said irrigation district, when subject to entry, and entered lands within said irrigation district, for which no

final certificates have been issued, which may be designated by the Secretary of the Interior in the approval by him of the map and plat of an irrigation district as provided in section 623 of this title, are made and declared to be subject to all the provisions of the laws of the State in which such lands shall be situated relating to the organization, government, and regulation of irrigation districts for the reclamation and irrigation of arid lands for agricultural purposes, to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to said laws: *Provided*, That the United States and all persons legally holding unpatented lands under entry made under the public land laws of the United States are accorded all the rights, privileges, benefits, and exemptions given by said State laws to persons holding lands of a like character under private ownership except as in this chapter otherwise provided: *Provided further*, That this chapter shall not apply to any irrigation district comprising a majority acreage of unentered land. (Aug. 11, 1916, ch. 319, § 1, 39 Stat. 506.)

§ 622. Cost of construction and maintenance of irrigation project as charge on land.

The cost of constructing, acquiring, purchasing, or maintaining the canals, ditches, reservoirs, reservoir sites, water, water right, rights-of-way, or other property incurred in connection with any irrigation project under said irrigation district laws shall be equitably apportioned among lands held under private ownership, lands legally covered by unpatented entries, and unentered public lands included in said irrigation district. Officially certified lists of the amounts of charges assessed against the smallest legal subdivision of said lands shall be furnished to the officer designated by the Secretary of the Interior of the land district within which the lands affected are located as soon as such charges are assessed; but nothing in this chapter shall be construed as creating any obligation against the United States to pay any of said charges, assessments, or debts incurred.

All charges legally assessed shall be a lien upon unentered lands and upon lands covered by unpatented entries included in said irrigation district. (Aug. 11, 1916, ch. 319, § 2, 39 Stat. 507; Oct. 23, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 626 of this title.

§ 623. Map of district and plan of irrigation project: approval by Secretary.

No unentered lands and no entered lands for which no final certificates have been issued shall be subject to the lien or liens herein contemplated until there shall have been submitted by said irrigation district to the Secretary of the Interior, and approved by him, a map or plat of said district and sufficient detailed engineering data to demonstrate to the satisfaction of the Secretary of the Interior the sufficiency of the water supply and the feasibility of the project, and which shall explain the plan or mode of irrigation in those irrigation districts where the irrigation works have not been constructed, and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops, and which shall also show the source of water to be used for irrigation of land included in said district: *Provided*, That in those irrigation districts organized prior to August 11, 1916, and whose irrigation works had then been constructed and were then in operation as soon as a satisfactory map, plat, and plan shall have been approved by the Secretary of the Interior, as in this chapter provided, such entered and unentered lands shall be subject to all district taxes and assessments theretofore actually levied against the lands in said district and in the same manner in which lands of a like character held under private ownership are subject to liens and assessments. (Aug. 11, 1916, ch. 319, § 3, 39 Stat. 507.)

CROSS REFERENCES

Map or plan required by this section need not be filed with irrigation district for approval of Secretary of Interior where there is a contract between United States and an irrigation district, see section 513 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 513, 621 of this title.

§ 624. Entry of approval on land records.

Upon the approval of the district map or plat as hereinbefore provided by the Secretary of the Interior the officer designated by the Secretary of the Interior will note said approval upon his records where any unentered or entered and unpatented lands are affected. (Aug. 11, 1916, ch. 319, § 4, 39 Stat. 508; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 625. Release of unentered land from lien on noncompletion of irrigation project.

The Secretary of the Interior may, upon the expiration of ten years from the date of his approval

of said map and plan of any irrigation district, release from the lien authorized by this chapter any unentered land or lands upon which final certificate has not issued, for which irrigation works have not been constructed and water of such district made available for the land. (Aug. 11, 1916, ch. 319, § 3, 39 Stat. 507.)

§ 626. Enforcement of lien against entered but unpatented land.

The lien described in section 622 of this title upon land covered by unpatented entries may be enforced upon said unpatented lands by the sale thereof in the same manner and under the same proceeding whereby said assessments are enforced against lands held under private ownership: *Provided,* That in the case of entered unpatented lands the title or interest which such irrigation district may convey by tax sale, tax deed, or as a result of any tax proceeding shall be subject to the following conditions and limitations: If such unpatented land be withdrawn under Act June 17, 1902 (32 Stat. 388), known as the Reclamation Act, or subject to the provisions of said Act, then the interest which the district may convey by such tax proceedings or tax deed shall be subject to a prior lien reserved to the United States for all the unpaid charges authorized by the said Act, but the holder of such tax deed or tax title resulting from such district tax shall be entitled to all the rights and privileges in the land included in such tax title or tax deed of an assignee under the provisions of section 441 of this title, and upon submission to the United States land office of the district in which the land is located of satisfactory proof of such tax title, the name of the holder thereof shall be indorsed upon the records of such land office as entitled to the rights of one holding a complete and valid assignment under section 441 of this title and such person may at any time thereafter receive patent upon submitting satisfactory proof of the reclamation and irrigation required by Act June 17, 1902, and Acts amendatory thereto, and making the payments required by said Acts. (Aug. 11, 1916, ch. 319, § 2, 39 Stat. 507.)

REFERENCES IN TEXT

The Act of June 17, 1902 (32 Stat. 388), known as the Reclamation Act, and Act June 17, 1902, and Acts amendatory thereto, referred to in the text, are classified generally to this title. See Tables for distribution.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 627. Sale of unpatented and unentered land prohibited; suspension of entry.

No public lands which were unentered at the time any tax or assessment was levied against same by such irrigation district shall be sold for such taxes or assessments, but such tax or assessment shall be and continue a lien upon such lands, and not more than one hundred and sixty acres of such land shall be entered by any one person; and when such lands shall be applied for, after said approval by the Secretary of the Interior, under the homestead or desert-land laws of the United States the application shall be suspended for a period of thirty days to enable the applicant to present a certificate from the proper district or county officer showing that no unpaid district charges are due and delinquent against said land. (Aug. 11, 1916, ch. 319, § 5, 39 Stat. 508.)

§ 628. Patents to entered but unpatented land.

Any entered but unpatented lands not subject to Reclamation Act of June 17, 1902 (32 Stat. 388) sold in the manner and for the purposes mentioned in this chapter may be patented to the purchaser thereof or his assignee at any time after the expiration of the period of redemption allowed by law under which it may have been sold (no redemption having been made) upon the payment to the officer designated by the Secretary of the Interior of the local land office of the minimum price of $1.25 per acre, or such other price as may be fixed by law for such lands, together with the usual fees and commissions charged in entries of like lands under the homestead laws, and upon a satisfactory showing that the irrigation works have been constructed and that water of the district is available for such land; but the purchaser or his assignee shall, at the time of application for patent, have the qualification of a homestead entryman or desert-land entryman, and not more than one hundred and sixty acres of said land shall be patented to any one purchaser under the provisions of this chapter.

These limitations shall not apply to sales to irrigation districts, but shall apply to purchasers from such irrigation districts of such land bid in by said district.

Unless the purchaser or his assignee of such lands shall, within ninety days after the time for redemption has expired, pay to the proper officer designated by the Secretary of the Interior all fees and commissions and the purchase price to which the United States shall be entitled as provided for in this chapter, any person having the qualification of a homestead entryman or a desert-land entryman may pay to the proper officer designated by the Secretary of the Interior for not more than one hundred and sixty acres of said lands, for which payment has not been made, the unpaid purchase price, fees, and commissions to which the United States may be entitled; and upon satisfactory proof that he has paid to the purchaser at the tax sale, or his assignee or to the proper officer of the district for such purchaser or for the district, as the case may be, the sum for which the land was sold at sale for irrigation-district charges or bid in by the district at such sale, and in addition thereto the interest and penalties on the amount bid at the rate allowed by law, shall be subrogated to the rights of such purchaser to receive patent for said land.

In any case where any tract of entered land lying within such approved irrigation district shall become vacant by relinquishment or cancellation for any cause, any subsequent applicant therefor shall be required, in addition to the qualifications and requirements otherwise provided, to furnish satis-

factory proof by certificate from the proper district or county officer that he has paid all charges then due to the district upon said land and also has paid to the proper district or county officer for the holder or holders of any tax certificates, delinquency certificates, or other proper evidence of purchase at tax sale the amount for which the said land was sold at tax sale, together with the interest and penalties thereon provided by law. (Aug. 11, 1916, ch. 319, § 6, 39 Stat. 508; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902 (32 Stat. 388), referred to in the text, is classified generally to this title. See Tables for distribution.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "receiver" were changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925, and then to "officer designated by the Secretary of the Interior" by 1946 Reorg. Plan No. 3. See notes under former sections 1, 70, and 71 of this title.

§ 629. Delivery of notices required by State law; right to hearing, appeal, etc.

All notices required by the irrigation district laws mentioned in this chapter shall, as soon as such notices are issued, be delivered to the officer designated by the Secretary of the Interior of the proper land office in cases where unpatented lands are affected thereby, and to the entryman whose unpatented lands are included therein, and the United States and such entryman shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership, and all entrymen shall be given the same rights of redemption as are given to the owners of lands held in private ownership. (Aug. 11, 1916, ch. 319, § 7, 39 Stat. 509; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 630. Disposition by Government of proceeds of land sold.

All moneys derived by the United States from the sale of public lands referred to in this chapter shall be paid into such funds and applied as provided by law for the disposal of the proceeds from the sale of public lands. (Aug. 11, 1916, ch. 319, § 8, 39 Stat. 509.)

Chapter 14.—GRANTS OF DESERT LANDS TO STATES FOR RECLAMATION

Sec.
641. Grant of desert land to States authorized.
641a. Issuance of quitclaim deeds; patents for segregated lands.
641b. Filing of application for quitclaim deeds.
641c. Requirements of application for quitclaim deed.
641d. Effective date of quitclaim; administration of lands relinquished by States.
642. Liens for expenses of reclamation.
643. Temporary withdrawal from settlement or entry.
644. Preference right to entrymen under State laws.
645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation.
646. Grant extended to New Mexico and Arizona.
647. Grant extended to desert lands within part of former Ute Indian Reservation in Colorado.
648. Extension of time of segregation and reclamation in Oregon segregation lists.

§ 641. Grant of desert land to States authorized.

To aid the public-land States in the reclamation of the desert lands therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President is, as of August 18, 1894, authorized and empowered, upon proper application of the State to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined by the Act approved March 3, 1877, and the Act amendatory thereof, approved March 3, 1891, binding the United States to donate, grant, and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed, occupied, and not less than twenty acres of each one hundred and sixty acre tract cultivated by actual settlers, as thoroughly as is required of citizens who may enter under the desert-land law within ten years from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if actual construction of reclamation works is not begun within three years after the segregation of the lands or within such further period not exceeding three years, as shall be allowed by the Secretary of the Interior, the said Secretary of the Interior, in his discretion, may restore such lands to the public domain; and if the State fails, within ten years from the date of such segregation, to cause the whole or any part of the lands so segregated to be so irrigated and reclaimed, the Secretary of the Interior may, in his discretion, continue said segregation for a period not exceeding five years, or may, in his discretion, restore such lands not irrigated and reclaimed to the public domain upon the expiration of the ten-year period or of any extension thereof.

Before the application of any State is allowed or any contract or agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land

and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation, and the Secretary of the Interior may make necessary regulations for the reservation of the lands applied for by the States to date from the date of the filing of the map and plan of irrigation, but such reservation shall be of no force whatever if such map and plan of irrigation shall not be approved.

Any State contracting under this section is authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation, and settlement.

As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed, and occupied by actual settlers, patents shall be issued to the State or its assigns for said lands so reclaimed and settled: *Provided*, That said States shall not sell or dispose of more than one hundred and sixty acres of said lands to any one person, and any surplus of money derived by any State from the sale of said lands in excess of the cost of their reclamation, shall be held as a trust fund for and be applied to the reclamation of other desert lands in such State. (Aug. 18, 1894, ch. 301, § 4, 28 Stat. 422; Mar. 3, 1901, ch. 853, 31 Stat. 1188; Jan. 6, 1921, ch. 10, 41 Stat. 1085.)

REFERENCES IN TEXT

The Act approved March 3, 1877, and the Act amendatory thereof approved March 3, 1891, referred to in the text, are classified generally to this title. See Tables for distribution.

POPULAR NAME

This section is popularly known as the "Carey Act".

CROSS REFERENCES

Entry upon unreserved public lands withdrawn or classified as coal lands or valuable as coal, see section 83 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 523, 595, 641a, 641c, 641d, 642, 643, 644, 645, 646 of this title; title 30 sections 83, 84.

§ 641a. Issuance of quitclaim deeds; patents for segregated lands.

The Secretary of the Interior shall issue quitclaim deeds to the public-land States for all lands patented to such States under section 641 of this title. He shall also issue a patent for all unpatented public lands within each State now segregated under that section for which the State issued final certificates or other evidence of right prior to June 1, 1953, or as to which equitable claims to the lands accrued prior to that date (by reason of cultivation or improvement of the lands for agricultural development purposes) for conveyance to the holders of such rights or claims, or to their heirs, successors, or assigns. (Aug. 13, 1954, ch. 727, § 1, 68 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 641c, 641d of this title.

§ 641b. Filing of application for quitclaim deeds.

The Secretary shall not issue such quitclaim deeds or patents to any State, however, unless that State files a proper application for the transfer of these lands within three years after August 13, 1954. (Aug. 13, 1954, ch. 727, § 2, 68 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641d of this title.

§ 641c. Requirements of application for quitclaim deed.

The application must include a list of all the lands which the State certifies should be transferred under the terms of section 641a of this title, the basis for the certification of each tract included, and a quitclaim or relinquishment of all right, title, and interest in the State to any and all other lands under section 641 of this title. Such quitclaim or relinquishment by the State shall not affect any private rights obtained from the State prior to Aug. 13, 1954. (Aug. 13, 1954, ch. 727, § 3, 68 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641d of this title.

§ 641d. Effective date of quitclaim; administration of lands relinquished by States.

The quitclaim or relinquishment of all right, title, and interest by the State to any lands under sections 641a to 641d of this title shall not be effective until the Secretary has transferred the lands applied for under section 641 of this title. The Secretary shall provide for the administration and disposition under the public-land laws of the lands quitclaimed or relinquished by the States pursuant to sections 641a to 641d of this title. (Aug. 13, 1954, ch. 727, § 4, 68 Stat. 703.)

§ 642. Liens for expenses of reclamation.

Under any law heretofore or hereafter enacted by any State, providing for the reclamation of arid lands, in pursuance and acceptance of the terms of the grant made in section 641 of this title, a lien or liens is authorized to be created by the State to which such lands are granted and by no other authority whatever, and when created shall be valid on and against the separate legal subdivisions of land reclaimed, for the actual cost and necessary expenses of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such State without regard to settlement or cultivation: *Provided*, That in no event, in no contingency, and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liability, in whole or in part. (June 11, 1896, ch. 420, § 1, 29 Stat. 434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 644, 646 of this title.

§ 643. Temporary withdrawal from settlement or entry.

To aid in carrying out the purposes of section 641 of this title, it shall be lawful for the Secretary of the Interior, upon application by the proper officer

of any State or Territory to which said section applies, to withdraw temporarily from settlement or entry areas embracing lands for which the State or Territory proposes to make application under said section, pending the investigation and survey preliminary to the filing of the maps and plats and application for segregation by the State or Territory: *Provided,* That if the State or Territory shall not present its application for segregation and maps and plats within one year after such temporary withdrawal the lands so withdrawn shall be restored to entry as though such withdrawal had not been made. (Mar. 15, 1910, ch. 96, 36 Stat. 237.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 644, 646 of this title.

§ 644. Preference right to entrymen under State laws.

The Secretary of the Interior, when restoring to the public domain lands that have been segregated to a State under sections 641, 642 and 643 of this title is authorized, in his discretion and under such rules and regulations as he may establish to allow for not exceeding ninety days to any entryman under section 641 of this title a preference right of entry under applicable land laws of any of such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant under section 641 of this title and upon which such person had established actual bona fide residence or had made substantial and permanent improvements: *Provided,* That each entryman shall be entitled to a credit as residence upon his new homestead entry allowed hereunder of the time that he has actually lived upon the claim as a bona fide resident thereof. (Feb. 14, 1920, ch. 74, 41 Stat. 407.)

§ 645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation.

An additional one million acres of arid lands within each of the States of Colorado, Idaho, Nevada, and Wyoming is made available and subject to the terms of section 641 of this title, and the States of Colorado, Nevada, Idaho, and Wyoming are allowed under the provisions of said section said additional area or so much thereof as may be necessary for the purposes and under the provisions of said section. (May 27, 1908, ch. 200, § 1, 35 Stat. 347; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1417; Aug. 21, 1911, No. 7, 37 Stat. 38.)

§ 646. Grant extended to New Mexico and Arizona.

All the provisions of sections 641, 642 and 643 of this title are extended to the States of New Mexico and Arizona, and the said States upon complying with the provisions of said sections shall be entitled to have and receive all of the benefits therein conferred upon the States. (Feb. 18, 1909, ch. 150, § 1, 35 Stat. 638.)

§ 647. Grant extended to desert lands within part of former Ute Indian Reservation in Colorado.

The provisions of sections 641, 642 and 643 of this title are extended over and shall apply to the desert lands within the limits of all that portion of the former Ute Indian Reservation, not included in any national forest, in the State of Colorado, described and embraced in the Act entitled "An Act relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians," approved July 28, 1882: *Provided,* That before a patent shall issue for any of the lands aforesaid under the terms of the said sections the State of Colorado shall pay into the Treasury of the United States the sum of $1.25 per acre for the lands so patented, and the money so paid shall be subject to the provisions of section 3 of the Act of June 15, 1880, entitled "An Act to accept and ratify the agreements submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same."

No lands shall be included in any tract to be segregated under the provisions of this section on which the United States Government has valuable improvements, or which have been reserved for any Indian schools or farm purposes. (Feb. 24, 1909, ch. 178, §§ 1, 2, 35 Stat. 644, 645.)

§ 648. Extension of time of segregation and reclamation in Oregon segregation lists.

CODIFICATION

Section, acts Feb. 26, 1917, ch. 124, 39 Stat. 942; Mar. 3, 1919, ch. 114, 40 Stat. 1322; June 5, 1920, ch. 249, 41 Stat. 987, provided for extension of time of segregation and reclamation in Oregon segregation lists for period of not exceeding ten years and not beyond January 12, 1929.

Chapter 15.—APPROPRIATION OF WATERS; RESERVOIR SITES

Sec.
661. Appropriation of waters on public lands; rights-of-way for canals and ditches.
662. Reservation of reservoir sites generally.
663. Restriction of sites to inclusion of necessary lands.
664. Rights-of-way over reservoir sites generally.
665. Rights-of-way over reservoir sites for wagon road, railroad, or other highway.
666. Suits for adjudication of water rights.
(a) Joinder of United States as defendant; costs.
(b) Service of summons.
(c) Joinder in suits involving use of interstate streams by State.

§ 661. Appropriation of waters on public lands; rights-of-way for canals and ditches.

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by this section. (R. S. §§ 2339, 2340.)

DERIVATION

R. S. § 2339 from act July 26, 1866, ch. 262, § 9, 14 Stat. 253.

R. S. § 2340 from act July 9, 1870, ch. 235, § 17, 16 Stat. 218.

CODIFICATION

This section is also classified to sections 51 and 52 of Title 30, Mineral Lands and Mining.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 662. Reservation of reservoir sites generally.

Sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, located or selected prior to August 30, 1890, shall remain segregated and reserved from entry, or settlement, until otherwise provided by law, and reservoir sites thereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof: *Provided,* That the President may at any time in his discretion, by proclamation, open any portion or all of the lands reserved by this provision to settlement under the homestead laws. (Oct. 2, 1888, ch. 1069, 25 Stat. 526; Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391.)

CROSS REFERENCES

Sale of isolated or disconnected tracts of public lands authorized notwithstanding this section, see section 1171 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1171 of this title.

§ 663. Restriction of sites to inclusion of necessary lands.

Reservoir sites located or selected and to be located and selected shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs. (Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

§ 664. Rights-of-way over reservoir sites generally.

All reservoir sites reserved or to be reserved shall be open to use and occupation under sections 946 to 949 of this title, and any State is authorized to improve and occupy such reservoir sites to the same extent as an individual or private corporation, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided,* That the charges for water coming in whole or part from reservoir sites used or occupied under the provisions of this section shall always be subject to the control and regulation of the respective States and Territories in which such reservoirs are in whole or part situate. (Feb. 26, 1897, ch. 335, 29 Stat. 599.)

§ 665. Rights-of-way over reservoir sites for wagon road, railroad, or other highway.

In the form provided by existing law, the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any reservoir site when in his judgment the public interests will not be injuriously affected thereby. (Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

§ 666. Suits for adjudication of water rights.

(a) Joinder of United States as defendant; costs.

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: *Provided,* That no judgment for costs shall be entered against the United States in any such suit.

(b) Service of summons.

Summons or other process in any such suit shall be served upon the Attorney General or his designated representative.

(c) Joinder in suits involving use of interstate streams by State.

Nothing in this section shall be construed as authorizing the joinder of the United States in any suit or controversy in the Supreme Court of the United States involving the right of States to the use of the water of any interstate stream. (July 10, 1952, ch. 651, title II, § 208 (a)—(c), 66 Stat. 560.)

CODIFICATION

Section is composed of subsections (a)—(c) of section 208 of act July 10, 1952. Subsection (d) of section 208 is omitted as it referred to the limitation on the use of any appropriation in act July 10, 1952 to prepare or prosecute the suit in the U. S. District Court for the Southern Division of California, by the United States *v.* Fallbrook Public Utility Corporation.

CROSS REFERENCES

Costs against the United States, see section 2412 (a) of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Service of summons upon the United States, see Rule 4 (d) (4), Title 28, Appendix, Judiciary and Judicial Procedure.

Chapter 16.—SALE AND DISPOSAL OF PUBLIC LANDS

Sec.
671. Public sale forbidden; exceptions.
672. Repealed.
673. Private sales.
674. Memorandum in connection with application.
675. Private sale of lands in Missouri.
676. Highest bidder at private sale.
677. Repealed.
678. Price of lands.
679. Price of alternate sections of railroad lands.
680. Mineral lands.
681. Price of forfeited railroad lands and lands adjacent to railroad lands.
682. Sale for cemetery purposes.
682a. Sale or lease of small tracts for residence, recreation, business, or community site purposes.
682b. Same; minimum selling price; reservation of mineral rights.

Sec.
682c. Same; qualifications of lessees and purchasers.
682d. Same; sales or leases to employees of Department of Interior stationed in Alaska.
682e. Same; application to certain revested grant lands in Oregon; conditions.
683 to 687. Repealed.
687a. Rights to purchase; price and limit of acreage; access to water front.
687a-1. Same; filing of notice of claim; effect of failure to file; time limit for purchase applications.
687a-2. Lands on navigable waters.
687a-3. Several claimants of same tract.
687a-4. Reservation of landing places along water front for natives.
687a-5. Certain islands excepted.
687a-6. Surveys; deposits.
687b. Alaskan lands subject to sale for industrial, commercial, and housing construction purposes; public auction; notice; acreage limitation; proof of buyer's intention; admniistrative consent.
687b-1. Same; minimum selling price.
687b-2. Same; certificate of purchase; patent in fee; issuance and contents; liability for mining; vested rights.
687b-3. Same; existing rights saved; laws not applicable.
687b-4. Same; rules and regulations.
687b-5. Same; equitable principles upon submission of proof of compliance with use requirements after prescribed period.
687c. Alaskan land leases for fur farming; citizenship; acreage limitation; period; terms and conditions; laws applicable to mineral resources; reservations.
687c-1. Same; execution of provisions of section 687c; authority of Secretary of the Interior.
688. Several certificates to two or more purchasers of same section.
689. Refund of purchase money.
690. Sources of funds for repayment.
691. Purchase of lands located in good faith by claims arising under treaty.
692. Coin receivable in payment.
693. Provisions for mistakes in entry.
694. Mistakes in patent lands.
695. Mistakes in location of warrants.
696. Agreements to pay premium to purchasers.
697. Error in entry, selection or location; mistake of numbers.
698. Recovery of premiums paid.
699. Discovery of agreements.
700. Private entry of lands forbidden; exceptions.

§ 671. Public sale forbidden; exceptions.

No public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section 1171 of this title, and mineral and other lands the sale of which at public auction has been authorized by Acts of Congress of a special nature having local application, shall be sold at public sale. (Mar. 3, 1891, ch. 561, § 9, 26 Stat. 1099.)

§ 672. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, R. S. § 2353, required public lands, offered at public sale, to be offered in half quarter sections.

§ 673. Private sales.

All the public lands, when offered at private sale, may be purchased, at the option of the purchaser, in entire sections, half sections, quarter sections, half quarter sections, or quarter quarter sections. (R. S. § 2354.)

DERIVATION

Act Apr. 5, 1832, ch. 65, 4 Stat. 503.

§ 674. Memorandum in connection with application.

Every person making application at any of the land offices of the United States for the purchase at private sale of a tract of land shall produce to the Secretary of the Interior or such officer as he may designate a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half section, quarter section, half quarter section, or quarter quarter section, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the Secretary or such officer shall file and preserve in his office. (R. S. § 2355; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Feb. 24, 1810, ch. 11, § 1, 2 Stat. 556.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "register" where such word first appeared; and "the Secretary or such officer" was substituted for "register" near end of section, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 675. Private sale of lands in Missouri.

All public lands within the State of Missouri shall be subject to disposal at private sale in the manner provided by law for the sale of lands which have been publicly offered for sale, whether such lands have ever been offered at public sale or not: *Provided*, That the actual settlers shall have a preference right, under such rules and regulations as the Secretary of the Interior may prescribe. (May 18, 1898, ch. 344, § 2, 30 Stat. 418.)

§ 676. Highest bidder at private sale.

Where two or more persons apply for the purchase, at private sale, of the same tract, at the same time, the Secretary of the Interior or such officer as he may designate shall determine the preference, by forthwith offering the tract to the highest bidder. (R. S. § 2365; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Apr. 24, 1820, ch. 51, § 6, 3 Stat. 567.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "Secretary of the Interior or such officer as he may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 677. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, R. S. § 2356, related to credit on sales, and payment of price.

§ 678. Price of lands.

The price at which the public lands are offered for sale shall be $1.25 an acre; and at every public sale, the highest bidder, who makes payment as provided in section 677 of this title, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than $1.25 an acre; and all the public lands which are offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land office, at $1.25 an acre, to be paid at the time of making such entry: *Provided,* That the price to be paid for alternate reserved lands, along the line of railroads within the limits granted by any Act of Congress, shall be $2.50 per acre. (R. S. § 2357.)

DERIVATION

Acts Apr. 24, 1820, ch. 51, § 3, 3 Stat. 566; Mar. 3, 1877, ch. 107, 19 Stat. 377.

REFERENCES IN TEXT

Section 677 of this title, referred to in the text, which related to credit on sales and payment of price, was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

CROSS REFERENCES

Reduction in price of alternate sections of railroad lands, see section 679 of this title.

Sale of isolated or disconnected tracts of public lands notwithstanding this section, see section 1171 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1171 of this title.

§ 679. Price of alternate sections of railroad lands.

The price of lands subject to entry on June 15, 1880, and which were raised to $2.50 per acre, and put in market prior to January 1861, by reason of the grant of alternate sections for railroad purposes is reduced to $1.25 per acre. (June 15, 1880, ch. 227, § 3, 21 Stat. 238.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 680 of this title.

§ 680. Mineral lands.

Section 679 of this title shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March 1, 1879, shall be entitled to the benefit thereof. (June 15, 1880, ch. 227, § 4, 21 Stat. 238.)

§ 681. Price of forfeited railroad lands and lands adjacent to railroad lands.

The price of all sections and parts of sections of the public lands within the limits of the portions of the several grants of lands to aid in the construction of railroads which have been or may be forfeited, which were by the Act making such grants or have since been increased to the double minimum price, and, also, of all lands within the limits of any such railroad grant, but not embraced in such grant lying adjacent to and coterminous with the portions of the line of any such railroad which was not completed on March 2, 1889, shall be $1.25 per acre. (Mar. 2, 1889, ch. 381, § 4, 25 Stat. 854.)

§ 682. Sale for cemetery purposes.

The Secretary of the Interior is authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than $1.25 per acre: *Provided,* That title to any land disposed of under the provisions of this section shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided. (Mar. 1, 1907, ch. 2286, 34 Stat. 1052.)

§ 682a. Sale or lease of small tracts for residence, recreation, business, or community site purposes.

The Secretary of the Interior, in his discretion, is authorized to sell or lease to any person or organization described in section 682c of this title a tract of not exceeding five acres of any vacant, unreserved public lands, public lands withdrawn by Executive Orders Numbered 6910 of November 26, 1934, and 6964 of February 5, 1935, for classification, or public lands withdrawn or reserved by the Secretary of the Interior for any purposes, which the Secretary may classify as chiefly valuable for residence, recreation, business, or community site purposes, if he finds that such sale or lease of the lands would not unreasonably interfere with the use of water for grazing purposes nor unduly impair the protection of watershed areas, in reasonably compact form and under such rules and regulations as he may prescribe, at a price to be determined by him, for such use: *Provided,* That no land may be sold hereunder unless it has been surveyed. No person or organization shall be permitted to purchase or lease more than one tract under the provisions of sections 682a to 682e of this title, except upon a showing of good faith and reasons satisfactory to the Secretary. (June 1, 1938, ch. 317, § 1, 52 Stat. 609; July 14, 1945, ch. 298, 59 Stat. 467; June 8, 1954, ch. 270, 68 Stat. 239.)

AMENDMENTS

1954—Act June 8, 1954, in amending act June 1, 1938, on which this section is based, divided the provisions of that act into separate sections (now set out as this section and sections 682b—682e of this title, and changed the provisions generally (1) by extending the leasing (but not the selling) provisions to unsurveyed lands; (2) by adding community site purposes to those for which sites may be sold or leased; (3) by inserting the provision protecting the use of water for grazing purposes, and protecting watershed areas; (4) by inserting "or organization" after "person" in the provision limiting purchase or lease to one tract, except as otherwise provided; (5) by transferring to section 2 of that act (section 682b of this title) the provisions prohibiting sale at less than cost of survey, and reserving to the United States the mineral rights; (6) by amending generally and transferring to section 3 of that act (section 682c of this title) the provisions describing who may be lessees or purchasers (see Prior Law note under section 682c of this title); (7) by amending and transferring to section 4 of that act (section 682d of this title) the provisions

with respect to purchases or leases by employees of the Department of the Interior stationed in Alaska (see Prior Law note under section 682d of this title); and (8) by enacting, as section 5 of that act, the provisions set out as section 682e of this title.

1945—Act July 14, 1945, struck out "prescribed: *Provided further,* That this section shall not apply to any lands in the territory of Alaska.", and substituted "prescribe further * * * under this section."

DISPOSAL OF LANDS FOR PUBLIC OR RECREATIONAL PURPOSES

Disposal of lands for public or recreational purposes, see sections 869 to 869–3 of this title.

CROSS REFERENCES

Preference right of World War II and Korean conflict veterans, see sections 279—284 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 282, 682b, 682c, 682d, 682e, 869 of this title.

§ 682b. Same; minimum selling price; reservation of mineral rights.

No tract shall be sold for less than the cost of making any survey necessary to describe properly the land sold. Patents for all tracts purchased under the provisions of sections 682a to 682c of this title shall contain a reservation to the United States of the oil, gas, and all other mineral deposits, together with the right to prospect for, mine, and remove the same under applicable law and such regulations as the Secretary may prescribe. (June 1, 1938, ch. 317, § 2, as added June 8, 1954, ch. 270, 68 Stat. 239.)

PRIOR LAW

Similar provisions on this subject were formerly contained in section 682a of this title. See 1954 Amendment note under that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682a, 682c, 682d, 682e, 869 of this title.

§ 682c. Same; qualifications of lessees and purchasers.

A lease may be issued or a sale made under sections 682a to 682e of this title to any of the following: (a) An individual who is a citizen of the United States, or who has filed his declaration of intention to become a citizen as required by the naturalization laws; (b) a partnership or an association, each of the members of which is a citizen of the United States or has filed a declaration of intention to become a citizen; (c) a corporation, including nonprofit corporations, organized under the laws of the United States, or of any State or Territory thereof, and authorized to do business in the State or Territory in which the land is located; (d) a State, Territory, municipality, or other governmental subdivision. (June 1, 1938, ch. 317, § 3, as added June 8, 1954, ch. 270, 68 Stat. 239.)

PRIOR LAW

Prior provisions on this subject were formerly contained in section 682a of this title (see 1954 Amendment note thereunder). Those prior provisions restricted sales or leases to "any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such a citizen, as required by the naturalization laws."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682a, 682b, 682d, 682e, 869 of this title.

§ 682d. Same; sales or leases to employees of Department of Interior stationed in Alaska.

Any employee of the Department of the Interior, stationed in Alaska, notwithstanding such employment, may, in the discretion of the Secretary, purchase or lease under sections 682a to 682e of this title one tract for residence or recreation purposes in the Territory of Alaska: *Provided, however,* That any conveyance by the Secretary to such employee shall contain a provision under which said tract shall revert to the United States if used, within twenty-five years after issuance of patent for such tract, for other than residential or recreation purposes. (June 1, 1938, ch. 317, § 4, as added June 8, 1954, ch. 270, 68 Stat. 240.)

PRIOR LAW

Prior provisions on this subject were formerly contained in section 682a of this title (see 1954 Amendment note under that section). Those prior provisions excluded "business sites" from those which might be purchased or leased by Department of the Interior employees; did not contain, as in this section, the words "for residence or recreation purposes"; and did not provide, as in this section, for reversion to the United States in certain cases.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682a, 682b, 682c, 682e, 869 of this title.

§ 682e. Same; application to certain revested grant lands in Oregon; conditions.

The authority to lease lands under sections 682a to 682e of this title shall extend to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon and under the jurisdiction of the Department of the Interior, except that—

(a) such lands shall be leased only for residential, recreational, or community site purposes and not for business purposes; and

(b) no lease of such lands shall be made if such lease would interfere with the application of the sustained yield timber management requirement established with respect to such lands by sections 1181a to 1181f of this title. (June 1, 1938, ch. 317, § 5, as added June 8, 1954, ch. 270, 68 Stat. 240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682a, 682b, 687c, 687d, 869 of this title.

§§ 683 to 687. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 2358—2360, 2364; act Jan. 12, 1877, ch. 18, § 2, 19 Stat. 221, related to the fixing of a minimum price, and public sales of public lands.

§ 687a. Rights to purchase; price and limit of acreage; access to water front.

Any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory authorized

on May 14, 1898, by law to hold lands in the Territories, thereafter in the possession of and occupying public lands in Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at $2.50 per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands except as provided in section 270-1 of this title, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided,* That any citizen of the United States twenty-one years of age employed by citizens of the United States, associations of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry, and any citizen of the United States twenty-one years of age who is himself engaged in trade, manufacture, or other productive industry may purchase one claim, not exceeding five acres, of unreserved public lands, such tract of land not to include mineral, coal, oil or gas lands except as provided in section 270-1 of this title, in Alaska as a homestead or headquarters, under rules and regulations to be prescribed by the Secretary of the Interior, upon payment of $2.50 per acre: *Provided further,* That any citizen of the United States, after occupying land of the character described as a homestead or headquarters, in a habitable house, not less than five months each year for three years, may purchase such tract, not exceeding five acres, in a reasonable compact form, without any showing as to his employment or business, upon payment of $2.50 per acre, under rules and regulations to be prescribed by the Secretary of the Interior, and in such cases surveys may be made without expense to the applicants in like manner as the survey of settlement claims under sections 270-10 and 270-15 of this title: *And provided further,* That the minimum payment for any such tract shall be $10, and no person shall be permitted to purchase more than one tract except upon a showing of good faith and necessity satisfactory to the Secretary of the Interior. (May 14, 1898, c. 299, § 10, 30 Stat. 413; Mar. 3, 1927, c. 323, 44 Stat. 1364; May 26, 1934, c. 357, 48 Stat. 809; Aug. 23, 1958, Pub. L. 85-725, § 3, 72 Stat. 730.)

CODIFICATION

Section is comprised of the first sentence up to the proviso of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 270-4 and 687a-2 to 687a-5 of this title.

AMENDMENTS

1958—Pub. L. 85-725 amended section to insert "except as provided under section 270-1 of this title" immediately after "coal lands" and "gas lands" where they appear.

1934—Act May 26, 1934, added the last two provisos.

1927—Act Mar. 3, 1967, added the first proviso.

CROSS REFERENCES

Applications to purchase claims, publishing and posting proofs of claims, and the determination of adverse claims to the tract sought to be purchased, see section 270-4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-11, 270-16, 687a-1, 687a-6, 942-1, 942-3, 942-4, 942-5, 942-7, 942-8 of this title.

§ 687a-1. Same; filing of notice of claim; effect of failure to file; time limit for purchase applications.

All qualified persons, associations, or corporations now holding or hereafter initiating claims subject to the provisions of section 687a of this title, shall file a notice describing such claim in the manner specified by section 270 of this title in the United States land office for this district in which the land is situated within ninety days from April 29, 1950 or within ninety days from the date of the initiation of the claim, whichever is later. Unless such notice is filed in the proper district land office within the time prescribed the claimant shall not be given credit for the occupancy maintained in the claim prior to the filing of (1) a notice of the claim in the proper district land office, or (2) an application to purchase, whichever is earlier. Application to purchase claims, along with the required proof or showing, must be filed within five years after the filing of the notice of claim under this section. (Apr. 29 1950, ch. 137, § 5, 64 Stat. 95.)

§ 687a-2. Lands on navigable waters.

No entry shall be allowed under this Act on lands abutting on navigable water of more than eighty rods. There shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of said sections on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings, and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway. (May 14, 1898, ch. 299, § 10, 30 Stat. 413; Aug. 3, 1955, ch. 496, § 2, 69 Stat. 444.)

REFERENCES IN TEXT

This Act, referred to in the text, is act May 14, 1898. For distribution of such act in this Code, see Tables.

CODIFICATION

Section is comprised of the first and second provisos of the first paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 270-4, 687a and 687a-3 to 687a-5 of this title.

AMENDMENTS

1955—Act Aug. 3, 1955, amended section to eliminate provisions which reserved from sale and entry a space of 80 rods in width between tracts on navigable waters.

SAVINGS CLAUSE

Section 5 of act Aug. 3, 1955, provided that: "All conveyances of lands opened for sale, entry, or settlement under this Act shall be subject to (a) grants heretofore made by the Secretary of the Interior for the use of reserved lands abutting on the waterfront to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the

laws of any State or Territory, for landings, and wharves, as provided by section 10 of the Act of May 14, 1898, with an easement for not more than a one hundred-foot right-of-way for an access road to such wharves and landings, and (b) reservations made by the Secretary of the Interior for the use of the natives of Alaska of tracts of land along the waterfront of any stream, inlet, bay, or seashore for landing places for canoes and other craft used by the natives, as provided by said section 10, together with necessary right-of-way for access to such natives to such landing place: *Provided,* That any such reserve or grant for use for landings, wharves, or landing places which are no longer being used may upon proper evidence of nonuse be revoked and abrogated and conveyances under this Act made free and clear thereof."

RESTORATION OF LANDS FROM RESERVATION

Section 4 of act Aug. 3, 1955, provided that: "All lands restored from reservation by this Act shall be restored to all forms of appropriation under the public land laws applicable to the Territory of Alaska, but a restoration from reservation by this Act shall not be construed as a revocation of an order of withdrawal within the meaning of section 4 of the Act of September 27, 1944 (58 Stat. 748), as amended."

CROSS REFERENCES

Mineral lands or town sites exempt from reservation of roadway, see section 49a of Title 30, Mineral Lands and Mining.

Lands on shore of Bering Sea to be subject to exploration and mining for gold and other precious metals, subject only to such general limitations as may be necessary to exempt navigation from artificial obstructions, see section 49a of Title 30.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687a-6, 687b-3, 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title; title 30 section 49a.

§ 687a-3. Several claimants of same tract.

In case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are so may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests. (May 14, 1898, ch. 299, § 10, 30 Stat. 413.)

CODIFICATION

Section is comprised of the third proviso of the first paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 270-4, 687a, 687a-2, 687a-4 and 687a-5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687a-6, 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 687a-4. Reservation of landing places along water front for natives.

The Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives. (May 14, 1898, ch. 299, § 10, 30 Stat. 413.)

CODIFICATION

Section is comprised of the fifth proviso of the first paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 270-4, 687a, 687a-2, 687a-3 and 687a-5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687a-6, 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 687a-5. Certain islands excepted.

The Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes are excepted from the operation of this Act. (May 14, 1898, ch. 299, § 10, 30 Stat. 413.)

REFERENCES IN TEXT

This Act, referred to in the text, is act May 14, 1898. For distribution of such act in this Code, see Tables.

CODIFICATION

Section is comprised of the last proviso of the first paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 1898, is classified to sections 270-4, 687a, 687a-2 to 687a-4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687a-6, 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 687a-6. Surveys; deposits.

It shall be the duty of any person, association, or corporation entitled to purchase land under sections 687a and 687a-2 to 687a-5 of this title to make an application to such officer as the Secretary of the Interior may designate, for an estimate of the cost of making a survey of the lands occupied by such person, association, or corporation, and the cost of the clerical work necessary to be done in the office of such officer; and on the receipt of such estimate from such officer, the said person, association, or corporation shall deposit the amount in a United States depository, as is required by section 759 of this title relating to deposits for surveys.

On the receipt by such officer, of the said certificates of deposit, he shall employ a competent person to make such survey, under such rules and regulations as may be adopted by the Secretary of the Interior, who shall make his return of his field notes and maps to the office of such officer. (Mar. 3, 1891, ch. 561, § 13, 26 Stat. 1100; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Supervisor of Surveys were transferred to that officer as the Secretary of the Interior may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

The office of surveyor general was abolished by act Mar. 3, 1925, and administration of activities transferred to and consolidated with the Field Surveying Service under the jurisdiction of the United States Supervisor of Surveys to be administered under the regulations of the Secretary of the Interior.

§ 687b. Alaskan lands subject to sale for industrial, commercial, and housing construction purposes; public auction; notice; acreage limitation; proof of buyer's intention; administrative consent.

Public lands in Alaska not within national parks or monuments, national forests, Indian lands, and military reservations, which have been classified by

the Secretary of the Interior as suitable for industrial or commercial purposes, including the construction of housing, may be sold by him at public auction, after giving not less than thirty days' notice of such intended sale in a newspaper of general circulation in Alaska, in tracts not to exceed one hundred and sixty acres in the aggregate, to any bidder who furnishes proof satisfactory to the Secretary that such bidder has the bona fide intention and the means to develop the tract for such use: *Provided,* That withdrawn or reserved lands may be disposed of under sections 687b to 687b–4 of this title only with the consent of any department or agency having administrative jurisdiction over such lands. (Aug. 30, 1949, ch. 521, § 1, 63 Stat. 679.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b–2, 687b–3, 687b–4, 687b–5 of this title.

§ 687b–1. Same; minimum selling price.

No sale shall be made for less than the appraised price of the land and the cost of making any survey to properly describe the land sold. (Aug. 30, 1949, ch. 521, § 2, 63 Stat. 679.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b, 687b–2, 687b–3, 687b–4, 687b–5 of this title.

§ 687b–2. Same; certificate of purchase; patent in fee; issuance and contents; liability for mining; vested rights.

There shall be issued to each purchaser of land under sections 687b to 687b–4 of this title a certificate of purchase. Within three years after issuance of such certificate, upon proof supported by affidavits of two disinterested persons that the purchaser has used the land for the purpose for which it was classified for sale for a period of not less than six months, a patent in fee shall be issued. Patents under said sections shall issue only after survey, and shall contain a reservation to the United States of all minerals in the lands patented, together with the right to prospect for, mine, and remove the minerals, and such other reservations as may be necessary and proper: *Provided,* That, notwithstanding the provisions of any Act of Congress to the contrary, any person who hereafter prospects for, mines, or removes any minerals from any land disposed of under said sections shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949. (Aug. 30, 1949, ch. 521, § 3, 63 Stat. 679.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b, 687b–3, 687b–4, 687b–5 of this title.

§ 687b–3. Same; existing rights saved; laws not applicable.

Sections 687b to 687b–4 of this title shall not affect any existing valid rights. Sections 270 and 687a–2 of this title, creating shore space reserves, shall not apply to nor limit the operation of sections 687b to 687b–4 of this title. (Aug. 30, 1949, ch. 521, § 4, 63 Stat. 679.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b, 687b–2, 687b–4, 687b–5 of this title.

§ 687b–4. Same; rules and regulations.

The Secretary of the Interior may make such rules and regulations as may be necessary and proper to provide for the development, under applicable law, of minerals reserved to the United States, to provide appropriate notice of and method of conducting sales, to prevent speculation, to promote the orderly development of lands in Alaska, to provide protection and compensation for damages from mining activities to the surface and improvements thereon, and to carry out any of the other purposes of sections 687b to 687b–4 of this title. (Aug. 30, 1949, ch. 521, § 5, 63 Stat. 679.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b, 687b–2, 687b–3, 687b–5 of this title.

§ 687b–5. Same; equitable principles upon submission of proof of compliance with use requirements after prescribed period.

The Secretary of the Interior may apply the principles of equity and justice as authorized by section 1161 of this title, to sales under sections 687b to 687b–4 of this title, where the purchaser submits proof of compliance with the use requirements of section 687b–2 of this title more than three years after issuance of a certificate of purchase. (Pub. L. 88–66, July 19, 1963, 77 Stat. 80.)

§ 687c. Alaskan land leases for fur farming; citizenship; acreage limitation; period; terms and conditions; laws applicable to mineral resources; reservations.

The Secretary of the Interior, in order to encourage and promote development of production of furs in the Territory of Alaska, is authorized to lease to corporations organized under the laws of the United States, or of any State or Territory thereof, citizens of the United States, or associations of such citizens, public lands of the United States in the Territory of Alaska suitable for fur farming, in areas not exceeding six hundred and forty acres, and for periods not exceeding ten years, upon such terms and conditions as he may by general regulations prescribe: *Provided,* That where leases are given hereunder for islands or lands within the same, such lease may, in the discretion of the Secretary of the Interior, be for an area not to exceed thirty square miles: *Provided further,* That nothing herein contained shall prevent the prospecting, locating, development, entering, leasing, or patenting of the mineral resourses of any lands so leased under laws applicable thereto: *And provided further,* That this section shall not be held nor construed to apply to the Pribilof Islands, declared a special reservation by section 646 of Title 16: *And provided further,* That any permit or lease issued under this section shall reserve to the Secretary of the Interior the right to permit the use and occupation of parts of said leased areas for the taking, preparing, manufacturing, or storing of fish or fish products, or the utilization of the lands for purposes of trade or business, to the extent and in the manner

provided by existing laws or laws which may be enacted after July 3, 1926. (July 3, 1926, ch. 745, § 1, 44 Stat. 821.)

REFERENCES IN TEXT

Section 646 of Title 16, referred to in the text, was repealed by act Feb. 26, 1944, ch. 65, § 18, 58 Stat. 104. Similar provisions classified to sections 1161, 1162, and 1167 of Title 16, Conservation.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 8, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 687c-1 of this title.

§ 687c-1. Same; execution of provisions of section 687c; authority of Secretary of the Interior.

The Secretary of the Interior is authorized to perform any and all acts, and to make such rules and regulations as may be necessary and proper, for the purpose of carrying the provisions of section 687c of this title into effect, including provisions for the forfeiture of any lease for failure to stock the same with fur-bearing animals within a period of one year from the date of the lease, or in the event of the devotion of the lease area primarily to any purpose other than the rearing of such fur-bearing animals. (July 3, 1926, ch. 745, § 2, 44 Stat. 822.)

§ 688. Several certificates to two or more purchasers of same section.

Where two or more persons have become purchasers of a section or fractional section, the Secretary of the Interior or such officer as he may designate of the land office of the district in which the lands lie shall, on application of the parties, and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the fractions so purchased be divided by other than north and south, or east and west, lines; nor shall any certificate issue for less than eighty acres. (R. S. § 2361; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act May 23, 1828, ch. 71, § 7, 4 Stat. 287.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The reference to "register" was changed to "Secretary of the Interior or such officer as he may designate" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 689. Refund of purchase money.

The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated. (R. S. § 2362.)

DERIVATION

Acts Jan. 12, 1825, ch. 5, 4 Stat. 80; Feb. 28, 1859, ch. 64, § 1, 11 Stat. 387.

CROSS REFERENCES

Abolition of appropriation account, "Repayment for lands erroneously sold," repeal of appropriations to which expenditures thereunder were chargeable, and authorization of appropriation of sums necessary to meet expenditures of the character chargeable thereto, see section 725q (b) (14) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 690 of this title.

§ 690. Sources of funds for repayment.

Where any tract of land has been erroneously sold, as described in section 689 of this title, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust fund, to repay the purchase money to the parties entitled thereto. (R. S. § 2363.)

DERIVATION

Act Feb. 28, 1859, ch. 64, § 2, 11 Stat. 388.

CROSS REFERENCES

Abolition of appropriation account, "Repayment for lands erroneously sold," repeal of appropriations to which expenditures thereunder were chargeable, and authorization of appropriation of sums necessary to meet expenditures of the character chargeable thereto, see section 725q (b) (14) of Title 31, Money and Finance.

§ 691. Purchase of lands located in good faith by claims arising under treaty.

The Secretary of the Interior is authorized to permit the purchase, with cash or military bounty-land warrants, of such lands as may have been located with claims arising under the seventh clause of the second article of the treaty of September 30, 1854, at such price per acre as he deems equitable and proper, but not at a less price than $1.25 per acre, and the owners and holders of such claims in good faith are also permitted to complete their entries, and to perfect their titles under such claims upon compliance with the terms above mentioned; but it must be shown to the satisfaction of the Secretary of the Interior that such claims are held by innocent parties in good faith, and that the locations made under such claims have been made in good faith and by innocent holders of the same. (R. S. § 2368.)

DERIVATION

Act June 8, 1872, ch. 357, 17 Stat. 340.

§ 692. Coin receivable in payment.

Foreign coins shall be received in all payments on account of public lands, at the value estimated quarterly by the Director of the Mint, and proclaimed by the Secretary of the Treasury, in accordance with the provisions of R.S. § 3564. (R.S. § 2366.)

DERIVATION

Acts Mar. 3, 1823, ch. 53, § 1, 3 Stat. 779; Feb. 21, 1857, ch. 56, § 1, 11 Stat. 163.

REFERENCES IN TEXT

As originally enacted "Foreign coins" read "The gold coins of Great Britain and other foreign coins." By Ex. Ord. No. 6260, § 5, set out as a note under section 95a of Title 12, Banks and Banking, the holding of gold coin, gold bullion, and gold certificates in excess of $100 was forbidden except under license from the Federal Govern-

R.S. § 3564, referred to in the text, which provided that the value of standard foreign coins should be estimated and proclaimed annually, was superseded by provisions of the McKinley Tariff Act of Oct. 1, 1890, ch. 1244, § 52, 26 Stat. 624; Wilson Tariff Act of Aug. 27, 1894, ch. 349, § 25; and Tariff Act of June 17, 1930, ch. 497, Title IV, § 522, 46 Stat. 739 (classified to section 372 of Title 31, Money and Finance).

CROSS REFERENCES

Debts due United States as payable in gold or silver coins of United States, see section 199 and note thereunder of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 199.

§ 693. Provisions for mistakes in entry.

In every case of a purchaser of public lands, at private sale, having entered at the land office, a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to such officer of the land office as the Secretary of the Interior may designate; and if it appears from testimony satisfactory to such officer that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, such designated officer shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office. (R. S. § 2369; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 3, 1819, ch. 98, 3 Stat. 526.

CODIFICATION

The words "and receiver" which followed the word "register" in the original text were omitted in view of Acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for the abolition of the latter.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and em ployees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The reference, "register of the land office" was changed to "such officer of the land office as the Secretary of the Interior may designate"; the second such reference was changed to "such officer"; and the third such reference was changed to "such designated officer", all on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 694, 695 of this title.

§ 694. Mistakes in patent lands.

The provisions of section 693 of this title shall extend to all cases where patents have issued or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Secretary of the Interior or such officer as he may designate, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior. (R. S. § 2370; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act May 24, 1828, ch. 96, 4 Stat. 301.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "Commissioner of the General Land Office" was changed to "Secretary of the Interior or such officer as he may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 695 of this title.

§ 695. Mistakes in location of warrants.

The provisions of sections 693 and 694 of this title are made applicable in all respects to errors in the location of land-warrants. (R. S. § 2371.)

DERIVATION

Act Mar. 3, 1853, ch. 147, § 2, 10 Stat. 257.

§ 696. Agreements to pay premium to purchasers.

If any person before, or at the time of the public sale of any of the lands of the United States, enters into any contract, bargain, agreement, or secret understanding with any other person, proposing to purchase such land, to pay or give to such purchasers for such land a sum of money or other article of property, over and above the price at which the land is bid off by such purchasers, every such contract, bargain, agreement, or secret understanding, and every bond, obligation, or writing of any kind whatsoever, founded upon or growing out of the same, shall be utterly null and void. (R. S. § 2374.)

DERIVATION

Act Mar. 31, 1830, ch. 48, § 5, 4 Stat. 392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698, 699 of this title.

§ 697. Error in entry, selection or location; mistake of numbers.

In all cases where an entry, selection, or location has been or shall be made of a tract of land not intended to be entered, the entryman, selector, or locator, or, in case of his death, his legal representatives, or, when the claim is by law transferable, his

or their transferees, may, in any case coming within the provisions of this section, file his or their affidavit, with such additional evidence as can be procured showing the mistake as to the numbers of the tract intended to be entered and that every reasonable precaution and exertion was used to avoid the error, with such officer of the land district in which such tract of land is situate, as the Secretary of the Interior may designate, who shall transmit the evidence submitted to him, in each case, together with his written opinion both as to the existence of the mistake and the credibility of every person testifying thereto, to the Secretary of the Interior or such officer as he may designate, who, if he be entirely satisfied that the mistake has been made and that every reasonable precaution and exertion has been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered, if the same has not been disposed of and is subject to entry, or, if not subject to entry, then to any other tract liable to such entry, selection, or location; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry, nor shall anything herein contained affect the right of third persons. (R. S. § 2372; Feb. 24, 1909, ch. 181, 35 Stat. 645; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; May 21, 1926, ch. 353, 44 Stat. 591; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act May 24, 1824, ch. 138, § 1, 4 Stat. 31.

CODIFICATION

References to register and receiver were changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated the offices of register and receiver and provided for a single officer to be known as register.

Act Feb. 24, 1909 amended the provisions to read as set out in the text.

As enacted in the Revised Statutes, this section read as follows:

"In all cases of an entry hereafter made, of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract, thus erroneously entered, does not, in quantity, exceed one half section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion had been used to avoid the error, with the register and receiver of the land-district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each person testifying thereto, to the Commissioner of the General Land-Office, who if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion had been made to avoid it, is authorized to change the entry, and transfer the payment from the tract erroneously entered, to that intended to be entered, if unsold; but, if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize any such change of entry; nor shall anything herein contained affect the right of third persons."

REPEALS

The provision of act Jan. 27, 1922, ch. 33, 42 Stat. 359, constituting the second paragraph of this section and providing for procedure where final entries have been canceled, transfer of payments to other claim-free tracts, and relinquishment of right, title and interest to lands originally entered and prohibiting transfer of this right to other tracts, was repealed by act May 21, 1926, which provided in part: "That any applications heretofore filed under the provisions of this Act [Act Jan. 27, 1922] or any claim of which notice is filed within sixty days from the approval of this Act [May 21, 1926], upon which applications are presented within one year from the date of approval of this Act [May 21, 1926], may be perfected and patents issued therefor the same as if this Act [May 21, 1926] had not been passed: *Provided further,* That when the selection in exchange fails for no fault on the part of the selector another selection in exchange may be made if filed within one year from notice to the selector of the rejection of the selection."

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "the register of the land district in which such tract is situate," was changed to "such officer of the land district in which such tract is situate, as the Secretary of the Interior may designate,"; and "Commissioner of the General Land Office," was changed to "Secretary of the Interior or such officer as he may designate,", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 698. Recovery of premiums paid.

Every person being a party to such contract, bargain, agreement, or secret understanding, mentioned in section 696 of this title, who pays to such purchaser any sum of money or other article of value, over and above the purchase money of such land, may sue for and recover such excess from such purchaser in any court having jurisdiction of the same. (R. S. § 2375.)

DERIVATION

Act Mar. 31, 1830, ch. 48, § 5, 4 Stat. 392.

§ 699. Discovery of agreements.

If the party aggrieved have no legal evidence of such contract, bargain, agreement, or secret understanding, mentioned in section 696 of this title, or of the payment of the excess, he may, by civil action compel such purchaser to make discovery thereof; and if in such case the complainant shall ask for relief, the court in which the action is pending may proceed to final decree between the parties to the same; but every such suit shall be commenced within six years next after the sale of such land by the United States. (R. S. § 2376.)

DERIVATION

Act Mar. 31, 1830, ch. 48, § 5, 4 Stat. 392.

REFERENCES IN TEXT

In section as originally enacted "civil action" read "bill in equity." Distinctions between suits at law and bills in equity were abolished by Rule 2 of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure. That rule provides that there shall be one form of action to be known as civil action.

§ 700. Private entry of lands forbidden; exceptions.

No public lands of the United States, except those in the State of Missouri, shall be subject to private entry. (Mar. 2, 1889, ch. 381, § 1, 25 Stat. 854.)

CALIFORNIA

R.S. § 2367, providing that when lands in California were withdrawn from the market, they should not thereafter be subject to private entry until they had been open to homestead and pre-emption settlers for 90 days, and again offered at public sale, was superseded by this section.

MISSOURI

According to the former General Land Office, there were no lands known to it in 1929 which could be subject to warrant location in the State of Missouri, see regulations of the Secretary of the Interior (circular 1115, Jan. 8, 1929), 43 CFR 131-1—131-2.

CROSS REFERENCES

Titles to lands in Missouri confirmed, see section 1153 of this title.

Chapter 17.—RESERVATION AND SALE OF TOWN SITES ON PUBLIC LANDS

Sec.
711. Town sites to be reserved.
712. Reservations surveyed into lots.
713. Town or city sites.
714. Towns established on unsurveyed lands; extension limits.
715. Transcript maps not filed in twelve months.
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735. Survey of nonmineral public lands in Alaska into lots and blocks; deeds; restrictions.
736. Regulations.
737. Unrestricted deeds for town-site lands held by Alaska natives.
738. Zoning power in Alaska.

§ 711. Town sites to be reserved.

The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population. (R. S. § 2380.)

DERIVATION

Acts Mar. 3, 1863, ch. 80, § 1, 12 Stat. 754; Mar. 3, 1877, ch. 113, 19 Stat. 392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 563, 722, 723, 724, 731, 1094 of this title.

§ 712. Reservations surveyed into lots.

When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the officer, as may be designated by the Secretary of the Interior, of the land office in the district in which the reservations may be situated, in accordance with the instructions of the Secretary of the Interior or such officer as he may designate. (R. S. § 2381; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 3, 1863, ch. 80, § 2, 12 Stat. 754.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register", preceding "of the land office", was changed to "officer, as may be designated by the Secretary of the Interior,"; and reference to "Commissioner of the General Land Office" was changed to "Secretary of the Interior or such officer as he may designate", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Public lands not subject to private entry except in Missouri, see section 700 of this title and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 563, 722, 723, 724, 731, 1094 of this title.

§ 713. Town or city sites.

In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall conform in size to local ordinances or accepted local standards for subdivision platting or, in the absence of such ordinances or standards, to standards prescribed by the Secretary of the Interior, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in

behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the Bureau of Land Management a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with such officer as may be designated by the Secretary of the Interior, and at any time after the filing of such map, statement, and testimony in the Bureau of Land Management it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of $10 for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale. (R. S. § 2382; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100; Aug. 24, 1954, ch. 904, § 1, 68 Stat. 792.)

DERIVATION

Act July 1, 1864, ch. 205, § 2, 13 Stat. 343.

AMENDMENTS

1954—Act Aug. 24, 1954, eliminated the maximum area limitations for townlots so that the size can conform to local standards.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The two references to "General Land Office" were changed to "Bureau of Land Management", and the reference to "register," was changed to "such officer as may be designated by the Secretary of the Interior,", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Public lands not subject to private entry except in Missouri, see section 700 and note thereunder of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 715, 722, 723, 724, 731, 1094 of this title.

§ 714. Towns established on unsurveyed lands; extension limits.

When cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases. (R. S. § 2383.)

DERIVATION

Act July 1, 1864, ch. 205, § 3, 13 Stat. 344.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 731, 1094 of this title.

§ 715. Transcript maps not filed in twelve months.

If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the Bureau of Land Management a transcript map, with the statement and testimony called for by the provisions of section 713 of this title, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of 50 per centum on the minimum of $10 per lot. (R. S. § 2384; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act July 1, 1864, ch. 205, § 4, 13 Stat. 344.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 731, 1094 of this title.

§ 716. Repealed. Aug. 24, 1954, ch. 904, § 2, 68 Stat. 792.

Section, R. S. § 2385, related to size of lots or plat varying from general rule.

§ 717. Title to lots subject to mineral rights.

Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States. (R. S. § 2386.)

DERIVATION

Act Mar. 3, 1865, ch. 107, § 2, 13 Stat. 530.

CROSS REFERENCES

Town lots to be subject to recognized possession and necessary use of mineral veins possessed within their limits, see section 728 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 731, 1094 of this title.

§ 718. Entry of town authorities in trust for occupants.

Whenever any portion of the public lands have been or may be settled upon and occupied as a townsite, it is lawful, in case such town be incorporated,

for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated. (R. S. § 2387; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

DERIVATION

Act Mar. 2, 1867, ch. 177, 14 Stat. 541; Act June 23, 1874, ch. 469, § 3, 18 Stat. 254.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 719, 721, 722, 723, 724, 731, 732, 1094, 1099, 1111, 1133 of this title.

§ 719. When entry is to be made.

The entry of the land provided for in section 718 of this title shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a townsite shall be filed with the officer of the proper land office, as may be designated by the Secretary of the Interior prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land office may not have been established, such declaratory statements may be filed with the Secretary of the Interior or such officer as he may designate; who shall transmit the same to the Bureau of Land Management. (R. S. § 2388; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 2, 1867, ch. 177, 14 Stat. 541; Act June 23, 1874, ch. 469, § 3, 18 Stat. 254.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "register of the proper land office," were changed to "officer of the proper land office, as may be designated by the Secretary of the Interior,"; "Field Surveying Service;" was changed to "Secretary of the Interior or such officer as he may designate;"; and "General Land Office" was changed to "Bureau of Land Management", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 731, 1094, 1099, 1133 of this title.

§ 720. Entry in proportion to number of inhabitants.

If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed. (R. S. § 2389.)

DERIVATION

Acts Mar. 2, 1867, ch. 177, 14 Stat. 541; June 23, 1874, ch. 469, § 3, 18 Stat. 254; Mar. 3, 1877, ch. 113, §§ 2, 4, 19 Stat. 392.

CROSS REFERENCES

Withdrawal from public entry of lands for town sites with appropriate reservations for public purposes, see section 561 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 727, 731, 1094, 1133 of this title.

§ 721. Acts of trustees.

Any act of the trustees not made in conformity to the regulations alluded to in section 718 of this title shall be void. (R. S. § 2391.)

DERIVATION

Act Mar. 2, 1867, ch. 177, 14 Stat. 541; Act June 23, 1874, ch. 469, § 3, 18 Stat. 254.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 723, 724, 731, 1094 of this title.

§ 722. Title acquired to mines or mining claims.

No title shall be acquired, under the provisions of sections 711 to 715 and 717 to 721 of this title, to any mine of gold, silver, cinnabar, or copper; or to any valid mining claim or possession held under existing laws. (R. S. § 2392.)

DERIVATION

Acts Mar. 2, 1867, ch. 177, 14 Stat. 541; June 8, 1868, ch. 53, 15 Stat. 67; June 23, 1874, ch. 469, § 3, 18 Stat. 254.

CROSS REFERENCES

Towns or cities not to acquire title to any vein of gold, silver, cinnabar, copper, or lead, or to any mining claim or possession held under existing law, see section 728 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 724, 731, 1094 of this title.

§ 723. Military or other reservations.

The provisions of sections 711 to 715 and 717 to 724 of this title shall not apply to military or other reservations made by the United States prior to March 2, 1867, nor to reservations for lighthouses, customhouses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the Land Office by title derived from the Crown of Spain, or otherwise. (R. S. § 2393.)

DERIVATION

Acts Mar. 2, 1867, ch. 177, 14 Stat. 541; Feb. 28, 1877, ch. 74, 19 Stat. 264.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 724, 731, 1094 of this title.

§ 724. Inhabitants of towns on public lands; right to enter.

The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections 718 to 720 of this title; and in addition to the minimum price of the lands embracing any town site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in said sections shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town sites set forth in sections 711 to 715 and 717 to 724 of this title. (R. S. § 2394.)

DERIVATION

Acts June 8, 1868, ch. 53, 15 Stat. 67; June 23, 1874, ch. 469, § 3, 18 Stat. 254.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731, 1094 of this title.

§ 725. Quantity of land excluded from homestead entry.

The existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from preemption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town site under existing laws, unless the entire tract claimed or incorporated as such town site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes. (Mar. 3, 1877, ch. 113, § 1, 19 Stat. 392; July 30, 1886, ch. 818, § 1, 24 Stat. 170.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 726 of this title.

§ 726. Town-site exceeding maximum; excess opened to settlement.

Whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section 725 of this title, the Secretary of the Interior or such officer as he may designate may require the authorities of such town, and it shall be lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from preemption homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and preemption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Secretary or such officer, he may direct testimony respecting the actual location and extent of said improvements, to be taken by such officer as the Secretary of the Interior may designate of the district in which such town may be situated; and upon receipt of the same he may determine and set off the proper site according to section 725 of this title, and declare the remaining lands open to settlement and entry under the homestead and preemption laws. (Mar. 3, 1877, ch. 113, § 3, 19 Stat. 392; July 30, 1886, ch. 818, § 1, 24 Stat. 170; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office"; "Secretary or such officer," was substituted for "commissioner,"; and "such officer as the Secretary of the Interior may designate," was substituted for "register", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 727. Town-site less than maximum; additional entry.

It shall be lawful for any town which has made, or may hereafter make entry of less than the maximum quantity of land named in section 720 of this title to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries theretofore made will not exceed twenty-five hundred and sixty acres: *Provided*, That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section 720. (Mar. 3, 1877, ch. 113, § 4, 19 Stat. 392.)

CROSS REFERENCES

Withdrawal from public entry of lands for town sites with appropriate reservations for public purposes, see section 561 of this title.

§ 728. Town-site entries on mineral lands; title to minerals and claims not acquired.

Town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant. (Mar. 3, 1891, ch. 561, § 16, 26 Stat. 1101.)

§ 729. Repealed. June 14, 1926, ch. 578, § 5, as added June 4, 1954, ch. 263, 68 Stat. 175.

Section, act Sept. 30, 1890, ch. 1121, 26 Stat. 502, which authorized, with limitations, the sale of unreserved public lands to incorporated cities and towns for cemetery

and park purposes, is now covered by section 869 et seq. of this title.

Act Oct. 17, 1940, ch. 890, § 2, 54 Stat. 1192, formerly set out as a note under this section, which declared this section to be inapplicable to the Territory of Alaska, was likewise repealed by act June 14, 1926, ch. 578, § 5, as added by act June 4, 1954, ch. 263, 68 Stat. 175. Disposal of Alaskan public lands for public purposes are also covered by section 869 et seq. of this title.

§ 730. Patents to transferees of town lots purchased at public sale.

CODIFICATION

Section, act July 9, 1914, ch. 138, 38 Stat. 454, provided for issuance of patents to transferees of town lots purchased at public sale and transferred prior to October 11, 1911, where patent had not been issued to original purchaser who had since died.

§ 731. Town-site laws extended to ceded lands in Minnesota.

The provisions of sections 711 to 715 and 717 to 724 of this title are extended to and declared to be applicable to ceded Indian lands within the State of Minnesota. (Feb. 9, 1903, ch. 531, 32 Stat. 820.)

§ 732. Town-site entries in Alaska; trust for occupants; limitation of amount.

Until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section 718 of this title as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided,* That no more than six hundred and forty acres shall be embraced in one town-site entry. (Mar. 3, 1891, ch. 561, § 11, 26 Stat. 1099.)

CROSS REFERENCES

President authorized to withdraw, locate, and dispose of town sites along the lines of the railroad to be located and constructed in Alaska, see section 975b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 733, 735, 737 of this title.

§ 733. Indian or Eskimo lands in Alaska set aside on survey of town site; deeds; restrictions; fee simple title.

Where, upon the survey of a town site pursuant to section 732 of this title, and the regulations of the Department of the Interior under said section, a tract claimed and occupied by an Indian or Eskimo of full or mixed blood, native of Alaska, has been or may be set apart to such Indian or Eskimo, the town-site trustee is authorized to issue to him a deed therefore which shall provide that the title conveyed is inalienable except upon approval of the Secretary of the Interior: *Provided,* That nothing herein contained shall subject such tract to taxation, to levy and sale in satisfaction of the debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription: *Provided further,* That the approval by the Secretary of the Interior of the sale by an Indian or Eskimo of a tract deeded to him under this section and section 735 of this title shall vest in the purchaser a complete and unrestricted title from the date of such approval. (May 25, 1926, ch. 379, § 1, 44 Stat. 629.)

JUNEAU INDIAN VILLAGE TOWNSITE

Pub. L. 88–34, May 29, 1963, 77 Stat. 52, provided: "That the Act of May 25, 1926 (44 Stat. 629) [sections 733 to 736 of this title], is hereby extended and made applicable to all lands of the Juneau Indian Village of Alaska, including uplands and filled in tidelands occupied on the date of this Act [May 29, 1963]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 734, 735, 736 of this title.

§ 734. Extension of street or alley across Indian or Eskimo land in Alaska; reservation of area.

Whenever the Secretary of the Interior shall determine that it would be to the interest of the Indian or Eskimo occupant of land described in section 733 of this title, he is authorized to extentd the established streets and alleys of the town site upon and across the tract, and the deed issued to such occupant under said section shall reserve to the town site the area covered by such streets and alleys as extended. (May 25, 1926, ch. 379, § 2, 44 Stat. 630.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 736 of this title.

§ 735. Survey of nonmineral public lands in Alaska into lots and blocks; deeds; restrictions.

Whenever he shall find nonmineral public lands in Alaska to be claimed and occupied by Indians or Eskimos of full or mixed blood, natives of Alaska, as a town or village, the Secretary of the Interior is authorized to have such lands surveyed into lots, blocks, streets, and alleys, and to issue a patent therefor to a trustee who shall convey to the individual Indian or Eskimo the land so claimed and occupied, exclusive of that embraced in streets or alleys: *Provided,* That any patent or deed to be issued under this section shall be subject to all the provisions, limitations, and restrictions of section 733 of this title with respect to Indian and Eskimo claims to land occupied by them within the limits of town sites established or to be established under section 732 of this title. (May 25, 1926, ch. 379, § 3, 44 Stat. 630.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 733, 736, 737 of this title.

§ 736. Regulations.

The Secretary of the Interior is authorized to prescribe appropriate regulations for the administration of sections 733 to 735 of this title. (May 25, 1926, ch. 379, § 4, 44 Stat. 630.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270–13 of this title.

§ 737. Unrestricted deeds for town-site lands held by Alaska natives.

The trustee or trustees to whom a patent has been issued for a townsite surveyed pursuant to section 732 or 735 of this title, upon a finding by the Secretary of the Interior or his authorized representative that any Alaska native who claims and occupies a tract of land within such townsite is competent to manage his own affairs and has petitioned the Secretary or his authorized representative for an unrestricted deed, or [1] shall issue to such native an unrestricted deed, and thereafter all restrictions as to sale, encumbrance, or taxation of said lands shall be removed, but said land shall not be liable to the satisfaction of any debt, except obligations owed the Federal Government, contracted prior to the issuing of such deed. (Feb. 26, 1948, ch. 72, 62 Stat. 35.)

§ 738. Zoning power in Alaska.

The Legislature of the Territory of Alaska is authorized to exercise or to provide for the exercise of zoning power, through a Territorial Zoning Commission or otherwise, in town sites on the public lands of the United States in Alaska; except that such power shall not extend to lands or buildings while they are being utilized by, or to buildings or other structures while they are being constructed by or for, the United States. (July 24, 1947, ch. 305, 61 Stat. 414.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 8, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Chapter 18.—SURVEY OF PUBLIC LANDS

Sec.
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773. Resurveys or retracements of township lines, etc.
774. Protection of surveyor by marshal.
775. Acceptance of contributions for costs of administration, management, and protection of lands, and for surveying federally controlled or intermingled lands.

§ 751. Rules of survey.

The public lands shall be divided by north and south lines run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of an Indian reservation, or of tracts of land surveyed or patented prior to May 18, 1796, or the course of navigable rivers, may render this impracticable; and in that case this rule must be departed from no further than such particular circumstances require.

Second. The corners of the townships must be marked with progressive numbers from the beginning; each distance of a mile between such corners must be also distinctly marked with marks different from those of the corners.

Third. The township shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running parallel lines through the same from east to west and from south to north at the distance of one mile from each other, and marking corners at the distance of each half mile. The sections shall be numbered, respectively, beginning with the number one in the northeast section and proceeding west and east alternately through the township with progressive numbers, until the thirty-six be completed.

Fourth. The deputy surveyors, respectively, shall cause to be marked on a tree near each corner established in the manner described, and within the section, the number of such section, and over it the number of the township within which such section may be; and the deputy surveyors shall carefully note, in their respective field books, the names of the corner trees marked and the numbers so made.

Fifth. Where the exterior lines of the townships which may be subdivided into sections or half-sections exceed, or do not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half-sections in such township, according as the error may be in running the lines from east to west, or from north to south; the sections and half-sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity.

Sixth. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen and one-half feet each, subdivided into twenty-five equal links; and the chain shall be adjusted to a standard to be kept for that purpose.

Seventh. Every surveyor shall note in his field book the true situations of all mines, salt licks, salt springs, and mill-seats which come to his knowledge; all watercourses over which the line he runs may pass; and also the quality of the lands.

Eighth. These field books shall be returned to the Secretary of the Interior or such officer as he may designate, who shall cause therefrom a description

[1] So in original.

of the whole lands surveyed to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships and fractional parts of townships contained in the lands, describing the subdivisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; and a copy thereof shall be kept open at the office of the Secretary of the Interior or of such agency as he may designate for public information, and other copies shall be sent to the places of the sale, and to the Bureau of Land Management. (R. S. § 2395; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100; Apr. 29, 1950, ch. 134, § 1, 64 Stat. 93.)

DERIVATION

Acts May 18, 1796, ch. 29, § 2, 1 Stat. 465; May 10, 1800, ch. 55, § 3, 2 Stat. 73; Mar. 3, 1877, ch. 105, 19 Stat. 348.

AMENDMENTS

1950—Act Apr. 29, 1950, deleted provision that sections 1 mile square in townships be established by running survey lines 2 miles apart.

TRANSFER OF FUNCTIONS

In par. "Eighth", the reference to the "United States Supervisor of Surveys," was changed to "Secretary of the Interior or such officer as he may designate,"; "office of the Field Surveying Service" was changed to "office of the Secretary of the Interior or of such agency as he may designate,"; and "General Land Office" was changed to "Bureau of Land Management", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 751a. Survey system extended to Alaska.

The system of public land surveys is extended to the Territory of Alaska. (Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1098.)

CODIFICATION

Section is a provision from the Sundry Civil Appropriation Act, 1900.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Rectangular system of surveys for homestead claims except where topographic conditions force departure, see section 270-15 of this title.

§ 751b. Surveys in Nome and Fairbanks districts.

The Secretary of the Interior or such officer as he may designate, shall furnish the land offices at Nome and Fairbanks a sufficient quantity of numbers to be used in the different classes of official surveys that may be made in the Nome and Fairbanks land districts to meet the requirements thereof, and upon application by any person desiring to have an official survey made such officers as the Secretary of the Interior may designate shall furnish a number or numbers for such survey or surveys, together with an order directing a qualified deputy surveyor to make the same, and such application, order, and the fee required to be paid shall be transmitted to the Secretary of the Interior or such officer as he may designate: *Provided,* That all surveys thus made shall be approved by the Secretary of the Interior or such officer as he may designate. (Mar. 2, 1907, ch. 2537, § 4, 34 Stat. 1232; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Oct. 9, 1942, ch. 584, § 2, 56 Stat. 779; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CHANGE OF NAME

References to "receivers" were changed to "registers" by act Oct. 9, 1942. See notes under former sections 366, 367 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Supervisor of Surveys and Registers were transferred to the Secretary of the Interior or those officers as he may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Act Mar. 3, 1925, abolished the office of surveyor general and transferred the administration of all activities in charge of surveyors general to the Field Surveying Service under the jurisdiction of United States Supervisor of Surveys.

§ 752. Boundaries and contents of public lands; how ascertained.

The boundaries and contents of the several sections, half-sections, and quarter-sections of the public lands shall be ascertained in conformity with the following principles:

First. All the corners marked in the surveys, returned by the Secretary of the Interior or such agency as he may designate, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half- and quarter-sections, not marked on the surveys, shall be placed as nearly as possible equidistant from two corners which stand on the same line.

Second. The boundary lines, actually run and marked in the surveys returned by the Secretary of the Interior or such agency as he may designate, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines as returned, shall be held and considered as the true length thereof. And the boundary lines which have not been actually run and marked shall be ascertained, by running straight lines from the established corners to the opposite corresponding corners; but in those portions of the fractional townships where no such opposite corresponding corners have been or can be fixed, the boundary lines shall be ascertained by running from the established corners due north and south or east and west lines, as the case may be, to the watercourse, Indian boundary line, or other external boundary of such fractional township.

Third. Each section or subdivision of section, the contents whereof have been returned by the Secretary of the Interior or such agency as he may designate, shall be held and considered as containing the exact quantity expressed in such return; and the half sections and quarter sections, the

contents whereof shall not have been thus returned, shall be held and considered as containing the one-half or the one-fourth part, respectively, of the returned contents of the section of which they may make part. (R. S. § 2396; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Feb. 11, 1805, ch. 14, § 2, 2 Stat. 313.

TRANSFER OF FUNCTIONS

In pars. "First", "Second" and "Third", the reference, "Field Surveying Service" was changed to Secretary of the Interior or such agency as he may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 753 of this title.

§ 753. Lines of division of half quarter sections; how run.

In every case of the division of a quarter section the line for the division thereof shall run north and south, and the corners and contents of half quarter sections which may thereafter be sold, shall be ascertained in the manner and on the principles directed and prescribed by section 752 of this title, and fractional sections containing one hundred and sixty acres or upwards shall in like manner as nearly as practicable be subdivided into half quarter sections under such rules and regulations as may be prescribed by the Secretary of the Interior, and in every case of a division of a half quarter section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter sections, which may thereafter be sold, shall be ascertained as nearly as may be, in the manner, and on the principles, directed and prescribed by the section preceding; and fractional sections containing fewer or more than one hundred and sixty acres shall in like manner, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Secretary of the Interior. (R. S. § 2397.)

DERIVATION

Acts Apr. 24, 1820, ch. 51, § 1, 3 Stat. 566; Apr. 5, 1832, ch. 65, 4 Stat. 503.

§§ 754 to 756. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 2398, 2400, and § 2399; acts Oct. 1, 1890, ch. 1262, 26 Stat. 650; Aug. 15, 1894, ch. 288, 28 Stat. 285; Apr. 26, 1902, ch. 592, 32 Stat. 120, related to contracts for surveys and prices per mile for public surveys.

§ 757. Cost of survey of private land claims to be reported and paid.

An accurate account shall be kept by the Secretary of the Interior or such officer as he may designate of the cost of surveying and platting every private land claim to be reported to the Bureau of Land Management with the map of such claim; and a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant or by any other party. (July 31, 1876, ch. 246, 19 Stat. 121; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Field Surveying Service" was changed to "Secretary of the Interior or such agency as he may designate"; and "General Land Office" was changed to "Bureau of Land Management", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 758. Delivery of patent contingent on refund of cost of survey.

In all cases of the survey of private land claims the cost of the same shall be refunded to the Treasury by the owner before the delivery of the patent. (Mar. 3, 1885, ch. 360, 23 Stat. 499.)

§ 759. Survey for and by settlers in township.

When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of such agency as the Secretary of the Interior may designate and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be unlawful for such agency, under such instructions as may be given by the Secretary of the Interior or such officer as he may designate, and in accordance with law, to survey such township or such public lands owned by said grantees of the Government, and make return therefor to the general and proper local land office: *Provided,* That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys. (R. S. § 2401; Aug. 20, 1894, ch. 302, § 1, 28 Stat. 423; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act May 30, 1862, ch. 86, § 10, 12 Stat. 410.

TRANSFER OF FUNCTIONS

The two references to "the Field Surveying Service" were changed to "such agency as the Secretary of the Interior may designate" and "such agency,", respectively; and "Commissioner of the General Land Office," was changed to "Secretary of the Interior or such officer as he may designate,", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687a–6, 760, 762, 763 of this title.

§ 760. Deposit for expenses deemed an appropriation.

The deposit of money in a proper United States depository, under the provisions of section 759 of this title, shall be deemed an appropriation of the sums so deposited for the objects contemplated by said section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising

all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively. (R. S. § 2402.)

DERIVATION

Res. July 1, 1864, No. 60, 13 Stat. 414.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds for "Expenses, public survey work," section 725s (47, 48) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 763 of this title.

§ 761. Repayment of excess of deposits to cover cost of surveys of mineral lands.

The Secretary of the Treasury is authorized and directed to pay, out of the moneys heretofore or hereafter covered into the Treasury from deposits made by individuals to cover cost of work performed and to be performed in the offices of such agency as the Secretary of the Interior may designate in connection with the survey of mineral lands, any excess in the amount deposited over and above the actual cost of the work performed, including all expenses incident thereto for which the deposits were severally made or the whole of any unused deposit; and such sums, as the several cases may be, shall be deemed to be annually and permanently appropriated for that purpose. Such repayments shall be made to the person or persons who made the several deposits, or to his or their legal representatives, after the completion or abandonment of the work for which the deposits were made, and upon an account certified by the office of such agency of the district in which the mineral land surveyed, or sought to be surveyed, is situated and approved by the Secretary of the Interior or such officer as he may designate. (Feb. 24, 1909, ch. 180, 35 Stat. 645; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

The references "the United States Field Surveying Service" and "the Field Surveying Service" were changed to "such agency as the Secretary of the Interior may designate" and "the office of such agency", respectively; and "Commissioner of the General Land Office" was changed to "Secretary of the Interior or such officer as he may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 763 of this title.

§ 762. Deposits made by settlers for surveys to go in part payment of lands.

Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section 759 of this title, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered under the laws thereof. (R. S. § 2403; Apr. 27, 1876, ch. 84, 19 Stat. 38; Mar. 3, 1879, ch. 170, 20 Stat. 352; Aug. 20, 1894, ch. 302, § 2, 28 Stat. 423.)

DERIVATION

Acts Mar. 3, 1871, ch. 127, 16 Stat. 581; Apr. 27, 1876, ch. 84, 19 Stat. 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 763 of this title.

§ 763. Deposits in Louisiana applicable to resurveys.

Such sums as have been or may be deposited for surveys in Louisiana by actual settlers, under sections 759 to 762 of this title, may be, in whole or in part, employed in making such resurveys as may be necessary in the discretion of the Secretary of the Interior or such officer as he may designate. (Aug. 7, 1882, ch. 433, § 1, 22 Stat. 327; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 764, 765. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 2404, 2405, authorized augmented rates for surveys of forest lands in Oregon, California and Washington.

§ 766. Geological surveys, extension of public surveys, expenses of subdividing.

There shall be no further geological survey by the Government, unless authorized by law. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands. (R. S. § 2406.)

DERIVATION

Acts July 21, 1852, ch. 66, § 1, 10 Stat. 15, 21; July 9, 1870, ch. 235, § 16, 16 Stat. 218.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 767. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, R. S. § 2407, authorized a departure from the ordinary method in surveying land on a watercourse.

§§ 768, 769. Repealed. Apr. 29, 1950, ch. 134, § 4, 64 Stat. 93.

Section 768, R. S. § 2408, which authorized the Secretary of the Interior to vary the lines of the subdivisions from a rectangular form to suit the circumstances of the country in extending the surveys of public lands in Nevada, is now covered by section 770 of this title.

Section 769, R. S. § 2409, authorized the Secretary of the Interior to continue the geodetic method of survey in Oregon and California.

§ 770. Rectangular mode of survey; departure from.

The Secretary of the Interior may, by regulation, provide that departures may be made from the system of rectangular surveys whenever it is not feasible or economical to extend the rectangular surveys in the regular manner or whenever such departure would promote the beneficial use of lands. (R. S. § 2410; Apr. 29, 1950, ch. 134, § 2, 64 Stat. 93.)

DERIVATION

Act Mar. 3, 1853, ch. 145, § 4, 10 Stat. 245.

AMENDMENTS

1950—Act Apr. 29, 1950, eliminated the limitation that, when there are departures from the rectangular surveys, the lands shall not be surveyed into less than 160 acres or subdivided into less than 40 acres, and by substituting a general provision for those departures.

§ 771. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, R. S. § 2411, related to compensation for surveying by the day instead of by the mile in Oregon and California.

§ 772. Resurveys or retracements to mark boundaries of undisposed lands.

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided,* That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement: *Provided further,* That not to exceed 20 percent of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized. (Mar. 3, 1909, ch. 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884.)

§ 773. Resurveys or retracements of township lines, etc.

Upon the application of the owners of three-fourths of the privately owned lands in any township covered by public-land surveys, more than 50 per centum of the area of which townships is privately owned, accompanied by a deposit with the Secretary of the Interior, or such officer as he may designate, of the proportionate estimated cost, inclusive of the necessary work, of the resurvey or retracement of all the privately owned lands in said township, the Secretary, or such officer as he may designate, shall be authorized in his discretion to cause to be made a resurvey or retracement of the lines of said township and to set permanent corners and monuments in accordance with the laws and regulations governing surveys and resurveys of public lands. The sum so deposited shall be held by the Secretary of the Interior or such officer as he may designate, and may be expended in payment of the cost of such survey, including field and office work, and any excess over the cost of such survey and the expenses incident thereto shall be repaid pro rata to the persons making said deposits or their legal representatives. The proportionate cost of the field and office work for the resurvey or retracement of any public lands in such township shall be paid from the current appropriation for the survey and resurvey of public lands, in addition to the portion of such appropriation otherwise allowed by law for resurveys and retracements. Similar resurveys and retracements may be made on the application, accompanied by the requisite deposit, of any court of competent jurisdiction, the returns of such resurvey or retracement to be submitted to the court. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry this section into full force and effect. (Sept. 21, 1918, ch. 175, 40 Stat. 965; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Supervisor of Surveys" was changed to the "Secretary of the Interior, or such officer as he may designate,"; the words, "Commissioner of the General Land Office subject to the supervisory authority of the Secretary of the Interior," were changed to "Secretary, or such officer as he may designate,"; and reference to "Supervisor of Surveys or commissioner" was changed to "Secretary of the Interior or such officer as he may designate,", all on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 774. Protection of surveyor by marshal.

Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for the President to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered. (R. S. § 2413.)

DERIVATION

Act May 29, 1830, ch. 163, § 2, 4 Stat. 417.

§ 775. Acceptance of contributions for costs of administration, management, and protection of lands, and for surveying federally controlled or intermingled lands.

CODIFICATION

Section, act May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 106, was from the Department of the Interior and Related Agencies Appropriation Act, 1961, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1959—June 23, 1959, Pub. L. 86-60, title I, § 1, 72 Stat. 93.

1958—June 4, 1958, Pub. L. 85-439, title I, § 1, 72 Stat. 156.

1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 528.

1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 258.

1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 142.

1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 362.

1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 263.

1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 447.

Chapter 19.—BOUNTY LANDS

REPEALS; RIGHTS SAVED; AUTHORIZATION TO PURCHASE AND CANCEL UNSATISFIED WARRANTS; PROCEDURE; LIMITATIONS; RIGHTS OF TRANSFEREES; FUNDS FOR PAYMENTS

Pub. L. 87-558, July 27, 1962, 76 Stat. 246, provided:

"That sections 457, 473, and 2414—2446, inclusive, of the Revised Statutes, as amended [sections 782, 785, 791—808, and 821—835 of this title], and the Act of December 13, 1894 (28 Stat. 594) [section 783 of this title], are hereby repealed. Repeal of said laws shall not affect the rights of holders of warrants described in section 2 of this Act, until such rights are extinguished in accordance with said section, to have their warrants receivable in payment or part payment for lands under the Act of December 13, 1894, supra, to assign their warrants pursuant to sections 2414 and 2444 of the Revised Statutes, and to secure a new warrant in lieu of a warrant lost or destroyed pursuant to section 2441 of the Revised Statutes.

"SEC. 2. The Secretary of the Interior is hereby authorized and directed to purchase at the rate of $1.25 per acre from the holders thereof and to cancel all valid unsatisfied military bounty land warrants which were issued pursuant to the laws repealed by section 1 of this

Act and which are recorded with the Secretary pursuant to, and under the terms and conditions of, the Act of August 5, 1955 (69 Stat. 534) [classified as a note to section 274 of this title], and the regulations issued thereunder. The Secretary will send his offer to purchase by registered mail to the post office address of the holder of record with the Secretary as of the time the offer is made and will require the holder to surrender the warrant as a condition of payment therefor. If the holder of a warrant, within one year from and after receipt of an offer to purchase from the Secretary, shall fail to surrender his warrant and accept payment therefor as provided for in this section, the warrant shall not thereafter be accepted by the Secretary of the Interior for further recordation under the Act of 1955, supra, or as a basis for the acquisition of lands, or for payment under this section: *Provided*, That if within the one year after receipt of an offer to purchase, the warrant is transferred the transferee shall have the remainder of the one-year period or a period of six months, whichever is the longer, within which to surrender his warrant and accept payment.

"SEC. 3. Payments under section 2 of this Act shall be made out of any appropriated funds available to the Secretary of the Interior for expenditure by him."

GENERAL PROVISIONS

§ 781. Repealed. June 29, 1936, ch. 867, title III, § 303, 49 Stat. 2033.

Section, R. S. § 4744; act July 25, 1882, ch. 349, § 2, 22 Stat. 175; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to the investigation of frauds in connection with bounty-land claims.

§§ 782, 783. Repealed. Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246.

Section 782, R.S. § 2442; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, required the Secretary of the Interior to prescribe regulations to carry the provisions of former section 829 of this title into effect.

Section 783, act Dec. 13, 1894, ch. 3, 28 Stat. 594, related to bounty warrants and indemnity certificates receivable in payment for lands.

§ 784. Repealed. Pub. L. 85-56, title XXII, § 2202 (1), June 17, 1957, 71 Stat. 162, effective January 1, 1958.

Section, R. S. § 471; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, required the Administrator of Veterans' Affairs to perform those duties in the execution of bounty-land laws as the President prescribed.

§ 785. Repealed. Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246.

Section, R.S. § 4748; act July 3, 1930, ch. 863, §§ 1, 2, 46 Stat. 1016, related to the appointment of a person to sign name of Administrator to warrants for bounty lands.

§ 786. Repealed. Pub. L. 85-56, title XXII, § 2202 (1), June 17, 1957, 71 Stat. 162, effective January 1, 1958.

Section, R. S. § 4748; act July 3, 1930, ch. 863, §§ 1, 2, 46 Stat. 1016, related to furnishing of free instruction forms for persons filing claims for land bounty warrants.

§ 787. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, R. S. §§ 4746, 4766; acts July 7, 1898, ch. 578, 30 Stat. 718; Aug. 17, 1912, ch. 301, § 1, 37 Stat. 312; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, relating to false certification of documents, is now covered by section 289 of Title 18, Crimes and Criminal Procedure.

RIGHT TO BOUNTY; AMOUNT

§§ 791 to 808. Repealed. Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246.

Section 791, R.S. § 2418, related to issuance of certificates or land bounty warrants or, at the option of the Treasury, script for certain amounts for service in the War of 1812 or in any of the Indian wars since 1790 and prior to Mar. 3, 1850, and in the Mexican War.

Section 792, R.S. § 2419, related to entry into service after commencement of Mexican War.

Section 793, R.S. § 2420, related to militia, volunteers, and State troops in service between June 18, 1812, and Mar. 22, 1852.

Section 794, R.S. § 2421, prohibited benefits under former sections 791—793 of this title if the person received, or was entitled to receive, any military land bounty under any Act passed prior to Mar. 22, 1852.

Section 795, R.S. § 2422, added any period of captivity to actual service in computing service, for purposes of former sections 791—793 of this title.

Section 796, R.S. § 2424, related to the rights of widows of persons entitled to benefits.

Section 797, R.S. § 2428, related to widows and children of persons entitled to benefits under former section 800 of this title.

Section 798, R.S. § 2429, related to the effect of the subsequent marriage of the widow.

Section 799, R.S. § 2430, related to the age of minors within the intent of former section 797 of this title.

Section 800, R.S. § 2425, related to the equalization of bounties at 160 acres.

Section 801, R.S. § 2426, enumerated classes of persons whose right was dependent upon length of service.

Section 802, R.S. §2427, enumerated classes of persons whose right was independent of length of service.

Section 803, R.S. § 2431; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to parol proof of military service.

Section 804, R.S. § 2432; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to admissibility of prior evidence of service for additional allowances.

Section 805, R.S. § 2433, related to allowance for travel time in computing length of service.

Section 806, R.S. § 2434, extended provisions of bounty land laws to Indians.

Section 807, R.S. § 2435; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to evidence of right of pension being admissible to show right to bounty.

Section 808, R.S. § 2438, denied deserters a right to land bounties.

WARRANT, LOCATION, AND PATENT

§§ 821 to 835. Repealed. Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246.

Section 821, R.S. § 2414, related to the assignment of warrants and locations.

For savings provisions affecting this section, see Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246, set out as a note proceeding section 781 of this title.

Section 822, R.S. § 2436, related to the effect of certain written instruments affecting title to warrants prior to issuance of the warrants.

Section 823, R.S. § 2415, related to the location of the warrants, and to the payment of any excess value over the minimum price.

Section 824, R.S. § 2416, related to entry under warrants for services in the Revolutionary War and in the War of 1812.

Section 825, R.S. § 2417, related to time for location of warrants for services in the Revolutionary War and War of 1812.

Section 826, R.S. § 2437, related to the location of warrants free of expense.

Section 827, R.S. § 2423, related to the issuance of a patent upon the return of a warrant.

Section 828, R.S. § 2439, permitted the issuance of a patent notwithstanding the loss of a warrant.

Section 829, R.S. § 2441, related to the assignment of a lost warrant.

Section 830, R.S. § 2440, related to the loss of or failure to issue a certificate of honorable discharge.

Section 831, R.S. § 2443, related to the mode of issuing patents to heirs of soldiers entitled to warrants.

Section 832, R.S. § 2444; act July 3, 1930, ch. 863, § 1, 46 Stat. 1016, related to the death of the claimant after establishing the right to a warrant but prior to its issuance.

For savings provisions affecting this section, see Pub. L. 87-558, § 1, July 27, 1962, 76 Stat. 246, set out as a note preceding section 781 of this title.

Section 833, R.S. § 2445, related to the right of legal representatives to file proofs for warrants.

Section 834, R.S. § 2446, related to the relocation of warrants in case of error.

Section 835, R.S. § 457, related to the issuance and recording of the warrants.

CLAIM AGENTS OR ATTORNEYS

§ 841. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, act May 21, 1872, ch. 178, 17 Stat. 137, relating to offense and punishment of claim agent, attorney or other person for withholding military land bounty warrant is now covered by section 290 of Title 18, Crimes and Criminal Procedure.

§§ 842 to 844. Repealed. Pub. L. 85-56, title XXII, § 2202(1), June 17, 1957, 71 Stat. 162, effective January 1, 1958.

Section 842, R. S. § 4785; acts July 4, 1884, ch. 181, § 3, 23 Stat. 99; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to compensation of agent or attorney for services in prosecuting claim for bounty land. It had been repealed by act June 20, 1878, ch. 367, § 2, 20 Stat. 243, and reenacted and amended by act, July 4, 1884, ch. 181, § 3, 23 Stat. 99.

Section 843, R. S. § 5485, related to punishment of agents or attorneys who contract for, demand, or receive greater compensation than the $25 provided for in former section 842 of this title. Acts Aug. 5, 1882, ch. 389, 22 Stat. 248, and Mar. 3, 1881, ch. 130, 21 Stat. 408, which provided for the application of former section 843, were superseded by act July 4, 1884, ch. 181, 46 Stat. 1016. See note to former section 842 of this title.

Section 844, R. S. § 4786; acts July 4, 1884, ch. 181, § 4, 23 Stat. 99; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to filing of fee agreement and limitation upon fee of agent or attorney concerning bounty-land claim.

Chapter 20.—RESERVATIONS AND GRANTS TO STATES FOR PUBLIC PURPOSES

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§ 851. Deficiencies in grants to State by reason of settlements, etc., on designated sections generally.

Where settlements with a view to preemption or homestead have been, or shall hereafter be made, before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the claims of such settlers; and if such sections or either of them have been or shall be granted, reserved, or pledged for the use of schools or colleges in the State in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State, in lieu of such as may be thus taken by preemption or homestead settlers. And other lands of equal acreage are also hereby appropriated and granted and may be selected, in accordance with the provisions of section 852 of this title, by said State where sections sixteen or thirty-six are, before title could pass to the State, included within any Indian, military, or other reservation, or are, before title could pass to the State, otherwise disposed of by the United States: *Provided,* That the selection of any lands under this section in lieu of sections granted or reserved to a State shall be a waiver by the State of its right to the granted or reserved sections. And other lands of equal acreage are also appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State shall be entitled to select indemnity lands to the extent of section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged; but such selections may not be made within the boundaries of said reservation: *Provide, however,* That nothing in this section contained shall prevent any State from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then

taking the sections sixteen and thirty-six in place therein. (R.S. § 2275; Feb. 28, 1891, ch. 384, 26 Stat. 796; Aug. 27, 1958, Pub. L. 85–771, § 1, 72 Stat. 928; June 24, 1966, Pub. L. 89–470, § 1, 80 Stat. 220.)

DERIVATION

Act Feb. 26, 1859, ch. 58, 11 Stat. 385; act June 22, 1874, ch. 422, 18 Stat. 202.

AMENDMENTS

1966—Pub. L. 89–470 deleted "or Territory" following "State" in eight instances and substituted "before title could pass to the State" for "prior to survey" in two instances.

1958—Pub. L. 85–771 inserted "in accordance with the provisions of section 852 of this title" and "prior to survey", wherever appearing; substituted "That the selection of any lands under this section in lieu of sections granted or reserved to a State or Territory shall be a waiver by the State or Territory of its right to the granted or reserved sections." for "Where any State is entitled to said sections 16 and 36, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections."; substituted "section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged" for "two sections for each of said townships, in lieu of sections 16 and 36 therein"; deleted from the last extinguishment proviso the clause "but nothing in this proviso shall be construed as conferring any right not in this section existing prior to February 28, 1891", and otherwise amended the section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 853, 854 of this title.

§ 852. Selections to supply deficiencies of school lands.

(a) The lands appropriated by section 851 of this title, shall be selected from any unappropriated, surveyed or unsurveyed public lands within the State where such losses or deficiencies occur subject to the following restrictions:

(1) No lands mineral in character may be selected by a State except to the extent that the selection is being made as indemnity for mineral lands lost to the State because of appropriation before title could pass to the State;

(2) No lands on a known geologic structure of a producing oil or gas field may be selected except to the extent that the selection is being made as indemnity for lands on such a structure lost to the State because of appropriation before title could pass to the State; and

(3) Land subject to a mineral lease or permit may be selected if none of the land subject to that lease or permit is in a producing or producible status, subject, however, to the restrictions and conditions of the preceding and following paragraphs of this subsection.

(4) If a selection is consummated as to a portion but not all of the lands subject to any mineral lease or permit, then, as to such portion and for so long only as such lease or permit or any lease issued pursuant to such permit shall remain in effect, there shall be automatically reserved to the United States the mineral or minerals for which the lease or permit was issued, together with such further rights as may be necessary for the full and complete enjoyment of all rights, privileges and benefits under or with respect to the lease or permit: *Provided, however,* That after approval of the selection the Secretary of the Interior shall determine what portion of any rents and royalties accruing thereafter which may be paid under the lease or permit is properly applicable to that portion of the land subject to the lease or permit selected by the State, the portion applicable being determined by applying to the sum of the rents and royalties the same ratio as that existing between the acreage selected by the State and the total acreage subject to the lease or permit; of the portion applicable to the selected land 90 per centum shall be paid to the State by the United States annually and 10 per centum shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5) If a selection is consummated as to all of the lands subject to any mineral lease or permit or if, where the selecting State has previously acquired title to a portion of the lands subject to a mineral lease or permit, a selection is consummated as to all of the remaining lands subject to that lease or permit, then and upon condition that the United States shall retain all rents and royalties theretofore paid and that the lessee or permittee shall have and may enjoy under and with respect to that lease or permit all the rights, privileges, and benefits which he would have had or might have enjoyed had the selection not been made and approved, the State shall succeed to all the rights of the United States under the lease or permit as to the mineral or minerals covered thereby, subject, however, to all obligations of the United States under and with respect to that lease or permit.

(b) Where the selections are to compensate for deficiencies of school lands in fractional townships, such selections shall be made in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one-quarter section of land: *Provided,* That the States which are, or shall be entitled to both the sixteenth and thirty-sixth sections in place, shall have the right to select double the amounts named, to compensate for deficiencies of school land in fractional townships.

(c) Notwithstanding the provisions of section 282 of this title on the revocation not later than 10 years after the date of approval of this Act, of any order of withdrawal, in whole or in part, the order or notice taking such action shall provide for a period of not less than six months before the date on which it otherwise becomes effective in which the State in which the lands are situated shall have a preferred right of application for selection under this section, subject to the requirements of existing

law, except as against the prior existing valid settlement rights and preference rights conferred by existing law other than section 282 of this title, or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program.

(d)(1) The term "unappropriated public lands" as used in this section shall include, without otherwise affecting the meaning thereof, lands withdrawn for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur, but otherwise subject to appropriation, location, selection, entry, or purchase under the nonmineral laws of the United States; lands withdrawn by Executive Order Numbered 5327, of April 15, 1930, if otherwise available for selection; and the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(2) The determination, for the purposes of this section of the mineral character of lands lost to a State shall be made as of the date of application for selection and upon the basis of the best evidence available at that time. (R.S. § 2276; Feb. 28, 1891, ch. 384, 26 Stat. 797; Aug. 27, 1958, Pub. L. 85-771, § 2, 72 Stat. 928; Sept. 14, 1960, Pub. L. 86-786, §§ 1, 2, 74 Stat. 1024; June 24, 1966, Pub. L. 89-470, § 2, 80 Stat. 220.)

DERIVATION

Acts May 20, 1826, ch. 83, § 1, 4 Stat. 179; Feb. 26, 1859, ch. 58, 11 Stat. 385; June 22, 1874, ch. 422, 18 Stat. 202.

REFERENCES IN TEXT

Date of approval of this Act, referred to in subsec. (c), probably means date of approval of Pub. L. 85-771, which was Aug. 27, 1958.

AMENDMENTS

1966—Pub. L. 89-470 deleted "or Territory" following "State" once in subsec. (a), twice in subsec. (a)(1), and once each in subsecs. (a)(2), (c) and (d)(2) and "or Territories" following "States" in subsec. (b), and substituted "before title could pass to the State" for "prior to survey" in subsec. (a)(1) and (2); and inserted "or unsurveyed" following "surveyed" in subsec. (a).

1960—Subsec. (a). Pub. L. 86-786, § 1, substituted "If none of the land subject to that lease or permit is in a producing or producible status, subject, however, to the restrictions and conditions of the preceding and following paragraphs of this subsection" for ", but only if all of the lands subject to that lease or permit are selected and if none of the lands subject to that lease or permit are in a producing or producible status; where lands subject to a mineral lease or permit are selected, the State or Territory shall succeed to the position of the United States thereunder", in par. (3), and added pars. (4) (5).

Subsec. (d)(1). Pub. L. 86-786, § 2, included the interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals.

1958—Pub. L. 85-771 designated introductory clause as subsec. (a) and added restrictions (1)—(3) thereto; designated remainder as subsec. (b) and added subsecs. (c) and (d).

UNIVERSITY OF ALASKA; GRANTEE OF LANDS, IMPROVEMENTS, AND PERSONAL PROPERTY OF ALASKA AGRICULTURAL EXPERIMENT STATION

Pub. L. 89-620, Oct. 4, 1966, 80 Stat. 871, authorized the Secretary of Agriculture to convey by quitclaim deed and without consideration to the University of Alaska for public purposes all the right, title, and interest of the United States in and to the lands of the Alaska Agricultural Experiment Station, including improvements thereon, and such personal property as may be designated, located at Palmer and Matanuska, Alaska.

UNIVERSITY OF ALASKA; ADDITIONAL LAND GRANT FOR AGRICULTURAL COLLEGE AND SCHOOL OF MINES; CONDITIONS AND LIMITATION

Act Jan. 21, 1929, ch. 92, 45 Stat. 1091, as amended Sept. 19, 1966, Pub. L. 89-588, 80 Stat 811, provided:

"That in addition to the provision made by the Act of Congress approved March 4, 1935 (thirty-eighth Statutes at Large, page 1214 [classified to former section 353 of Title 48 and set out in the Site for Agricultural College and School of Mines note hereunder], for the use and benefit of the Agricultural College and School of Mines, there is granted to the Territory of Alaska, for the exclusive use and benefit of the Agricultural College and School of Mines, one hundred thousand acres of vacant nonmineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

"(2) That the college and school provided for in this act shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school."

UNIVERSITY OF ALASKA; SITE FOR AGRICULTURAL COLLEGE AND SCHOOL OF MINES

Section 2 of act Mar. 4, 1915, ch. 181, 38 Stat. 1215, provided: "That section numbered 6 in township numbered one south of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered thirty-one, in township numbered one north of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered one, in township numbered one south of the Fairbanks base line and range numbered two west of the Fairbanks meridian; and section numbered thirty-six, in township numbered one north of the Fairbanks base line and range numbered two west of the Fairbanks meridian, are granted to the Territory of Alaska, but with the express condition that they shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines: *Provided,* That nothing in this Act [classified to former section 353 of Title 48 and set out in this note] shall be held to interfere with or destroy any legal claim of any person or corporation to any part of said lands under the homestead [law, chapter 7 of this title.] or other law for the disposal of the public lands acquired prior to the approval of this Act [Mar. 4, 1915]: Provided further That so much of the said land as is now [Mar. 4, 1915] used by the Government of the United States as an agricultural experiment station may continue to be used for such purpose until abandoned for that use by an order of the President of the United States or by Act of Congress."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 851, 853, 854 of this title.

§ 852a. Applications for unsurveyed lands; regulations; acreage requirements.

The Secretary of the Interior may issue regulations governing applications for unsurveyed lands. If he establishes any minimum acreage requirements, they shall provide for selection of tracts of reasonable size, taking into consideration location, terrain, and adjacent land ownership and uses. (Pub. L. 89-470, § 3, June 24, 1966, 80 Stat. 220.)

§ 852b. Survey of lands prior to transfer; time for survey; availability of funds; lands suitable for transfer.

Prior to issuance of an instrument of transfer, lands must be surveyed. The Secretary of the Interior shall within five years, subject to the availability

of funds, survey the exterior boundaries of lands approved as suitable for transfer to the State. (Pub. L. 89-470, § 4, June 24, 1966, 80 Stat. 220).

§ 853. Selections in Utah to supply deficiencies of school lands.

All the provisions of sections 851 and 852 of this title, which provide for the selection of lands for educational purposes in lieu of those appropriated for other purposes, are made applicable to the State of Utah, and the grant of school lands to said State, including sections 2 and 32 in each township, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said sections, anything in the Act providing for the admission of said State into the Union, to the contrary notwithstanding.

Wherever the words "sections 16 and 36" occur in said sections, the same as applicable to the State of Utah shall read: "sections 2, 16, 32, and 36", and wherever the words "sixteenth and thirty-sixth sections" occur the same shall read: "second, sixteenth, thirty-second, and thirty-sixth sections", and wherever the words "sections 16 or 36" occur the same shall read: "sections 2, 16, 32, or 36", and wherever the words "two sections" occur the same shall read "four sections." (May 3, 1902, ch. 683, §§ 1, 2, 32 Stat. 188, 189.)

REFERENCES IN TEXT

Act providing for the admission of Utah into the Union, referred to in the text, refers to act July 16, 1894, ch. 138, 28 Stat. 107.

§ 854. Selections in New Mexico to supply deficiencies of school lands.

All the provisions of sections 851 and 852 of this title are made applicable to New Mexico, and the grant of school lands to said State, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of such sections, anything in the Act of Congress approved June 21, 1898, making certain grants of land to the Territory of New Mexico, and for other purposes, to the contrary notwithstanding. (Mar. 16, 1908, ch. 88, 35 Stat. 44.)

REFERENCES IN TEXT

References to "Territory" of New Mexico were superseded by the admission of New Mexico into the Union by act June 30, 1910, ch. 310, 36 Stat. 557, and Res. Aug. 21, 1911, No. 8, 37 Stat. 39.

§ 855. Indemnity selections by State of Wyoming.

CODIFICATION

Section, act Mar. 2, 1923, ch. 184, 42 Stat. 1429, authorized the Secretary of the Interior to convey certain lands to the State of Wyoming which were to be selected in lieu of tract numbered 60, township 56, north, of range 69 west of the sixth principal meridian in that State.

§ 856. Selection of school lands on ceded Indian reservations.

Any State or Territory entitled to indemnity school lands or entitled to select lands for educational purposes under law existing prior to March 2, 1895, may select such lands within the boundaries of any Indian reservation in such State or Territory from the surplus lands thereof, purchased by the United States after allotments have been made to the Indians of such reservation, and prior to the opening of such reservation to settlement. (Mar. 2, 1895, ch. 188, § 1, 28 Stat. 899.)

§ 857. Grant to new States.

There is granted, for purposes of internal improvement, to each new State admitted into the Union, after September 4, 1841, upon such admission, so much public land as, including the quantity that was granted to such State before its admission and while under a territorial government, will make five hundred thousand acres.

The selections of lands, granted in this section, shall be made within the limits of each State so admitted into the Union, in such manner as the legislatures thereof, respectively, may direct; and such lands shall be located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, on any public land not reserved from sale by law of Congress or by proclamation of the President. The locations may be made at any time after the public lands in any such new State have been surveyed according to law. (R. S. §§ 2378, 2379.)

DERIVATION

Act Sept. 4, 1841, ch. 16, § 8, 5 Stat. 455.

GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions in lieu of grant of land under this section (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48.

§ 858. Grants to counties for seats of justice.

There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of preemption to one quarter section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located. (R. S. § 2286.)

DERIVATION

Act May 26, 1824, ch. 169, § 1, 4 Stat. 50.

§ 859. Fee simple to pass in all grants.

Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the list of such lands which have been or may hereafter be certified by the Secretary of the Interior or such officer as he may designate, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee simple of

all the lands embraced in such lists that are of the character contemplated by such Act of Congress, and intended to be granted thereby, but where lands embraced in such lists are not of the character embraced by such Acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby. (R. S. § 2449; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Aug. 3, 1854, ch. 201, 10 Stat. 346; Mar. 3, 1875, ch. 139, § 8, 18 Stat. 475.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate," was substituted for "Commissioner of the General Land Office," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 860. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, act Feb. 27, 1913, ch. 85, §§ 1—3, 37 Stat. 687, related to the selection of phosphate or oil lands by State of Idaho under indemnity and other land grants and is covered by sections 121—123 of Title 30, Mineral Lands and Mining.

§ 861. Preference right of selection granted certain Western States; bona fide settlers.

The States of North Dakota, South Dakota, Montana, Idaho, and Washington shall have a preference right over any person or corporation to select lands subject to entry by said States by the Act of Congress approved February 22, 1889, for a period of sixty days after lands have been surveyed and duly declared to be subject to selection and entry under the general land laws of the United States.

Such preference right shall not accrue against bona fide homestead or preemption settlers on any of said lands at the date of filing of the plat of survey of any township in any local land office of said States. (Mar. 3, 1893, ch. 208, 27 Stat. 592.)

REFERENCES IN TEXT

Act Feb. 22, 1889, referred to in the text, was act Feb. 22, 1889, ch. 180, 25 Stat. 676, for admission of the enumerated States into the Union.

§ 862. Patents for wagon-road grants to Oregon.

CODIFICATION

Section, act June 18, 1874, ch. 305, 18 Stat. 80, provided for issuance of patents for lands granted State of Oregon prior to June 18, 1874, upon certificate of Governor that wagon roads had been built over those lands in accordance with terms of grants.

§ 863. Survey of lands granted to certain Western States.

It shall be lawful for the Governors of the States of Washington, Idaho, Montana, North Dakota, South Dakota, Utah, and Wyoming to apply to the Secretary of the Interior or such officer as he may designate for the survey of any township or townships of public land then remaining unsurveyed in any of the several surveying districts, with a view to satisfy the public land grants made by the several Acts admitting the said States into the Union to the extent of the full quantity of land called for thereby; and upon the application of said governors the Secretary or such officer shall proceed to immediately notify such officer as may be designated by the Secretary of the application made by the governor of any of the said States of the application made for the withdrawal of said lands, and the officer so designated shall proceed to have the survey or surveys so applied for made, as in the cases of surveys of public lands; and the lands that may be found to fall within the limits of such township or townships, as ascertained by the survey, shall be reserved upon the filing of the application for survey from any adverse appropriation by settlement or otherwise except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from the date of the filing of the township plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of such grants, with the condition, however, that the governor of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from the first publication, in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such township or townships, giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for; and after the expiration of such period of sixty days any lands which may remain unselected by the State, and not otherwise appropriated according to law, shall be subject to disposal under general laws as other public lands: *And provided further,* That the Secretary of the Interior or such officer as he may designate shall give notice immediately of the reservation of any township or townships to the local land office in which the land is situate of the withdrawal of such township or townships, for the purpose hereinbefore provided. (Aug. 18, 1894, ch. 301, § 1, 28 Stat. 394; Mar. 3, 1925, ch. 462, 43 Stat. 1144; June 26, 1934, ch. 756, § 22, 48 Stat. 1236; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

First and third references to "Commissioner of the General Land Office" were changed to "Secretary of the Interior or such officer as he may designate"; second such reference was changed to "Secretary or such officer"; and the two references to the "Supervisor of Surveys" were

changed to "such officer as may be designated by the Secretary" and "the officer so designated," respectively, all on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 864. Survey of land grants to Florida.

It shall be lawful for the properly credited agent or official of the State of Florida having in charge the adjustment of its school grant to apply to the Secretary of the Interior, or such officer as he may designate, for the survey of any townships or parts of townships of public land unsurveyed in any of the surveying districts of said State, with a view to satisfy the grant in aid of schools made to said State of Florida to the extent of the full quantity of land called for thereby; and upon the application of said agent or official, the Secretary or such officer as he may designate shall proceed to have the survey or surveys so applied for made, as in the case of surveys of other public lands; and the lands that may be found to fall within the limits of such townships or parts of townships as ascertained by the survey shall be reserved, upon the filing of the application for survey from any adverse appropriation by settlement or otherwise, except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from date of filing of the township plat of survey in the proper district land office, which period of sixty days the State may select any of such lands not embraced in any valid adverse claim for the satisfaction of its school grant, as aforesaid, with the condition, however, that the agent or official of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from date of first publication in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such townships or parts of townships giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for, and after the expiration of such sixty days any lands which may remain unselected by the State and not otherwise appropriated according to law shall be subject to disposal under general laws as other public lands: *Provided*, That the Secretary or such officer as he may designate shall give notice immediately of the reservation of any township or parts of townships to the officials of the local land office of the land district in which the land is situated of the withdrawal of such townships or parts of townships for the purpose hereinbefore provided: *Provided further*, That nothing herein shall be deemed to authorize the Secretary or such officer as he may designate to survey any lands within the exterior boundaries of the Everglades, as defined in Everglades patent numbered 137, issued to the State of Florida by the United States under the Swamp Land Act of 1850. (Feb. 16, 1921, ch. 60, 41 Stat. 1103; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

The Swamp Land Act of 1850, referred to in the text, means act Sept. 28, 1850, ch. 84, 9 Stat. 519, which is classified to sections 982—984 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

First reference to "Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate,", and remaining three such references were changed to "Secretary or such officer as he may designate", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 865. Confirmation of certain lands selected by California.

All selections of any portion of the public domain, to which, prior to July 23, 1866, no homestead, preemption, or other right had been acquired by any settler under the laws of the United States, and not being mineral land, nor reserved for naval, military, or Indian purposes nor held or claimed under any valid Mexican or Spanish grant, and not included within the limits of any city, town, or village or of the county of San Francisco, made prior to the 23d day of July 1866, and theretofore sold to bona fide purchasers by the State of California are confirmed to the State of California: *Provided, however*, That said State shall not receive any greater quantity of land for school or improvement purposes than she is entitled to by law.

When selections named in the above paragraph have been made upon lands already surveyed by authority of the United States, the authorities of said States, where the same has not been already done, shall notify the officer, as the Secretary of the Interior may designate, of the land office, for the district in which the land is situated, which notice shall be regarded as the date of the State selection; and the said officers, as the Secretary may designate, of the several land offices, after investigation and decision, shall, under the instruction of the Secretary of the Interior, or such officer as he may designate, forward all such selections to the Bureau of Land Management, and the Secretary or such officer shall certify the same over to the State in the usual manner.

When the State of California has made such selections from the lands not surveyed by the authority of the United States, but which selections have been surveyed by the authority of said State, and the land sold to purchasers in good faith, under the laws of the State, such selections, from said 23d of July, 1866, when marked off and designated in the field, shall have the same force and effect as the preemption rights of a settler upon unsurveyed public lands; and if upon a survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon filing with the officer as the Secretary of the Interior may designate of the proper United States land office of the township plat, in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the

same time to present and prove up his purchase and claim as was allowed preemptors under existing laws, and if found in accordance with the law the land embraced therein shall be certified over to the State by the Secretary of the Interior or such officer as he may designate. (R. S. §§ 2485—2487; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

R. S. § 2485 from acts July 23, 1866, ch. 219, § 1, 14 Stat. 218; Mar. 3, 1875, ch. 139, § 7, 18 Stat. 475.

R. S. §§ 2486, 2487 from act July 23, 1866, ch. 219, § 23, 14 Stat. 219.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

In second par., "register of the land office," was changed to "officer, as the Secretary of the Interior may designate, of the land office,"; "registers of the several land offices," was changed to "officers, as the Secretary may designate, of the several land offices,"; first reference to "Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate,"; "Bureau of Land Management" was substituted for "General Land Office"; and second reference to "Commissioner of the General Land Office" was changed to "Secretary or such officer", on authority of 1946 Reorg. Plan No. 3. In third par., "register" was changed to "officer as the Secretary of the Interior may designate", and "Commissioner of the General Land Office" was changed to "Secretary of the Interior or such officer as he may designate", on authority of that plan. See note under former section 1 of this title.

§ 866. Exchange of cut-over land in Montana.

Tracts of timbered lands prior to February 14, 1923, granted to the State of Montana for educational purposes, from which the timber has been cut or removed pursuant to State laws, may, under such rules and regulations as the legislature of said State shall prescribe, be exchanged for other lands of like character and approximately of equal value, in private ownership, which exchanged land shall be subject to the same requirements and limitations to the end that the State may acquire holdings in reasonably compact form and reforesting be undertaken in an economic manner, anything in the enabling act of said State to the contrary notwithstanding. (Feb. 14, 1923, ch. 74, 42 Stat. 1245.)

REFERENCES IN TEXT

The enabling act of Montana, referred to in the text, means act Feb. 22, 1889, ch. 180, 25 Stat. 676.

§ 867. Agricultural college scrip.

CODIFICATION

Section, R. S. § 2377; act June 20, 1874, ch. 330, 18 Stat. 111, relating to extension of obsolete section 829 of this title to reissue of agricultural land scrip, canceled, or destroyed without the fault of the owner thereof is obsolete. See section 700 of this title and notes under former sections 785, 791 and 800 of this title.

§ 868. Representation of Indian claimants in suits to determine right to school lands.

In any suit instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian Reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposition thereof by the United States, the right of such State may be fully tested and determined without making the Indian tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney General upon the request of such Secretary. (Mar. 2, 1901, ch. 808, 31 Stat. 950.)

§ 869. Disposal of lands for public or recreational purposes.

(a) Application; conditions; classification; restoration if not applied for.

The Secretary of the Interior upon application filed by a duly qualified applicant under section 869–1 of this title may, in the manner prescribed by sections 869 to 869–4 of this title, dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles of incorporation or other creating authority. Before the land may be disposed of under sections 869 to 869–4 of this title it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project. The Secretary may classify public lands in Alaska for disposition under sections 869 to 869–4 of this title. Lands so classified may not be appropriated under any other public land law unless the Secretary revises such classification or authorizes the disposition of an interest in the lands under other applicable law. If, within eighteen months following such classification, no application has been filed for the purpose for which the lands have been so classified, then the Secretary shall restore such lands to appropriation under the applicable public land laws.

(b) Acreage limitations.

Conveyances made in any one calendar year shall be limited as follows:

(i) For recreational purposes:

(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of said State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, for not more than three sites, six thousand four hundred acres in all, except that during each of the calendar years 1960, 1961, and 1962, conveyances may be made for not more than six sites, comprising a total of not more than twelve thousand eight hundred acres and, in addition thereto, such acreage as may be needed for small roadside parks and rest sites of not more than ten acres each: *Provided, however,* That should any State fail in any one calendar year to secure the maximum herein specified, other than small roadside parks and rest sites, additional conveyances may be made

thereafter to that State pursuant to any application on file with the Secretary of the Interior on the last day of said year, to the extent that the conveyances would not have exceeded the limitations of said year.

(B) To any political subdivision of a State, six hundred and forty acres.

(C) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(ii) For public purposes other than recreation:

(A) To any State or agency or instrumentality thereof, for any one program, six hundred and forty acres.

(B) To any political subdivision of a State, six hundred and forty acres.

(C) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(c) Lands withdrawn in aid of functions of a department, agency, State, etc.; lands excepted from disposal.

Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under sections 869 to 869-4 of this title only with the consent of such Federal department or agency, or of such State, Territory, or local governmental unit. Nothing in sections 869 to 869-4 of this title shall be construed to apply to lands in any national forest, national park, or national monument, or national wildlife refuge, or to any Indian lands or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians, or, except insofar as sections 869 to 869-4 of this title apply to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations, to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands in the State of Oregon. Nor shall any disposition be made under sections 869 to 869-4 of this title for any use authorized under any other law, except for a use authorized under sections 682a to 682e of this title. (June 14, 1926, ch. 578, § 1, 44 Stat. 741; June 4, 1954, ch. 263, 68 Stat. 173; June 23, 1959, Pub. L. 86-66, § 2, 73 Stat. 110; Sept. 21, 1959, Pub. L. 86-292, § 1, 73 Stat. 571; Sept. 13, 1960, Pub. L. 86-755, 74 Stat. 899.)

AMENDMENTS

1960—Subsec. (b)(i)(A). Pub. L. 86-755 inserted after "State" the words "or the State park agency or any other agency having jurisdiction over the State park system of said State designated by the Governor of that State as its sole representative for acceptance of lands under this provision," and added the proviso.

1959—Subsec. (b). Pub. L. 86-292 substituted acreage limitations making special allowances to States for recreational areas for provision which limited conveyance to 640 acres to any one grantee in any one calendar year.

Subsec. (c). Pub. L. 86-66 substituted provisions making sections 869 to 869-4 of this title inapplicable, except insofar as those sections apply to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations, to revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands in the State of Oregon, for provisions which made those sections inapplicable to the revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands.

1954—Act June 4, 1954, divided the provisions of act June 14, 1926, on which this section is based, into separate sections (now set out as this section and sections 869-1 to 869-4 of this title), and changed the provisions generally to broaden the authority of the Secretary of the Interior to dispose of public lands for public purposes (1) by including provisions for disposal thereof to Territories (including Alaska), other political subdivisions, and nonprofit corporations and associations rather than to States, counties, and municipalities only, (2) by permitting the disposal thereof for "public" purposes, rather than merely for "recreational" purposes as theretofore, (3) by eliminating the term "nonmineral" in describing the lands which may be so disposed of, (4) by adding the limitation provisions set out in subsecs. (b) and (c) of this section, (5) by amending and transferring to section 2 of that act (section 869-1 of this title) the provisions governing the methods of, and conditions with respect to the, disposing of the lands for those purposes (see Prior Law note under section 869-1 of this title), including the provision for the reservation of mineral deposits, (6) by amending and transferring to section 3 of that act (section 869-2 of this title) the provisions with respect to reversion of the lands to the United States in certain cases (see Prior Law note under section 869-2 of this title), (7) by enacting, as section 4 of that act, the provisions set out as section 869-3 of this title, and (8) by inserting the provision in this section that disposals should be made "upon application by a duly qualified applicant" under section 869-1 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-755 provided in part that the amendment of subsec. (b)(i)(A) shall be effective Sept. 21, 1959.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 869-2, 869-3, 869-4, 1102b of this title.

§ 869-1. Same; sale or lease; reservation of mineral deposits; termination of lease for nonuse.

The Secretary of the Interior may after due consideration as to the power value of the land, whether or not withdrawn therefor, (a) sell such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, and conveyances of such land for historic-monument purposes under this section shall be made without monetary consideration, while conveyances for any other purpose under this section shall be made at a price to be fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used; (b) lease such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, at a reasonable annual rental, for a period up to twenty-five years, and, at the discretion of the Secretary, with a privilege of renewal for a like period, (c) sell such land to a nonprofit corporation or nonprofit association, for the purpose for which the land has been classified, at a price to be fixed by the Secretary of the Interior through appraisal, after taking into consideration the purpose for which the lands are to be used, or (d) lease such land to a nonprofit corporation or nonprofit association at a

reasonable annual rental, for a period up to twenty years, and, at the discretion of the Secretary, with a privilege of renewal for a like period. Each patent or lease so issued shall contain a reservation to the United States of all mineral deposits in the lands conveyed or leased and of the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary. Each lease shall contain a provision for its termination upon a finding by the Secretary that the land has not been used by the lessee for the purpose specified in the lease for such period, not over five years, as may be specified in the lease, or that such land or any part thereof is being devoted to another use. (June 14, 1926, ch. 578, § 2, as added June 4, 1954, ch. 263, 68 Stat. 174, and amended June 20, 1966, Pub. L. 89-457, § 1, 80 Stat. 210.)

AMENDMENTS

1966—Pub. L. 89-457 authorized an increase in the period of a lease under clause (b) from twenty to twenty-five years.

PERIOD OF LEASES

Section 2 of Pub. L. 89-457 provided that: "Upon application by a lessee holding a lease under the Recreation and Public Purposes Act [sections 869 to 869-4 of this title] the Secretary of the Interior may enter into a new lease for a term not to exceed twenty-five years from the date of the new lease."

PRIOR LAW

Prior provisions on this subject were formerly contained in section 869 of this title (see 1954 Amendment note thereunder). Those prior provisions did not require, as in this section, the Secretary of the Interior to take into account the possible power value of the lands, whether withdrawn therefor, or not, before authorizing any disposal of them under section 869 of this title; did not provide, as in this section, for the sale or lease of those lands to Federal instrumentalities, to Territories and to political subdivisions other than States, counties, and municipalities, and to nonprofit corporations and associations; and did not provide, as in this section, that conveyances of that land for historic-monument purposes should be made without monetary consideration. See section 869 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 869, 869-2, 869-3, 869-4, 1102b of this title.

§ 869-2. Same; transfer by grantee; conditions; reversion for non-compliance.

Title to lands conveyed by the Government under sections 869 to 869-4 of this title may not be transferred by the grantee or its successor except, with the consent of the Secretary of the Interior, to a transferee which would be a qualified grantee under section 869-1(a) or 869-1(c) of this title and subject to the acreage limitation contained in section 869(b) of this title. A grantee or its successor may not change the use specified in the conveyance to another or additional use except, with the consent of the Secretary, to a use for which such grantee or its successor could obtain a conveyance under sections 869 to 869-4 of this title. If at any time after the lands are conveyed by the Government, the grantee or its successor attempts to transfer title to or control over these lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary, title to the lands shall revert to the United States. (June 14, 1926, ch. 578, § 3, as added June 4, 1954, ch. 263, 68 Stat. 175, and amended Sept. 21, 1959, Pub. L. 86-292, § 2, 73 Stat. 571.)

AMENDMENTS

1959—Pub. L. 86-292 eliminated sentence which provided that this section should cease to be in effect as to any lands patented under sections 869 to 869-4 of this title twenty-five years after the issuance of patent for such lands.

PRIOR LAW

Prior provisions on the subject of reverter were formerly contained in section 869 of this title (see 1954 Amendment note thereunder). Those prior provisions permanently restricted the lands conveyed to a single use, and did not provide, as in this section, for transfer by the original grantee or its successor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 869, 869-3, 869-4, 1102b of this title.

§ 869-3. Same; applicability of section 869-2 to prior patents; termination of restrictions.

The Secretary may authorize transfers of title or changes in use in accordance with the provisions of section 869-2 of this title with respect to any patent heretofore issued under any Act upon application by a patentee qualified to obtain a conveyance under section 869-1 (a) or 869-1 (c) of this title. If the Secretary, pursuant to such an application, authorizes such transfer or use, all reverter provisions and other limitations on transfer or use, under sections 869 to 869-4 of this title or any other Act affecting the lands involved, shall cease to be in effect twenty-five years after the Secretary authorizes the transfer or use for a changed or additional purpose under the provisions of this section. (June 14, 1926, ch. 578, § 4, as added June 4, 1954, ch. 263, 68 Stat. 175.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 869, 869-2, 869-4, 1102b of this title.

§ 869-4. Same; disposition of moneys received from or on account of revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands.

All moneys received from or on account of any revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands under sections 869 to 869-4 of this title shall be deposited respectively in the Oregon and California land-grant fund and the Coos Bay Wagon Road grant fund, and shall be applied in the manner prescribed respectively by section 1181f of this title, and by the Act of May 24, 1939 (53 Stat. 753). (June 14, 1926, ch. 578, § 6, as added June 23, 1959, Pub. L. 86-66, § 3, 73 Stat. 111.)

REFERENCES IN TEXT

The Act of May 24, 1939, referred to in the text, is act May 24, 1939, ch. 144, 53 Stat. 753, which is not classified to this Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 869, 869-2, 869-3 of this title.

§ 869a. Repealed. Pub. L. 86-66, § 1, June 23, 1959, 73 Stat. 110.

Section, act Apr. 13, 1928, ch. 370, §§ 1, 2, 45 Stat. 429, extended provisions of section 869 of this title to former Oregon and California Railroad grant lands revested in the United States and to former Coos Bay Wagon Road grant lands reconveyed to the United States.

§ 870. Grants of land in aid of common or public schools; extension to those mineral in character; effect of leases.

Subject to the provisions of subsections (a)—(c) of this section, the several grants to the States of numbered sections in place for the support or in aid of common or public schools be, and they are, extended to embrace numbered school sections mineral in character, unless land has been granted to and/or selected by and certified or approved, to any such State or States as indemnity or in lieu of any land so granted by numbered sections.

(a) The grant of numbered mineral sections under this section shall be of the same effect as prior grants for the numbered nonmineral sections, and titles to such numbered mineral sections shall vest in the States at the time and in the manner and be subject to all the rights of adverse parties recognized by existing law in the grants of numbered nonmineral sections.

(b) The additional grant made by this section is upon the express condition that all sales, grants, deeds, or patents for any of the lands so granted shall hereafter be subject to and contain a reservation to the State of all the coal and other minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands not heretofore disposed of by the State shall be subject to lease by the State as the State legislature may direct, the proceeds and rentals and royalties therefrom to be utilized for the support or in aid of the common or public schools: *Provided,* That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

(c) Except as provided in subsection (d) of this section, any lands included within the limits of existing reservations of or by the United States, or specifically reserved for water-power purposes, or included in any pending suit or proceeding in the courts of the United States, or subject to or included in any valid application, claim, or right initiated or held under any of the existing laws of the United States, unless or until such reservation, application, claim, or right is extinguished, relinquished, or canceled, and all lands in the Territory of Alaska, are excluded from the provisions of this section.

(d) (1) Notwithstanding subsection (c) of this section, the fact that there is outstanding on any numbered school section, whether or not mineral in character, at the time of its survey a mineral lease or leases entered into by the United States, or an application therefor, shall not prevent the grant of such numbered school section to the State concerned as provided by this section and section 871 of this title.

(2) Any such numbered school section which has been surveyed prior to July 11, 1956, and which has not been granted to the State concerned solely by reason of the fact that there was outstanding on it at the time of the survey a mineral lease or leases entered into by the United States, or an application therefor, is hereby granted by the United States to such State under this section as if it had not been so leased; and the State shall succeed the position of the United States as lessor under such lease or leases.

(3) Any such numbered school section which is surveyed on or after July 11, 1956, and on which there is outstanding at the time of such survey a mineral lease or leases entered into by the United States, shall (unless excluded from the provisions of this section by subsection (c) of this section for a reason other than the existence of an outstanding lease) be granted to the State concerned immediately upon completion of such survey; and the State shall succeed to the position of the United States as lessor under such lease or leases.

(4) The Secretary of the Interior shall, upon application by a State, issue patents to the State for the lands granted by this section and section 871 of this title, in accordance with section 871a of this title. Such patent shall, if the lease is then outstanding, include a statement that the State succeeded to the position of the United States as lessor at the time the title vested in the State.

(5) Where at the time rents, royalties, and bonuses accrue the lands or deposits covered by a single lease are owned in part by the State and in part by the United States, the rents, royalties, and bonuses shall be allocated between them in proportion to the acreage in said lease owned by each.

(6) As used in this subsection, "lease" includes "permit" and "lessor" includes "grantor". (Jan. 27, 1927, ch. 57, § 1, 44 Stat. 1026; May 22, 1932, ch. 151, § 1, 47 Stat. 140; Apr. 22, 1954, ch. 169, §§ 1, 2, 68 Stat. 57; July 11, 1956, ch. 572, 70 Stat. 529.)

AMENDMENTS

1956—Subsec. (d). Act July 11, 1956, provided that numbered school sections under mineral leases may be granted to a State, whether or not the sections are mineral in character, and added subpar. (6).

1954—Subsec. (c). Act Apr. 22, 1954, § 2, substituted "Except as provided in subsection (d) of this section, any" for "any".

Subsec. (d). Act Apr. 22, 1954, § 1, added subsec. (d).

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 871, 871a of this title.

§ 871. Same; certain grants and laws unaffected.

Nothing contained in section 870 of this title is intended or shall be held or construed to increase, diminish, or affect the rights of States under grants other than for the support of common or public schools by numbered school sections in place, and said section shall not apply to indemnity or lieu selections or exchanges or the right after January 25, 1927, to select indemnity for numbered school sections in place lost to the State under the provisions of said section or any Acts, and all existing laws governing such grants and indemnity or lieu selections and exchanges are continued in full force and effect. (Jan. 25, 1927, ch. 57, § 2, 44 Stat. 1027.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 870, 871a of this title.

§ 871a. Same; issuance of patents.

The Secretary of the Interior shall upon the application by a State cause patents to be issued to the numbered school sections in place, granted for the support of common schools by the Act approved February 22, 1889, by sections 870 and 871 of this title, and by any other Act of Congress, that have been surveyed, or may hereafter be surveyed, and to which title has vested or may hereafter vest in the grantee States, and which have not been reconveyed to the United States or exchanged with the United States for other lands. Such patents shall show the date when title vested in the State and the extent to which the lands are subject to prior conditions, limitations, easements, or rights, if any. In all inquiries as to the character of the land for which patent is sought the fact shall be determined as of the date when the State's title attached. (June 21, 1934, ch. 689, 48 Stat. 1185.)

REFERENCES IN TEXT

Act Feb. 22, 1889, referred to in the text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676–684, the Enabling Act for North Dakota, South Dakota, Montana, and Washington.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 870 of this title.

§ 872. Conveyances to United States in connection with applications for amendment of patented entries or for exchange of land, etc.; withdrawal or rejection of applications; reconveyances.

Where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry or entries, or an exchange of lands, or for any other purpose, and the application in connection with which the conveyance was made is thereafter withdrawn or rejected, the Secretary of the Interior or such officer as he may designate is authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed of the conveyed land to the party or parties entitled thereto. (Apr. 28, 1930, ch. 219, § 6, 46 Stat. 257; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior under this section, with respect to execution of quitclaim deeds for lands conveyed to the United States in connection with exchange transactions involving lands under the jurisdiction of the Secretary of Agriculture, transferred to the Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of Title 7, Agriculture.

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 873. Lands granted for erecting public buildings; purpose of grant.

In any case in which public lands of the United States have been granted to a State, before May 16, 1958, for the purpose of erecting public buildings at the capital of such State for legislative, executive, and judicial purposes, the purpose of such grant shall be deemed to include construction, reconstruction, repair, renovation, and other permanent improvements of such public buildings, the acquisition of necessary land for such buildings, furnishings and equipment for such buildings, and the payment of principal and interest on bonds issued for any such purpose. (Pub. L. 85–411, May 16, 1958, 72 Stat. 117.)

Chapter 21.—GRANTS IN AID OF RAILROADS AND WAGON ROADS

Sec.
881. Cost of survey of grants to railroads; payment.
882. Surveyed lands taxable notwithstanding lien; provisos.
883. Collection of costs of surveying, etc.; reimbursement of purchaser.
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910. Right to extend public surveys over lands granted, and other rights of United States, not affected.
911. Regulations.
912. Disposition of abandoned or forfeited railroad grants.
913. Conveyance by land-grant railroads of portions of rights-of-way to State, county, or municipality.
914. Patents for wagon-road grants to Oregon.

§ 881. Cost of survey of grants to railroads; payment.

Before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the

payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest. (July 15, 1870, ch. 292, 16 Stat. 305; July 31, 1876, ch. 246, 19 Stat. 121.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 886 of this title.

§ 882. Surveyed lands taxable notwithstanding lien; provisos.

No lands granted to any railroad corporation by any Act of Congress shall be exempt from taxation by States, Territories, and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting, and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed: *Provided,* That any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting, and conveying, to be paid in such manner by the purchaser as the Secretary of the Interior may by rule provide and to all liens of the United States, all mortgages of the United States, and all rights of the United States in respect of such lands: *Provided further,* That sections 882 to 885 of this title shall apply only to lands situated opposite to and coterminous with completed portions of said roads, and in organized counties: *Provided further,* That at any sale of lands under the provisions of sections 882 to 885 of this title the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto. (July 10, 1886, ch. 764, § 1, 24 Stat. 143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 883, 884, 885 of this title.

§ 883. Collection of costs of surveying, etc.; reimbursement of purchaser.

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its use and benefit by Act of Congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the Secretary of the Interior, he shall notify the Attorney General, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting, and conveying any tract of land which shall have been purchased under the provisions of section 882 of this title, the Secretary of the Interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting, and conveying. (July 10, 1886, ch. 764, § 2, 24 Stat. 143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 882, 884, 885 of this title.

§ 884. Right of forfeiture of railroad grants not affected.

Sections 882 to 885 of this title shall not affect the right of the Government to declare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if said sections had not passed, except as to the lien mentioned in section 882 of this title. (July 10, 1886, ch. 764, § 3, 24 Stat. 143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 882, 885 of this title.

§ 885. Union Pacific Railroad lands.

The costs of surveying, selecting, and conveying lands granted to the Union Pacific Railroad Company shall become due and payable at and on the demand therefor made by the Secretary of the Interior as provided in section 883 of this title, and nothing in this section or sections 882 to 884 of this title shall be construed or taken in any wise to affect or impair the right of Congress at any time further to alter, amend, or repeal the Act of July 2, 1864, chapter 216, as in the opinion of Congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises existing on July 10, 1886, in favor of the United States. This section and sections 882—884 of this title shall be subject to alteration, amendment, or repeal. (July 10, 1886, ch. 764, § 4, 24 Stat. 143.)

REFERENCES IN TEXT

The Act of July 2, 1864, chapter 216, referred to in the text, is classified to section 83 of Title 45, Railroads, and section 942-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 882, 884 of this title.

§ 886. Survey of lands within limits of railroad grants.

For the survey of the public lands lying within the limits of land grants made by Congress to aid in the construction of railroads, and the selection therein of such lands as are granted therefor, to enable the Secretary of the Interior to carry out the provisions of section 894 of this title, the sum of $100,000 heretofore appropriated is made a continuing appropriation for the survey of lands within the limits of railroad land grants, and any money which shall be expended of such appropriation and reimbursed and paid into the Treasury is reappropriated, and said sum shall remain a continuing appropriation, and so often as any part of the same shall, after being expended, be reimbursed by any railroad company as hereinafter provided, the same shall be again available for the purposes aforesaid: *Provided,* That any portion of said sum expended for surveying such lands shall be reimbursed by the respective companies or parties in interest for whose benefit the lands are granted, according to the provisions of section 881 of this title: *And provided further,* That whenever there shall have been reimbursed and paid into the Treasury of the United States, by the respective companies or parties in interest, any part of said appropriation expended for surveys within such grants, there shall be immediately available, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount so reimbursed, and the same shall be available for the survey of the public lands lying within

the limits of the railroad land grants made by Congress, until all of said lands shall have been surveyed: *Provided,* That nothing herein contained shall be construed to prevent the use, within the limits of any railroad land grant made by Congress, of any part of any regular appropriation for surveying the public lands: *Provided,* That no part of the foregoing money shall be used for any land embraced in any grant to the State of Florida: *And provided further,* That the provisions of law requiring reimbursements to be made to the United States by railroad corporations claiming such grants shall apply equally to the successors of such railroad corporations acquiring title to their lands and other property, under decree of foreclosure of any mortgage authorized by Congress. The Secretary of the Interior shall report to each regular session of Congress what has been done under this section. (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 937.)

APPROPRIATIONS

Effective July 1, 1935, the continuing appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225. See section 725 of Title 31, Money and Finance.

CROSS REFERENCES

Trust funds for completing surveys within railroad land grants, see section 725s of Title 31, Money and Finance.

§ 887. Deposits for surveys of lands granted to railroads.

When any railroad company claiming a grant of land under any Act of Congress, desiring to secure the survey of any unsurveyed lands within the limits of its grant, shall file an application therefor in writing with such officer as the Secretary of the Interior may designate, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey and for the examination thereof pursuant to law and the rules and regulations of the Department of the Interior under the direction of the Secretary of the Interior or such officer as he may designate, it shall thereupon be the duty of the Secretary or such officer, or the Director of the Geological Survey, as the case may be, to cause said lands to be surveyed.

For any deposits made by any railroad company hereunder, certificates shall be issued, which may be used by such railroad company, its successors or assigns, to the same extent as cash is now allowed in payment of entries of public lands under existing law and regulations for any public lands of the United States in the States where the surveys were made, or for any survey or office fees due the United States from such railroad company on account of surveys of lands within its grant. The Secretary of the Interior shall provide such rules and regulations as may be necessary for carrying out the foregoing provisions. (Feb. 27, 1899, ch. 205, 30 Stat. 892; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Supervisor of Surveys," was changed to "such officer as the Secretary of the Interior may designate," and the two references to the "Commissioner of the General Land Office," were changed to "Secretary of the Interior or such officer as he may designate," and "Secretary or such officer," respectively, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 888. Selection by railroads of lands in lieu of lands entered subsequent to accrual of rights; title of settlers.

In the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the preemption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral and within the limits of the grant not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided,* That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad or to extend to lands reserved in any land grant made for railroad purposes: *And provided further,* That this section shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company when such lands have been entered by a preemption or homestead settler after the location of the line of the road and prior to the notice to the local land office of the withdrawal of such lands from market. (June 22, 1874, ch. 400, 18 Stat. 194.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 889, 903 of this title.

§ 889. Rights of entrymen whose entries had not been admitted to record.

The privileges granted by section 888 of this title are extended (subject to the provisos, limitations, and restrictions thereof) to all persons entitled to the right of homestead or preemption under the laws of the United States, who have resided upon and improved for five years lands granted to any railroad company, but whose entries or filings have not for any cause been admitted to record. (Aug. 29, 1890, ch. 819, 26 Stat. 369.)

§ 890. Homestead entries on railroad lands prior to withdrawal or after restoration to market confirmed.

All preemption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any

land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the Bureau of Land Management, and where the preemption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, shall be confirmed, and patents for the same shall issue to the parties entitled thereto. (Apr. 21, 1876, ch. 72, § 1, 19 Stat. 35; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 891. Abandoned railroad lands; reentry.

When at the time of such withdrawal as aforesaid, valid preemption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were reentered by preemption or homestead claimants who have complied with the laws governing preemption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto. (Apr. 21, 1876, ch. 72, § 2, 19 Stat. 35.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 892. Entries after expiration of grant.

All such preemption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefor. (Apr. 21, 1876, ch. 72, § 3, 19 Stat. 36.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 893. Rights of permissive settlers on railroad lands restored to public domain.

All persons who shall have settled and made valuable and permanent improvements upon any odd-numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved, may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the homestead laws of the United States, shall be permitted, at any time within three months after such restoration, and under such rules and regulations as the Secretary of the Interior, or such officer as he may designate, may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of $2.50 per acre, and to receive patents therefor. (Jan. 13, 1881, ch. 19, 21 Stat. 315; Mar. 3, 1891, ch. 561, §§ 1, 4, 26 Stat. 1095, 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior, or such officer as he may designate," was substituted for "Commissioner of the General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 894. Adjustment of land grants to railroads.

The Secretary of the Interior is authorized and directed as of March 3, 1887, to adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and theretofore unadjusted. (Mar. 3, 1887, ch. 376, § 1, 24 Stat. 556.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 886, 897, 903, 906 of this title.

§ 895. Cancellation of patents erroneously issued; reconveyance.

If it shall appear, upon the completion of such adjustments, respectively, or sooner, that lands were, from any cause, prior to March 3, 1887, erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made,

it shall thereupon be the duty of the Attorney General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title prior to March 3, 1887, issued for such lands, and to restore the title thereof to the United States. (Mar. 3, 1887, ch. 376, § 2, 24 Stat 556.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 897, 903, 906 of this title.

§ 896. Erroneous cancellation of bona fide entries corrected.

If, in the adjustment of said grants, it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public-land laws: *Provided,* That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also,* That he did not voluntarily abandon said original entry: *And provided further,* That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public-land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon. (Mar. 3, 1887, ch. 376, § 3, 24 Stat. 557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 897, 903, 906 of this title.

§ 897. Patents to purchasers from railroads; purchase money.

As to all lands, except those mentioned in section 896 of this title, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney General shall cause suit or suits to be brought against such company for the said amount: *Provided,* That nothing in sections 894 to 899 of this title shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase money therefor from the grantee company, less the amount paid to the United States by such company as by said sections required: *And provided,* That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of said sections, nor shall said sections be construed as a declaration of forfeiture of any portion of any land grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions. *Provided further,* That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay to the Government a sum equal to the difference between the portion of the purchase price so paid and the Government price, and in such case the amount demanded from the company shall be the amount paid to it by such purchaser. (Mar. 3, 1887, ch. 376, § 4, 24 Stat. 557; Feb. 12, 1896, ch. 18, 29 Stat. 6.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 906 of this title.

§ 898. Rights of purchasers from railroads of coterminous lands not within grants.

Where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided,* That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the preemption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said preemption and homestead claimants shall be permitted to perfect their proofs and entries and receive patents therefor: *Provided further,* That this section shall not apply to lands settled upon subsequent to the 1st day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases. (Mar. 3, 1887, ch. 376, § 5, 24 Stat. 557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 897, 903, 906 of this title.

§ 899. Limitation of quantity to be conveyed.

No more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned,

where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation, or individual would be rightfully entitled. (Mar. 3, 1887, ch. 376, § 7, 24 Stat. 558.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 897, 903, 906 of this title.

§ 900. Suits to cancel patents to lands erroneously issued under railroad or wagon-road grants.

Suits by the United States to vacate and annul any patent to lands erroneously issued under a railroad or wagon-road grant shall only be brought within six years after the date of the issuance of such patents. But no patent to any lands held by a bona fide purchaser shall be vacated or annulled, but the right and title of such purchaser is hereby confirmed: *Provided,* That no suit shall be brought or maintained, nor shall recovery be had for lands or the value thereof, that were certified or patented in lieu of other lands covered by a grant which were lost or relinquished by the grantee in consequence of the failure of the Government or its officers to withdraw the same from sale or entry. (Mar. 2, 1896, ch. 39, § 1, 29 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 901. Claims of bona fide purchasers; establishment of rights.

If any person claiming to be a bona fide purchaser of any lands erroneously patented or certified shall present his claim to the Secretary of the Interior prior to the institution of a suit to cancel a patent or certification, and if it shall appear that he is a bona fide purchaser, the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the certification was made, for the value of said land, which in no case shall be more than the minimum Government price thereof, and the title of such claimant shall stand confirmed. An adverse decision by the Secretary of the Interior on the bona fides of such claimant shall not be conclusive of his rights, and if such claimant, or one claiming to be a bona fide purchaser, but who has not submitted his claim to the Secretary of the Interior, is made a party to such suit, and if found by the court to be a bona fide purchaser, the court shall decree a confirmation of the title, and shall render a decree in behalf of the United States against the patentee, corporation, company, person, or association of persons for whose benefit the certification was made for the value of the land as hereinbefore provided. Any bona fide purchaser of lands patented or certified to a railroad company, and who is not made a party to such suit, and who has not submitted his claim to the Secretary of the Interior, may establish his right as such bona fide purchaser in any United States court having jurisdiction of the subject matter, or at his option, as prescribed in sections 896 and 897 of this title. (Mar. 2, 1896, ch. 39, § 2, 29 Stat. 43.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 902. Cancellation; investigation before suit.

If at any time prior to the institution of suit by the Attorney General to cancel any patent or certification of lands erroneously patented or certified a claim or statement is presented to the Secretary of the Interior by or on behalf of any person or persons, corporation or corporations, claiming that such person or persons, corporation or corporations, is a bona fide purchaser or are bona fide purchasers of any patented or certified land by deed or contract or otherwise, from or through the original patentee or corporation to which patent or certification was issued, no suit or action shall be brought to cancel or annul the patent or certification for said land until such claim is investigated in said Department of the Interior; and if it shall appear that such person or corporation is a bona fide purchaser as aforesaid, or that such persons or corporations are such bona fide purchasers, then no such suit shall be instituted and the title of such claimant or claimants shall stand confirmed; but the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the patent was issued or certification was made for the value of the land as hereinbefore specified. (Mar. 2, 1896, ch. 39, § 3, 29 Stat. 43.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 903. Relief of settlers on lands granted in aid of wagon roads.

The provision of section 888 of this title and all statutes amendatory thereof or supplementary thereto, including sections 894 to 899 of this title, as modified or supplemented by sections 900 to 902 of this title, shall apply to grants of land in aid of the construction of wagon roads. (July 1, 1902, ch. 1386, 32 Stat. 733.)

§ 904. Forfeiture of unearned grants; restoration to public domain.

There is forfeited to the United States, and the United States resumes the title thereto, all lands granted prior to September 29, 1890, to any State or to any corporation to aid in the construction of a railroad opposite to and coterminous with the portion of any such railroad not on that date completed, and in operation, for the construction or benefit of which such lands were granted; and all such lands are declared to be a part of the public domain: *Provided,* That sections 904 to 907 of this title shall not be construed as forfeiting the right-of-way or station grounds of any railroad company granted prior to September 29, 1890. (Sept. 29, 1890, ch. 1040, § 1, 26 Stat. 496.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 905, 906, 907 of this title.

§ 905. Homestead entries on forfeited lands.

All persons who, on September 29, 1890, were actual settlers in good faith on any of the lands forfeited by section 904 of this title and were otherwise qualified, on making due claim on said lands under the homestead law within six months after the date of the promulgation by the Commissioner of the

General Land Office of the instructions to the officers of the local land offices, for their direction in the disposition of said lands, shall be entitled to a preference right to enter the same under the provisions of the homestead law and sections 904 to 907 of this title, and shall be regarded as such actual settlers from the date of actual settlement or occupation; and any person who prior to September 29, 1890, has not had the benefit of the homestead or preemption law, or who has failed from any cause to perfect the title to a tract of land theretofore entered by him under either of said laws, may make a second homestead entry under the provisions of sections 904 to 907 of this title. The Secretary of the Interior shall make such rules as will secure to such actual settlers these rights: *Provided,* That nothing herein shall extend any time or enlarge any rights given by sections 904 to 907 of this title to any railroad company. (Sept. 29, 1890, ch. 1040, § 2, 26 Stat. 496; Feb. 18, 1891, ch. 244, 26 Stat. 764.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies, and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior, or that officer as he may designate, by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 906, 907 of this title.

§ 906. Purchase by bona fide purchasers from grantees; removal of crops and improvements.

In all cases where persons being citizens of the United States, or who have declared their intentions to become such, in accordance with the naturalization laws of the United States, are in possession of any of the lands affected by any such grant and resumed by and restored to the United States, under deed, written contract with, or license from, the State or corporation to which such grant was made, or its assignees, executed prior to January 1, 1888, or where persons may have settled said lands with bona fide intent to secure title thereto by purchase from the State or corporation when earned by compliance with the conditions or requirements of the granting Acts of Congress they shall be entitled to purchase the same from the United States, in quantities not exceeding three hundred and twenty acres to any one such person, at the rate of $1.25 per acre, at any time prior to January 1, 1899, and on making said payments to receive patents therefor, and where any such person in actual possession of any such lands and having improved the same prior to the 1st day of January 1890, under deed, written contract, or license as aforesaid, or his assignor, has made partial or full payments to said railroad company prior to said date, on account of the purchase price of said lands from it, on proof of the amount of such payments he shall be entitled to have the same, to the extent and amount of $1.25 per acre, if so much has been paid, and not more, credited to him on account of and as part of the purchase price herein provided to be paid the United States for said lands, or such persons may elect to abandon their purchases and make claim on said lands under the homestead law and as provided in section 905 of this title: *Provided,* That in all cases where parties, persons, or corporations, with the permission of such State or corporation, or its assignees, are in the possession of and have made improvements upon any of the lands resumed and restored, and are not entitled to enter the same under the provisions of sections 904 to 907 of this title, such parties, persons, or corporations shall have six months in which to remove any growing crop, and within which time they shall also be entitled to remove all buildings and other movable improvements from said lands: *Provided further,* That the provisions of this section shall not apply to any lands situate in the State of Iowa on which any person in good faith has made or asserted the right to make a preemption or homestead settlement: *And provided further,* That nothing in sections 904 to 907 of this title contained shall be construed as limiting the rights granted to purchasers or settlers by sections 894 to 899 of this title, or as repealing, altering, or amending said sections, nor as in any manner affecting any cause of action existing in favor of any purchaser against his grantor for breach of any covenants of title.

Actual residence upon the lands by persons claiming the right to purchase the same shall not be required where such lands have been fenced, cultivated, or otherwise improved by such claimants, and such persons shall be permitted to purchase two or more tracts of such lands by legal subdivisions, whether contiguous or not, but not exceeding three hundred and twenty acres in the aggregate.

Nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof. (Sept. 29, 1890, ch. 1040, § 3, 26 Stat. 496; Feb. 18, 1891, ch. 244, 26 Stat. 764; June 25, 1892, ch. 133, 27 Stat. 59; Jan. 31, 1893, ch. 54, 27 Stat. 427; Dec. 12, 1893, ch. 1, 28 Stat. 15; Jan. 23, 1896, ch. 8, 29 Stat. 4; Feb. 18, 1897, ch. 250, 29 Stat. 535.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 905, 907 of this title.

§ 907. Rights of original grantees to forfeited lands.

No lands declared forfeited to the United States by sections 904 to 907 of this title shall by reason of such forfeiture inure to the benefit of any State or corporation to which lands may have been granted by Congress, except as therein otherwise provided; nor shall said sections be construed to enlarge the area of land originally covered by any such grant, or to confer any right upon any State, corporation, or person to lands which were excepted from such grant. Nor shall the moiety of the lands granted to any railroad company on account of a main and a branch line appertaining to uncompleted road, and forfeited by section 904 of this title, within the conflicting limits of the grants for such main and branch lines, when but one of such lines has

been completed, inure by virtue of the forfeiture declared to the benefit of the completed line. (Sept. 29, 1890, ch. 1040, § 6, 26 Stat. 498.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 905, 906 of this title.

§ 908. Deposits by railroad companies for costs of surveying and conveying unsurveyed lands granted.

To enable the Secretary of the Interior to complete the adjustment of land grants made by Congress to aid in the construction of railroads, and to subject the lands granted to taxation by States, Territories, and municipal authorities, any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or corporation, or for its use and benefit, by any Act of Congress, is required, within ninety days from demand by the Secretary of the Interior, to deposit in a proper United States depository to the credit of the United States a sum sufficient to pay the cost of surveying, selecting, and conveying any of the unsurveyed lands granted to such company, or for its use and benefit, under any Act of Congress: *Provided further,* That the Secretary of the Interior shall determine and specify in the notice or demand to such company the amount of the required deposit, and may, in his discretion, demand a sum sufficient to cover the cost of the survey, selection, and conveyance of the entire area granted to any company, or for its use and benefit, then unsurveyed, or for such townships or fractional townships as he may prescribe and designate in the notice or demand to such company, as aforesaid: *And provided further,* That the amount deposited shall, subject to the rules and regulations of the Department of the Interior, under the direction of the Secretary of the Interior or such officer as he may designate, be disbursed for the surveying, including office and field work, selection, and conveyance of the lands granted and designated in the notice of the Secretary of the Interior, as aforesaid: *And provided further,* That in the event the money deposited by any railroad corporation under the provisions of sections 908 to 911 of this title shall exceed the cost of said surveys, the said excess thereof shall be repaid to the corporation so depositing the same, or to its assigns. (June 25, 1910, ch. 406, § 1, 36 Stat. 834; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

APPROPRIATIONS

Effective July 1, 1935, the continuing appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225. See section 725 (b) of Title 31, Money and Finance.

CROSS REFERENCES

Trust funds for completing surveys within railroad land grants, see section 725s of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 909, 910, 911 of this title.

§ 909. Forfeiture of grant on failure to make deposit.

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such corporation, or for its use and benefit, by any Act of Congress, shall, for ninety days from notice or demand by the Secretary of the Interior, as provided by section 908 of this title, neglect or refuse to deposit an amount sufficient to meet the expense of surveying, selecting, and conveying the unsurveyed lands granted to such company, or for its use and benefit, by any Act of Congress, and designated in the notice or demand by the Secretary of the Interior, as aforesaid, the rights, title, and interests of such company, and all those claiming by, through, or under it, in and to the unsurveyed lands designated in the notice of the Secretary, as aforesaid, shall cease and forfeit to the United States; and the Secretary of the Interior shall notify the Attorney General, who shall at once commence proceedings to declare the forfeiture and to restore the lands forfeited to the public domain. (June 25, 1910, ch. 406, § 2, 36 Stat. 834.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 910, 911 of this title.

§ 910. Right to extend public surveys over lands granted, and other rights of United States, not affected.

Sections 908 to 911 of this title shall not affect the right of the Secretary of the Interior to cause the public surveys to be extended over any lands granted to any railroad or corporation by any Act of Congress in the manner on June 25, 1910, otherwise provided by law, nor shall any claim, right, interest, or demand of the Government of the United States be waived or annulled by the provisions thereof: *Provided,* That all granted lands surveyed under the provisions of said sections shall be subject to taxation by States, Territories, and municipal authorities, and the right of the Government to reimburse itself for the survey, selection, and conveyance of such lands otherwise provided by law shall remain in full force and effect. (June 25, 1910, ch. 406, § 3, 36 Stat. 834.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 911 of this title.

§ 911. Regulations.

The Secretary of the Interior shall prescribe such rules and regulations as will be necessary to the carrying out of the provisions of sections 908 to 910 of this title. (June 25, 1910, ch. 406, § 4, 36 Stat. 835.)

§ 912. Disposition of abandoned or forfeited railroad grants.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 910 of this title.

Whenever public lands of the United States have been or may be granted to any railroad company for use as a right of way for its railroad or as sites for railroad structures of any kind, and use and occupancy of said lands for such purposes has ceased or shall hereafter cease, whether by forfeiture or by abandonment by said railroad company declared or decreed by a court of competent jurisdiction or by Act of Congress, then and thereupon all right, title, interest, and estate of the United States in said lands shall, except such part thereof as may be embraced in a public highway legally established within one year after the date of said decree or forfeiture or abandonment be transferred to and vested in any person, firm, or corporation, assigns, or successors in title and interest to whom or to which title of the United States may have been or may be granted, conveying or purporting to convey the whole of the legal subdivision or subdivisions traversed or occupied by such railroad or railroad structures of any kind as aforesaid, except lands within a municipality the title to which, upon forfeiture or abandonment, as herein provided, shall vest in such municipality, and this by virtue of the patent thereto and without the necessity of any other or further conveyance or assurance of any kind or nature whatsoever: *Provided,* That this section shall not affect conveyances made by any railroad company of portions of its right of way if such conveyance be among those which have been or may after March 8, 1922, and before such forfeiture or abandonment be validated and confirmed by any Act of Congress; nor shall this section affect any public highway on said right of way on March 8, 1922: *Provided further,* That the transfer of such lands shall be subject to and contain reservations in favor of the United States of all oil, gas, and other minerals in the land so transferred and conveyed, with the right to prospect for, mine, and remove same. (Mar. 8, 1922, ch. 94, 42 Stat. 414.)

§ 913. Conveyance by land-grant railroads of portions of rights-of-way to State, county, or municipality.

All railroad companies to which grants for rights of way through the public lands have been made by Congress, or their successors in interest or assigns, are authorized to convey to any State, county, or municipality any portion of such right of way to be used as a public highway or street: *Provided,* That no such conveyance shall have the effect to diminish the right of way of such railroad company to a less width than 50 feet on each side of the center of the main track of the railroad as now established and maintained. (May 25, 1920, ch. 197, 41 Stat. 621.)

CROSS REFERENCES

Consent of United States given to any railroad company to convey to highway department of any state any part of its right-of-way, see section 316 of Title 23, Highways.

§ 914. Patents for wagon-road grants to Oregon.

CODIFICATION

Section, act June 18, 1874, ch. 305, 18 Stat. 80, provided for issuance of patents for lands granted State of Oregon prior to June 18, 1874, upon certificate of Governor that wagon roads, in aid of which lands were granted, had been built.

Chapter 21A.—FORFEITURE OF NORTHERN PACIFIC RAILROAD INDEMNITY LAND GRANTS

§§ 921 to 929. Omitted.

CODIFICATION

Sections, act June 25, 1929, ch. 41, 46 Stat. 41, related to indemnity lands within the Northern Pacific Railroad land grants under the act of July 2, 1864, and have been omitted as executed.

Chapter 22.—RIGHTS-OF-WAY AND OTHER EASEMENTS IN PUBLIC LANDS

Sec.
931. Navigable rivers as public highways.
931a. Authority of Attorney General to grant easements and rights-of-way to States, etc.
931b. Repealed.
931c. Permits, leases, or easements; authorization to grant; payment; limitation.
931d. Same; additional authority.
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934. Right-of-way through public lands granted to railroads.
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942-2. Same; rights of several roads through canyons.
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943. Right-of-way for railroads; reserved lands in Minnesota.
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945a. Compensation for rights-of-way for certain reclamation projects.
945b. Same; jurisdiction; procedure.
946. Right-of-way to canal ditch companies and irrigation or drainage districts for irrigation or drainage purposes and operation and maintenance of reservoirs, canals, and laterals.
947. Map; damages to settlers.
948. Application to existing and future canals.
949. Use for canal or ditch only.
950. Right-of-way to canal and ditch companies for irrigation purposes; additional grants.
951. Right-of-way for water transportation, domestic purposes, or development of power.
952. Reservoir sites for water for livestock.
953. Same; declaratory statement.
954. Same; survey; map.
955. Same; amendment, alteration, or repeal.
956. Right-of-way for tramroads, canals, or reservoirs.
957. Right-of-way to electric-power companies.
958. Rights-of-way for wagon roads or railroads.

Sec.
959. Rights-of-way for electrical plants, etc.
961. Rights-of-way through public lands, Indian, and other reservations for power and communications facilities.
962. Right-of-way in Colorado and Wyoming to pipe-line companies.
963. Same; applications for right-of-way.
964. Same; limit of time for completion; forfeiture.
965. Same; restriction on use.
966. Right-of-way in Arkansas to pipe-line companies
967. Same; applications for right-of-way
968. Same; restriction on use.
969. Same; forfeiture for nonuser, etc.
970. Same; forfeiture for violation of antitrust law.
971. Bathhouses, hotels, etc., adjacent to mineral, medicinal, etc., springs on public lands.
971a. Alaskan lands within highway, telephone, and pipeline withdrawals; disposal; amendment of land description of claim or entry on adjoining lands.
971b. Same; sale; preference rights; consent of Federal agency.
971c. Same; utilization or occupancy of easements; consent of agency.
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975. Alaskan railroads; location, construction, and operation; passes.
975a. Same; telegraph and telephone lines.
975b. Same; town sites.
975c. Same; terminals, stations, and rights of way.
975d. Same; patents to contain reserve for right of way.
975e. Same; disposition of proceeds of lease or sale of public lands.
975f. Same; authority of President.
975g. Same; officers, agents, etc., to make annual report to President; transmission to Congress.

§ 931. Navigable rivers as public highways.

All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and, in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both. (R. S. § 2476.)

DERIVATION

Acts May 18, 1796, ch. 29, § 9, 1 Stat. 468; Mar. 3, 1803, ch. 27, § 17, 2 Stat. 235.

§ 931a. Authority of Attorney General to grant easements and rights-of-way to States, etc.

The Attorney General, whenever he deems it advantageous to the Government and upon such terms and conditions as he deems advisable, is authorized on behalf of the United States to grant to any State, or any agency or political subdivision thereof, easements in and rights-of-way over lands belonging to the United States which are under his supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Attorney General deems necessary or desirable, is ceded to such State. The Attorney General is authorized to accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as he may deem necessary or desirable over the land so acquired. (May 9, 1941, ch. 94, 55 Stat. 183.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421c of this title.

§ 931b. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, act July 24, 1946, ch. 596, § 7, 60 Stat. 643, authorized the Secretary of War to grant easements and rights-of-way to States, etc., and is now covered by section 2668 of Title 10, Armed Forces.

§ 931c. Permits, leases, or easements; authorization to grant; payment; limitation.

The head of any department or agency of the Government of the United States having jurisdiction over public lands and national forests, except national parks and monuments, of the United States is authorized to grant permits, leases, or easements, in return for the payment of a price representing the fair market value of such permit, lease, or easement, to be fixed by such head of such department or agency through appraisal, for a period not to exceed thirty years from the date of any such permit, lease, or easement to States, counties, cities, towns, townships, municipal corporations, or other public agencies for the purpose of constructing and maintaining on such lands public buildings or other public works. In the event such lands cease to be used for the purpose for which such permit, lease, or easement was granted, the same shall thereupon terminate. (Sept. 3, 1954, ch. 1255, § 1, 68 Stat. 1146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 421c, 931d of this title.

§ 931d. Same; additional authority.

The authority conferred by section 931c of this title shall be in addition to, and not in derogation of any authority heretofore conferred upon the head of any department or agency of the Government of the United States to grant permits, leases, easements, or rights-of-way. (Sept. 3, 1954, ch. 1255, § 2, 68 Stat. 1146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421c of this title.

§ 932. Right-of-way for highways.

The right of way for the construction of highways over public lands, not reserved for public uses, is granted. (R. S. § 2477.)

DERIVATION

Act July 26, 1866, ch. 262, § 8, 14 Stat. 253.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 933. Repealed. Aug. 10, 1956, c. 1041, § 53, 70A Stat. 641.

Section, act July 5, 1884, ch. 214, § 6, 23 Stat. 104, related to powers of the Secretary of War to permit extension of roads across military reservations, landing of ferries, erection of bridges, and driving of livestock, and is now covered by sections 4777 and 9777 of Title 10. Armed Forces.

§ 934. Right-of-way through public lands granted to railroads.

The right of way through the public lands of the United States is granted to any railroad company

duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road. (Mar. 3, 1875, ch. 152, § 1, 18 Stat. 482.)

CROSS REFERENCES

Alaska Right of Way Act, see sections 942–1 to 942–9 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 937, 938, 939, 940, 943, 944 of this title.

§ 935. Several roads through canyons.

Any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon or other public highway located therein on March 3, 1875, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile. (Mar. 3, 1875, ch. 152, § 2, 18 Stat. 482.)

CROSS REFERENCES

Pueblo Indians of New Mexico, application of section, see section 322 of Title 25, Indians.

Rights of several railroads running through canyons, passes, or defiles under this section made applicable to rights-of-way granted under sections 312—318 of Title 25, Indians, see section 316 of Title 25, Indians.

Rights of several railroads whose track or roadbed runs through canyons, passes, or defiles in Alaska, see section 942–2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 937, 938, 939, 940, 943, 944 of this title; title 25 sections 316, 322.

§ 936. Condemnation of private land.

The legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provision shall not have been made, such condemnation may be made in accordance with section 3 of the act entitled "An Act to amend an Act entitled 'An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862,' " approved July 2, 1864. (Mar. 3, 1875, ch. 152, § 3, 18 Stat. 482.)

REFERENCES IN TEXT

Act July 1, 1862, referred to in the text, has reference to act July 1, 1862, ch. 120, 12 Stat. 489, which, except for section 15 thereof, has been omitted from the Code. Section 15 is set out as a note under section 82 of Title 45, Railroads.

Act July 2, 1864, § 3, referred to in the text, has reference to act July 2, 1864, ch. 216, § 3, 13 Stat. 357, which is classified to section 942–3 of this title.

CROSS REFERENCES

Condemnation of land in Alaska, see section 942–3 of this title.

Right-of-way for several railroads through canyons, pases, defiles, etc., in Alaska, see section 942–3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 937, 938, 939, 940, 943, 944 of this title.

§ 937. Filing profile of road; forfeiture of rights.

Any railroad company desiring to secure the benefits of sections 934 to 939 of this title, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road. (Mar. 3, 1875, ch. 152, § 4, 18 Stat. 483; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department or the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Map of location to be filed within twelve months by railroad seeking right-of-way over public lands in Alaska, see section 942–5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 938, 939, 940, 943, 944 of this title.

§ 938. Lands excepted.

Sections 934 to 939 of this title shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands especially reserved from sale, unless such right of way shall be provided for by treaty-stipulation or by Act of Congress passed prior to March 3, 1875. (Mar. 3, 1875, ch. 152, § 5, 18 Stat. 483.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 937, 939, 940, 943, 944 of this title.

§ 939. Alteration, amendment, or repeal.

Congress reserves the right at any time to alter, amend, or repeal sections 934 to 939 of this title, or any part thereof. (Mar. 3, 1875, ch. 152, § 6, 18 Stat. 483.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 937, 938, 940, 943, 944 of this title.

§ 940. Forfeiture of rights where railroad not constructed in five years after location.

Each and every grant of right of way and station grounds made prior to February 25, 1909, to any railroad corporation under sections 934 to 939 of this title, where such railroad had not been constructed and the period of five years next following the location of said road, or any section thereof, had on that date expired, is declared forfeited to the United States, to the extent of any portion of such located line then remaining unconstructed, and the United States resumes the full title to the lands covered thereby free and discharged from such easement, and the forfeiture declared shall, without need of further assurance or conveyance, inure to the benefit of any owner or owners of land conveyed by the United States prior to such date subject to any such grant of right of way or station grounds: *Provided,* That no right of way on which construction was progressing in good faith on February 25, 1909, shall be in any wise affected, validated, or invalidated, by the provisions of this section. (June 26, 1906, ch. 3350, 34 Stat. 482; Feb. 25, 1909, ch. 191, 35 Stat. 647.)

§ 941. Railroad stations on rights-of-way granted.

All railroad companies operating railroads through the Territories of the United States over a right of way obtained under any grant or Act of Congress giving to said railroad companies the right of way over the public lands of the United States shall be required to establish and maintain passenger stations and freight depots at or within one-fourth of a mile of the boundary limits of all town sites established prior to August 8, 1894, in said Territories on the line of said railroads by authority of the Interior Department. (Aug. 8, 1894, ch. 236, § 1, 28 Stat. 263.)

§ 942. Time for establishment of stations.

CODIFICATION

Section, act Aug. 8, 1894, ch. 236, § 2, 28 Stat. 263, required railroad companies to establish within three months after Aug. 8, 1894, passenger and freight stations in all towns.

§ 942–1. Rights-of-way in Alaska; railroad rights-of-way; reservations; water transportation connections; State title to submerged lands; Federal repossession as trustee; navigable waters defined; posting schedules of rates; changes in rates.

The right of way through the lands of the United States in Alaska is granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may on and after May 14, 1898, file for record with the Secretary of the Interior a copy of its articles of incorporation and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided,* That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands granted: *Provided further,* That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands granted shall under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided,* That nothing in sections 687a, 687a–2 to 687a–5, and 942–1 to 942–9 of this title and sections 607a and 615a of Title 16 contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of the Territory of Alaska, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may on and after May 14, 1898, be erected out of said Territory. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark. All charges for the transportation of freight and passengers on railroads in Alaska shall be printed

and posted as required by section 6 of Title 49, and such rates shall be subject to revision and modification by the Secretary of the Interior. (May 14, 1898, ch. 299, § 2, 30 Stat. 409.)

SHORT TITLE

Sections 942-1 to 942-9 of this title are popularly known as the "Alaska Right of Way Act".

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Rates to be determined by Interstate Commerce Commission, see section 15(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 942-2. Same; rights of several roads through canyons.

Any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided,* That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided,* That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers and wharfage. (May 14, 1898, ch. 299, § 3, 30 Stat. 410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 942-3. Same; condemnation of land.

Where any company, the right of way to which is granted by sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in the following manner: In case the owner or claimant of such lands or premises and such company can not agree as to the damages, the amount shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by any party to any judge of a court of record in Alaska; and said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built; and upon return into court of such appraisement, and upon the payment to the clerk thereof of the amount so awarded by the commissioners for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved by said assessment may, within thirty days, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary in the construction of its road. And said party appealing shall give bonds with sufficient surety or sureties for the payment of any costs that may arise upon such appeal. And in case the party appealing does not obtain a more favorable verdict, such party shall pay the whole cost incurred by the appellee, as well as its own. And the payment into court for the use of the owner of claimant, of a sum equal to that finally awarded shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintaining and operating of the road of said company. And in case any of the lands to be taken as aforesaid shall be held by any person residing without the Territory, or subject to any legal disability, the court may appoint a proper person who shall give bonds with sufficient surety or sureties, for the faithful execution of his trust, and who may represent in court the person disqualified or absent as aforesaid, when the same proceeding shall be had in reference to the appraisement of the premises to be taken, and with the same effect as has been already described. And the title of the company to the land taken by virtue of this section shall not be affected nor impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case it shall be necessary for the said company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of its said railroad, and may institute proceedings in the manner described for the purpose of ascertaining the value of, and acquiring a title to, the same; and the court may determine the kind of notice to be served on such owner or owners, and may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or nonappearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all

claims to damages against said company shall be barred. It shall be competent for the legal guardian of any infant, or any other person under guardianship, to agree with the said company as to damages substained by reason of the taking of any lands of any such person under disability, as aforesaid, for the use as aforesaid; and upon such agreement being made, and approved by the court having supervision of the official acts of said guardian, and said guardian shall have full power to make and execute a conveyance thereof to the said company which shall vest the title thereto in the said company. (July 2, 1864, ch. 216, § 3, 13 Stat. 357; May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

CODIFICATION

The first sentence of this section to the colon is from section 4 of act May 14, 1898, which, as originally enacted, provided that the condemnation might be made in accordance with section 3 of act July 2, 1864. The remainder of this section is from section 3 of act July 2, 1864, incorporated herein for convenience of reference. The proviso of section 4 of act May 14, 1898, is classified to section 942-4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 942-4. Same; filing preliminary survey, map and profile of road.

Any company mentioned in sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter to file the map and profile of definite location and such preliminary survey and plat shall during the said period of one year from the time of filing the same have the effect to render all the lands on which said preliminary survey and plat shall pass subject to the right of way mentioned in section 942-3 of this title. (May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

CODIFICATION

Section is comprised of the proviso of section 4 of act May 14, 1898. The remainder of section 4 of act May 14, 1898, is classified to section 942-3 of this title.

EXTENSION OF TIME TO COMPLETE RAILROAD

The time of the Western Alaska Construction Company to comply with the provisions of this section and section 942-6 of this title, in acquiring and completing its railroad, was extended by act April 9, 1904, ch. 1165, 33 Stat. 165.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-5, 942-6, 942-7, 942-8 of this title.

§ 942-5. Same; filing map and profile of road section; forfeiture of rights; reversion of grant.

Any company desiring to secure the benefits of sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16, shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with such officer as the Secretary of the Interior may designate of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed; and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to each right of way: *Provided,* That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action. (May 14, 1898, ch. 299, § 5, 30 Stat. 410; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

Functions of register were transferred to that officer as the Secretary of the Interior may designate by 1946 Reorg. Plan No. 3 and regulations thereunder, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-6, 942-7, 942-8 of this title.

§ 942-6. Same; rights-of-way for wagon roads, wire rope, aerial, or other tramways; reservations; filing preliminary survey and map of location; alteration, amendment, repeal, or grant of equal rights; forfeiture of rights; reversion of grant; liens.

The Secretary of the Interior is authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in Alaska, not to exceed one hundred feet in width, and ground for station and other necessary purposes not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at $1.25 per acre, such lands when located at or near tide water not to extend more than forty rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such

right of way or station grounds shall be reserved to the United States: *Provided,* That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further,* That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than $500 per mile: *Provided,* That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall decline to grant such right of way, if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in Alaska be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of $500 per mile has been actually expended in constructing such road: and all persons are prohibited from collecting or attempting to collect toll over any wagon road in Alaska, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided,* That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than $50 nor more than $500, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

Any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this section that may prior to May 14, 1898, have constructed not less than one mile of road, at a cost of not less than $500 per mile, or one-half mile of tramway at a cost of not less than $500, shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this section over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. If any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be cancelled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void, without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

All mortgages executed by any company acquiring a right of way under sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16, upon any portion of its road that may be constructed in Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the Territory of Alaska and in the office of the secretary of the State or Territory wherein such company is organized. All lawful claims of laborers, contractors, subcontractors, or materialmen, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien. (May 14, 1898, ch. 299, § 6, 30 Stat. 411.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 State. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 399, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-5, 942-7, 942-8 of this title.

§ 942-7. Same; military park, Indian or other reservation.

Sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16 shall not apply to any lands within the limits of any military park, Indian, or other reservation unless such right of way shall be provided for by Act of Congress. (May 14, 1898, ch. 299, § 7, 30 Stat. 412.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-5, 942-6, 942-8 of this title.

§ 942-8. Same; reservation of right of alteration, amendment, or repeal; assignment of right-of-way.

Congress reserves the right at any time to alter, amend, or repeal sections 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title and sections 607a and 615a of Title 16 or any part thereof; and the right of way herein authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or

tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided,* That where within ninety days after May 14, 1898, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road, or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road, or tramway, prior to January 21, 1898, the rights to inure hereunder shall, if the terms of said sections are complied with as to such railroad, wagon road, or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right-of-way or other privilege of said sections the person, company, or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right. (May 14, 1898, ch. 299, § 8, 30 Stat. 412.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-5, 942-6, 942-7 of this title.

§ 942-9. Same; map location of road.

The map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map. (May 14, 1898, ch. 299, § 9, 30 Stat. 413.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 942-1, 942-3, 942-4, 942-5, 942-6, 942-7, 942-8 of this title.

§ 943. Right-of-way for railroads; reserved lands in Minnesota.

All lands in the State of Minnesota described in and withdrawn from sale by the proclamations of the President of the United States for the reason that said lands would be required for or subject to flowage in the construction of dams, reservoirs, and other works proposed to be erected for the improvement of the navigation of the Mississippi River and certain of its tributaries, are declared to be, and to have been at all times prior to February 27, 1901, subject to the provisions of sections 934 to 939 of this title as fully, effectually, and to the same extent as though said lands had not been described in said proclamations, or withdrawn from sale thereby, but had remained with the body of public lands subject to private entry and sale: *Provided, however,* That any and all parts of said lands acquired by any railroad company under said sections shall at all times be subject to the right of flowage which at any time may become necessary in the construction or maintenance of dams, reservoirs or other works which may be constructed or erected by or under the authority of the United States for the improvement of the navigation of the Mississippi River and its tributaries: *Provided further,* That the railroad companies availing themselves of this section shall, in addition to filing the maps required by law on February 27, 1901, to be filed, also file maps of definite location with elevation of rail of their lines of railroad over said water-reserve lands in the office of the Secretary of the Army; and no location shall be permitted which takes for right of way or stations or interferes with submergence of lands needed for the use of the reservoir system, existing on February 27, 1901, or in the construction of dams or other works, or any proposed or probable extension of the same, or which will obstruct or increase the cost of the present or prospective reservoir system: *Provided further,* That the plan for the location and construction of any such railway, or any part thereof, shall be first submitted to the Secretary of the Army and approved by him and by the Chief of Engineers of the United States Army. (Feb. 27, 1901, ch. 614, 31 Stat. 815.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011-3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 944. Right-of-way in Oklahoma and Arizona.

Where, under sections 934 to 939 of this title, or under special Acts of Congress, or under the laws of the former Territories of Oklahoma and Arizona, railroads have been constructed and were on June 26, 1906, in operation in Oklahoma or Arizona which passed through any of the lands theretofore reserved for said Territories, such lands shall be disposed of subject to such railroad right or easement, but only to the extent of the right of way conferred by the said sections for such railroad purposes. (June 26, 1906, ch. 3548, 34 Stat. 481.)

§ 945. Reservation in patents of right-of-way for ditches or canals.

In all patents for lands taken up after August 30, 1890, under any of the land laws of the United States or on entries or claims validated by the Act of August 30, 1890, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States. (Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391.)

CROSS REFERENCES

Sale of isolated or disconnected tracts of public lands notwithstanding this section, see section 1171 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 945a, 1171, 1233 of this title.

§ 945a. Compensation for rights-of-way for certain reclamation projects.

Notwithstanding the existence of any reservation of right-of-way to the United States for canals under section 945 of this title, or any State statute, the Secretary of the Interior shall pay just compensation, including severance damages, to the owners

of private land utilized for ditches or canals in connection with any reclamation project, or any unit or any division of a reclamation project, provided the construction of said ditches or canals commenced after January 1, 1961, and such compensation shall be paid notwithstanding the execution of any agreements or any judgments entered in any condemnation proceeding, prior to September 2, 1964. (Pub. L. 88–561, Sept. 2, 1964, 78 Stat. 808; Pub. L. 89–624, Oct. 4, 1966, 80 Stat. 873.)

AMENDMENTS

1966—Pub. L. 89–624 inserted the words "to the United States" and "or any State statute,".

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3 of Pub. L. 88–561 as added by Pub. L. 89–624 provided that: "The amendment made by this Act [enacting section 945b of this title and amending this section] shall apply to any condemnation action pending in any district court of the United States on the date of enactment of this Act [Oct. 4, 1966] and to any such action instituted after that date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 945b of this title.

§ 945b. Same; jurisdiction; procedure.

Jurisdiction of an action brought by the United States or the landowner for the determination of just compensation pursuant to section 945a of this title is hereby conferred on the United States district court in the district in which any such land is situated, without limitation to the amount of compensation sought by such suit. The procedure for such an action shall be governed by the Federal Rules of Civil Procedure for the condemnation of real and personal property. (Pub. L. 88–561, § 2, Sept. 2, 1964, as added Pub. L. 89–624, Oct. 4, 1966, 80 Stat. 874.)

EFFECTIVE DATE

Section applicable to Federal condemnation actions pending in any district court of the United States on or after Oct. 4, 1966, see section 3 of Pub. L. 88–561, as added by Pub. L. 89–624, set out as a note under section 945a of this title.

CROSS REFERENCES

Condemnation of property as governed by the Federal Rules of Civil Procedure, see Rule 71A of Title 28, Appendix.

§ 946. Right-of-way to canal ditch companies and irrigation or drainage districts for irrigation or drainage purposes and operation and maintenance of reservoirs, canals, and laterals.

The right of way through the public lands and reservations of the United States is granted to any canal ditch company, irrigation or drainage district formed for the purpose of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the applicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided,* That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories. (Mar. 3, 1891, ch. 561, § 18, 26 Stat. 1101; Mar. 4, 1917, ch. 184, § 1, 39 Stat. 1197; May 28, 1926, ch. 409, 44 Stat. 668.)

AMENDMENTS

1926—Act May 28, 1926 substituted "canal ditch company, irrigation or drainage district" for "canal or ditch company or drainage district" and inserted "or, if not a private corporation, a copy of the law under which the same is formed" following "articles of incorporation" and ", and, upon presentation of satisfactory showing by the applicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals" following "marginal limits thereof."

1917—Act Mar. 4, 1917 inserted the words "or drainage district," after "any canal or ditch company," and "or drainage," after "for the purpose of irrigation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 947, 948, 949, 950, 951 of this title.

§ 947. Map; damages to settlers.

Any canal or ditch company desiring to secure the benefits of sections 946 to 949 of this title shall, within twelve months after the location of ten miles of its canal, if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any canal, ditch, or reservoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage. (Mar. 3, 1891, ch. 561, § 19, 26 Stat. 1102; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 948, 949, 950, 951 of this title.

§ 948. Application to existing and future canals.

The provisions of sections 946 to 949 of this title shall apply to all canals, ditches, or reservoirs, heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps therein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior, and with the officer, as the Secretary of the Interior may designate, of the land office where said land is located, a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats filed before March 3, 1891, shall have the benefits of sections 946 to 949 of this title from the date of their filing, as though filed thereunder: *Provided,* That if any section of said canal or ditch shall not be completed within five years after the location of said section, the rights therein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture. (Mar. 3, 1891, ch. 561, § 20, 26 Stat. 1102; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 947, 949, 950, 951 of this title.

§ 949. Use for canal or ditch only.

Nothing in sections 946 to 949 of this title shall authorize such canal or ditch company to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch. (Mar. 3, 1891, ch. 561, § 21, 26 Stat. 1102.)

CROSS REFERENCES

Right-of-way of canal company may be used for purposes of a public nature, such as water transportation, domestic purposes, or for development of power, see section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 947, 948, 950, 951 of this title.

§ 950. Right-of-way to canal and ditch companies for irrigation purposes; additional grants.

In addition to the rights of way granted by sections 946 to 949 of this title, and subject to the conditions and restrictions therein contained, the Secretary of the Interior is authorized to grant permits or easements for not to exceed five acres of ground adjoining the right of way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by said sections: *Provided,* That this section shall not apply to lands within national forests. (Mar. 1, 1921, ch. 93, 41 Stat. 1194.)

§ 951. Right-of-way for water transportation, domestic purposes, or development of power.

Rights of way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections 946 to 949 of this title may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation or drainage. (May 11, 1898, ch. 292, § 2, 30 Stat. 404; Mar. 4, 1917, ch. 184, § 2, 39 Stat. 1197.)

§ 952. Reservoir sites for water for livestock.

Any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes: *Provided* That such reservoir shall not be fenced and shall be open to the free use of any person desiring to water animals of any kind.

The Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, may grant permission to fence such reservoirs in order to protect livestock, to conserve water, and to preserve its quality and conditions: *Provided,* That such reservoir shall be open to the free use of any person desiring to water animals of any kind; but any fence, erected under the authority hereof, shall be immediately removed on the order of the Secretary. (Jan. 13, 1897, ch. 11, § 1, 29 Stat. 484; Mar. 3, 1923, ch. 219, 42 Stat. 1437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 953, 955 of this title.

§ 953. Same; declaratory statement.

Any person, livestock company, or corporation desiring to avail themselves of the provisions of sections 952 to 955 of this title shall file a declaratory statement in the United States land office in the district where the land is situated, which statement shall describe the land where such reservoir is to be or has

been constructed; shall state what business such corporation is engaged in; specify the capacity of the reservoir in gallons, and whether such company, person, or corporation has filed upon other reservoir sites within the same county; and if so, how many. (Jan. 13, 1897, ch. 11, § 2, 29 Stat. 484.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 955 of this title.

§ 954. Same; survey; map.

At any time after the completion of such reservoir or reservoirs, which shall be constructed and completed within two years after filing such declaratory statement, such person, company, or corporation shall have the same accurately surveyed, as hereinafter provided, and shall file in the United States land office in the district in which such reservoir is located a map or plat showing the location of such reservoir, which map or plat shall be transmitted by the officer, as the Secretary of the Interior may designate, of said United States land office to the Secretary of the Interior and approved by him, and thereafter such land shall be reserved from sale by the Secretary of the Interior so long as such reservoir is kept in repair and water kept therein. (Jan. 13, 1897, ch. 11, § 3, 29 Stat. 484; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of and Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 953, 955 of this title.

§ 955. Same; amendment, alteration, or repeal.

Congress may at any time amend, alter, or repeal sections 952 to 955 of this title. (Jan. 13, 1897, ch. 11, § 4, 29 Stat. 484.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 953 of this title.

§ 956. Right-of-way for tramroads, canals, or reservoirs.

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of the right of way through the public lands of the United States, not within the limits of any national forest, park, military or Indian reservation, for tramroads, canals, or reservoirs to the extent of the ground occupied by the water of the canals and reservoirs and fifty feet on each side of the marginal limits thereof, or fifty feet on each side of the center line of the tramroad, by any citizen or any association of citizens of the United States engaged in the business of mining or quarrying or of cutting timber and manufacturing lumber or for the purposes of furnishing water for domestic, public, and other beneficial uses. (Jan. 21, 1895, ch. 37, 28 Stat. 635; May 11, 1898, ch. 292, § 1, 30 Stat. 404; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

§ 957. Right-of-way to electric power companies.

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of right of way to the extent of twenty-five feet, together with the use of necessary ground, not exceeding forty acres, upon the public lands and national forests of the United States by any citizen or association of citizens of the United States for the purposes of generating, manufacturing, or distributing electric power. (Jan. 21, 1895, ch. 37, § 2; May 14, 1896, ch. 179, 29 Stat. 120; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

CODIFICATION

Upon the incorporation of this section into the Code the words "national forests" were substituted for "forest reservations" pursuant to act Mar. 4, 1907, which changed the designation of forest reserves to national forests.

CROSS REFERENCES

Right-of-way over public lands for electrical poles and lines, see section 961 of this title.

§ 958. Rights-of-way for wagon roads or railroads.

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any reservoir site when in his judgment the public interests will not be injuriously affected thereby. (Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

§ 959. Rights-of-way for electrical plants, etc.

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forest, and other reservations of the United States, and the Yosemite and Sequoia National Parks, and the General Grant grove section of the Kings Canyon National Park, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of the purposes herein named: *Provided*, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the department under whose supervision such park or reservation falls and upon a finding by him that the

same is not incompatible with the public interest: *Provided further,* That all permits given hereunder for telegraph and telephone purposes shall be subject to the provisions of sections 1 to 6 and 8 of Title 47, regulating rights of way for telegraph companies over the public domain: *And provided further,* That any permission given by the Secretary of the Interior under the provisions of this section may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park. (Feb. 15, 1901, ch. 372, 31 Stat. 790; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 41.)

REFERENCES IN TEXT

Sections 1 to 6 and 8 of Title 47, referred to in the text, which constituted the Post Roads Act of 1866, as amended, were repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 327.

CHANGE OF NAME

Act Mar. 4, 1940, abolished the General Grant National Park and added the lands formerly within that park, with other lands, to the Kings Canyon National Park, to be known as the General Grant grove section of that park.

CROSS REFERENCES

Rights-of-way through public lands, provisions of sections 1, 2, 3, 22, and 43 of Title 16, Conservation, not to affect or modify this section, see section 4 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 4.

§ 961. Rights-of-way through public lands, Indian, and other reservations for power and communications facilities.

The head of the department having jurisdiction over the lands be, and he is, authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided,* That such right-of-way shall be allowed within or through any Indian or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further,* That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there was issued, prior to March 4, 1911, a permit for any of the purposes specified herein under any existing law may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations thereafter making application under the provisions of this section. (Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

CODIFICATION

Section, in so far as it relates also to rights-of-way in national parks, national forests, military, and other reservations, is set out as sections 5, 420 and 523 of Title 16, Conservation.

AMENDMENTS

1952—Act May 27, 1952, inserted the reference to rights-of-way for radio, television, and other forms of communication, aid increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2668.

§ 962. Right-of-way in Colorado and Wyoming to pipe-line companies.

The right of way through the public lands of the United States situate in the State of Colorado and in the State of Wyoming outside of the boundary lines of the Yellowstone National Park is granted to any pipe-line company or corporation formed for the purpose of transporting oils, crude or refined, which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by said pipe line and twenty-five feet on each side of the center line of the same; also the right to take from the public lands adjacent to the line of said pipe line, material, earth, and stone necessary for the construction of said pipe line. (May 21, 1896, ch. 212, § 1, 29 Stat. 127.)

SHORT TITLE

Sections 962—965 of this title are popularly known as the "Oil Pipe Line Act."

CROSS REFERENCES

Right-of-way through public lands for pipe lines for transportation of oil or natural gas, see section 185 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 963, 964, 965 of this title.

§ 963. Same; applications for right-of-way.

Any company or corporation desiring to secure the benefits of sections 962 to 965 of this title shall, within twelve months after the location of ten miles of the pipe line, if the same be upon surveyed lands and if the same be upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its line, and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way. (May 21, 1896, ch. 212, § 2, 29 Stat. 127; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 964, 965 of this title.

§ 964. Same; limit of time for completion; forfeiture.

If any section of said pipe line shall not be completed within five years after the location of said section, the right granted in sections 962 to 965 of this title shall be forfeited, as to any incomplete section of said pipe line, to the extent that the same is not completed at the date of the forfeiture. (May 21, 1896, ch. 212, § 3, 29 Stat. 127.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 963, 965 of this title.

§ 965. Same; restriction on use.

Nothing in sections 962 to 965 of this title shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care. (May 21, 1896, ch. 212, § 4, 29 Stat. 127.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 963, 964 of this title.

§ 966. Right-of-way in Arkansas to pipe-line companies.

A right of way through the public lands of the United States in the State of Arkansas is granted for pipe-line purposes to any citizen of the United States or any company or corporation authorized by its charter to transport oil, crude or refined, or natural gas which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proof of organization under the same, to the extent of the ground occupied by the said pipe line and ten feet on each side of the center line of same. (Apr. 12, 1910, ch. 155, § 1, 36 Stat. 296.)

CROSS REFERENCES

Right-of-way for pipe lines over public lands to be granted only under and subject to the provisions, limitations, and conditions enumerated, see section 185 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 967, 968, 969, 970 of this title.

§ 967. Same; applications for right-of-way.

Any citizen of the United States, company, or corporation desiring to secure the benefits of sections 966 to 970 of this title shall within twelve months after the location of ten miles of the pipe line, if the same be upon surveyed land, and if the same be upon unsurveyed lands within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its lines, and upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the plats in said office, and thereafter all such land over which such line shall pass shall be disposed of subject to such right of way. (Apr. 12, 1910, ch. 155, § 2, 36 Stat. 296; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 968, 969, 970 of this title.

§ 968. Same; restriction on use.

Nothing in sections 966 to 970 of this title shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care. (Apr. 12, 1910, ch. 155, § 3, 36 Stat. 296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 967, 969, 970 of this title.

§ 969. Same; forfeiture for nonuser, etc.

If any section of said pipe line shall not be completed within one year after the approval by the Secretary of the Interior of said section, or if any section of said pipe line shall be abandoned or shall not be used for a period of two years, the right of way granted in sections 966 to 970 of this title as to any uncompleted, abandoned, or unused section of said pipe line shall be forfeited to the extent that the same is not completed or is abandoned or unused at the date of the forfeiture, without further action or declaration on the part of the Government or any proceedings or judgment of any court. (Apr. 12, 1910, ch. 155, § 4, 36 Stat. 296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 967, 968, 970 of this title.

§ 970. Same; forfeiture for violation of antitrust law.

If any citizen, company, or corporation taking advantage of the benefits of sections 966 to 970 of this title shall violate sections 1 to 7 of Title 15, the right of way granted in sections 966 to 970 of this title shall be forfeited without further action or declaration on the part of the Government or any proceedings or judgment of any court. (Apr. 12, 1910, ch. 155, § 5, 36 Stat. 296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 967, 968, 969 of this title.

§ 971. Bathhouses, hotels, etc., adjacent to mineral, medicinal, etc., springs on public lands.

The Secretary of the Interior, upon such terms and under such regulations as he may deem proper, may permit responsible persons or associations to use and occupy, for the erection of bathhouses, hotels, or other improvements for the accommodation of the public, suitable spaces or tracts of land near or adjacent to mineral, medicinal, or other springs which are located upon unreserved public lands or public lands which have been withdrawn for the protection of such springs: *Provided*, That permits or leases hereunder shall be for periods not exceeding twenty years. (Mar. 3, 1925, ch. 458, 43 Stat. 1133.)

§ 971a. Alaskan lands within highway, telephone, and pipeline withdrawals; disposal; amendment of land description of claim or entry on adjoining lands.

Upon revocation of a withdrawal for highways, telephone lines, or pipelines, in Alaska, the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary. Notwithstanding any statutory limitation on the area which may be included in an unpatented claim or entry, the Secretary may permit the amendment of the land description of a claim or entry on adjoining lands to include the restored lands. (Aug. 1, 1956, ch. 848, § 1, 70 Stat. 898.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971c, 971d, 971e of this title.

§ 971b. Same; sale; preference rights; consent of Federal agency.

The Secretary may sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining claims or entries and to owners of adjoining private lands. If such lands are under the jurisdiction of a Federal department or agency other than the Department of the Interior, any sale thereof shall be made only with the consent of such department or agency. (Aug. 1, 1956, ch. 848, § 2, 70 Stat. 898.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971c, 971d, 971e of this title.

§ 971c. Same; utilization or occupancy of easements; consent of agency.

Lands in Alaska within an easement established under sections 971a to 971e of this title by the Secretary of the Interior may not be utilized or occupied without the permission of the Secretary, or an officer or agency designated by him. If the lands crossed by an easement established under sections 971a to 971e of this title are under the jurisdiction of a Federal department or agency other than the Department of the Interior, or of a State, Territory, or other government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit. (Aug. 1, 1956, ch. 848, § 3, 70 Stat. 898.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971d, 971e of this title.

§ 971d. Same; effect on valid existing rights.

Nothing in sections 971a to 971e of this title shall affect adversely any valid existing rights. (Aug. 1, 1956, ch. 848, § 4, 70 Stat. 898.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971c, 971e of this title.

§ 971e. Same; definition of restored lands.

For the purposes of sections 971a to 971e of this title, the words "restored lands" include, without limiting the meaning thereof, those lands at Big Delta and Tok Junctions that are withdrawn by public land orders numbered 808 and 975 and that lie between the centerline of the Richardson and Glenn Highways and the land included within United States surveys 2727, 2728, 2770, 2771, 2772, 2773, 2774, 2723, 2724, 2725, and 2726. (Aug. 1, 1956, ch. 848, § 5, as added June 11, 1960, Pub. L. 86-512, 74 Stat. 207.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971c, 971d of this title.

§ 975. Alaskan railroads; location, construction, and operation; passes.

The President of the United States is empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of sections 975 to 975g of this title; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of said sections; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of said sections; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under said sections; to fix the compensation of all officers, agents, or employees appointed or designated by him; to designate and cause to be located a route or routes for a line or lines of railroad in the Territory of Alaska not to exceed in the aggregate one thousand miles, to be so located as to connect one or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields so as best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, and for other governmental and public uses and for the transportation of passengers and property; to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders, sidings, switches, and spurs; to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of said sections; to exercise the power of eminent domain in acquiring property for such use which use is declared to be a public use, by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force there; to acquire rights-of-way, terminal grounds, and all

other rights; to purchase or otherwise acquire all necessary equipment for the construction, and operation of such railroad or railroads; to build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads; to fix, change, or modify rates for the transportation of passengers and property, which rates shall be equal and uniform, but no free transportation or passes shall be permitted except that the provisions of the interstate commerce laws relating to the transportation of employees and their families shall be in force as to the lines constructed under said sections; and except also that the issuance of passes to ministers of religion, traveling secretaries of Railroad Young Men's Christian Associations, and persons exclusively engaged in charitable and eleemosynary work when engaged in their work in Alaska; to indigent, destitute, and homeless persons inmates of hospitals and charitable and eleemosynary institutions, and to such persons when transported by charitable societies or hospitals and the necessary agents employed in such transportation; to newsboys on trains, persons injured in wrecks, and physicians and nurses attending such persons; the interchange of passes for the officers, agents, and employees of common carriers, and their families; and the carrying of passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation is permitted; to receive compensation for the transportation of passengers and property and to perform generally all the usual duties of a common carrier by railroad; to make and establish rules and regulations for the control and operation of said railroad or railroads; in his discretion, to lease the said rairoad or railroads, or any portion thereof, including telegraph and telephone lines, after completion under such terms as he may deem proper, but no lease of such railroad or railroads shall be for a longer period than twenty years and no other lease authorized in sections 975 to 975g of this title shall be for a longer period than fifty-five years, or in the event of failure to lease, to operate the same until the further action of Congress. If said railroad or railroads, including telegraph and telephone lines, are leased under the authority given under said sections, then and in that event they shall be operated under the jurisdiction and control of the provisions of the interstate commerce laws; to purchase, condemn, or otherwise acquire upon such terms as he may deem proper, any other line or lines of railroad in Alaska which may be necessary to complete the construction of the line or lines of railroad designated or located by him. The price to be paid in case of purchase shall in no case exceed the actual physical value of the railroads; to make contracts or agreements with any railroad or steamship company or vessel owner for joint transportation of passengers or property over the road or roads hereinprovided for and such railroad or steamship line or by such vessel, and to make such other contracts as may be necessary to carry out any of the purposes of said sections; to utilize in carrying on the work herein provided or any and all machinery, equipment, instruments, material, and other property of any sort whatsoever used or acquired in connection with the construction of the Panama Canal, so far and as rapidly as the same is no longer needed at Panama, and the successors to the Isthmian Canal Commission are authorized to deliver said property to such officers or persons as the President may designate, and to take credit therefor at such percentage of its original cost as the President may approve, but this amount shall not be charged against the fund provided for in said sections. (Mar. 12, 1914, ch. 37 § 1, 38 Stat. 305; Apr. 10, 1926, ch. 144, 44 Stat. 239; Aug. 4, 1955, ch. 554, 69 Stat. 494.)

REFERENCES IN TEXT

Interstate commerce laws, referred to in the text, are classified to section 1 et seq. of Title 49, Transportation.

CODIFICATION

Section is comprised of the first paragraph of section 1 of act Mar. 12, 1914. The remainder of section 1 of act Mar. 12, 1914, is classified to sections 975a to 975d, and 975f of this title.

AMENDMENTS

1955—Act Aug. 4, 1955, amended section to permit granting of leases for periods up to 55 years.

1926—Act Apr. 10, 1926, amended section by authorizing the issuance of free passes to specified persons, interchange of passes for officers and employees of common carriers, and free transportation of passengers for relief during disasters.

SHORT TITLE

Sections 975–975g of this title are popularly known as the "Alaska Railroad Act."

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 3861, June 8, 1923, 48 C.F.R. § 5.1, which authorized and directed Secretary of Interior to operate railroads acquired or constructed under the Alaska Railroad Act, was superseded by Ex Ord. No. 11107, Apr. 26, 1963, 28 F.R. 4225, set out as a note under section 975f of this title. Under Order 1040 of Feb. 13, 1936, the Secretary of the Interior delegated general supervision over the activities of the Alaska Railroad to the Division of Territories and Island Possessions which was established as a division in the Department of the Interior by Ex. Ord. No. 6726, May 29, 1934.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 5, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Section 2 of act Mar. 12, 1914, provided that the cost of the work authorized by sections 975 to 975g should not exceed $35,000,000, and that in executing the authority granted by those sections the President should not expend nor obligate the United States to expend more than that sum. It also appropriated the sum of $1,000,000 to be used for carrying out the provisions of those sections, to continue available until expended.

MOUNT MCKINLEY NATIONAL PARK

Amendment of section 1 of act Mar. 12, 1914, by act Mar. 29, 1940, ch. 74, 54 Stat. 80, relating to Mount McKinley National Park, and providing for accommodations for visitors and residents, is set out as section 353a of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975a, 975c, 975e, 975f of this title.

§ 975a. Same; telegraph and telephone lines.

The authority granted under section 975 of this title shall include the power to construct, maintain, and operate telegraph and telephone lines so far as they may be necessary or convenient in the construction and operation of the railroad or railroads as herein authorized, and they shall perform generally all the usual duties of telegraph and telephone lines for hire. (Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305.)

CODIFICATION

Section is comprised of the second paragraph of section 1 of act Mar. 12, 1914. The remainder of section 1 of act Mar. 12, 1914, is classified to sections 975, 975b to 975d, and 975f of this title.

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975e, 975f of this title.

§ 975b. Same; town sites.

The President is authorized to withdraw, locate, and dispose of, under such rules and regulations as he may prescribe, such area or areas of the public domain along the line or lines of such proposed railroad or railroads for town-site purposes as he may from time to time designate. (Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305.)

CODIFICATION

Section is comprised of the fourth paragraph of section 1 of act Mar. 12, 1914. The remainder of section 1 of act Mar. 12, 1914, is classified to sections 975, 975a, 975c, 975d, 975f of this title.

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975e, 975f of this title.

§ 975c. Same; terminals, stations, and rights of way.

Terminal and station grounds and rights of way through the lands of the United States in the Territory of Alaska are granted for the construction of railroads, telegraph, and telephone lines authorized by sections 975 to 975g of this title, and the President may, in such manner as he deems advisable, make reservation of such lands as are or may be useful for furnishing materials for construction and for stations, terminals, docks, and for such other purposes in connection with the construction and operation of such railroad lines as he may deem necessary and desirable. (Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305.)

CODIFICATION

Section is comprised of part of the last paragraph of section 1 of act Mar. 12, 1914. The other part of the last paragraph is classified to section 975d of this title and the remainder of section 1 of act Mar. 12, 1914, is classified to sections 975 to 975b, and 975f of this title.

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975e, 975f of this title.

§ 975d. Same; patents to contain reserve for right of way.

In all patents for lands taken up, entered, or located in Alaska after March 12, 1914, there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines to the extent of one hundred feet on either side of the center line of any such road and twenty-five feet on either side of the center line of any such telegraph or telephone lines. (Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305.)

CODIFICATION

Section is comprised of part of the last paragraph of section 1 of act Mar. 12, 1914. The other part of the last paragraph is classified to section 975c of this title and the remainder of section 1 of act Mar. 12, 1914, is classified to sections 975 to 975b, and 975f of this title.

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975e, 975f of this title.

§ 975e. Same; disposition of proceeds of lease or sale of public lands.

All moneys derived from the lease, sale, or disposal of any of the public lands, including town sites, in Alaska, or the coal or mineral therein contained, or the timber thereon, and the earnings of said railroad or railroads, together with the earnings of the telegraph and telephone lines constructed under authority of sections 975 to 975g of this title, above maintenance charges and operating expenses, shall be paid into the Treasury of the United States as other miscellaneous receipts are paid, and a separate account thereof shall be kept and annually reported to Congress. (Mar. 12, 1914, ch. 37, § 3, 38 Stat. 307.)

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975f of this title.

§ 975f. Same; authority of President.

It is the intent and purpose of Congress through the provisions of sections 975 to 975g of this title to authorize and empower the President of the United States, and he is fully authorized and empowered, through such officers, agents, or agencies as he may appoint or employ, to do all necessary acts and things in addition to those specially authorized in said sections to enable him to accomplish the purposes and objects of said sections. (Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305.)

CODIFICATION

Section is comprised of the third paragraph of section 1 of act Mar. 12, 1914. The remainder of section 1 of act Mar. 12, 1914, is classified to sections 975 to 975d of this title.

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 3861, June 8, 1923, 48 C.F.R. § 5.1, which authorized and directed Secretary of Interior to operate railroads acquired or constructed under the Alaska Railroad Act, was superseded by Ex. Ord. No. 11107, Apr. 26, 1963, 28 F.R. 4225, set out as a note under this section. Under Order 1040 of Feb. 13, 1936, the Secretary of the Interior delegated general supervision over the activities of the Alaska Railroad to the Division of Territories and Island Possessions which was established as a division in the Department of the Interior by Ex. Ord. No. 6726, May 29, 1934.

EX. ORD. NO. 11107. ADMINISTRATION OF ALASKA RAILROADS

Ex. Ord. No. 11107, Apr. 26, 1963, 28 F.R. 4225, provided:

By virtue of the authority vested in me by the Act of March 12, 1914, entitled "An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," 38 Stat. 305, as amended (hereinafter referred to as the Alaska Railroad Act) [sections 975 to 975g of this title], it is ordered as follows:

SECTION 1. *General responsibility for railroad.* The Secretary of the Interior is authorized to operate the railroad or railroads, branch lines, feeders and telegraph and telephone lines incident thereto, constructed or acquired under the Act of March 12, 1914, or Acts supplemental thereto, in all respects and to all intents and purposes as if the operation thereof had been placed by law under the jurisdiction of the Secretary of the Interior, except that the authority of the Secretary under this order "to fix, change, or modify rates for the transportation of passengers and property" shall be subject to the authority of the Interstate Commerce Commission under Section 3 of this order.

SEC. 2. *Rates; Secretary of the Interior.* In connection with carrying out the authority under the Alaska Railroad Act "to fix, change, or modify rates for the transportation of passengers and property," the Secretary of the Interior from time to time:

(a) Shall allocate to the national public purposes, which to a substantial extent prompted the construction, expansion, maintenance, and improvement of the railroad, the proper portion of the capital investment of the railroad.

(b) Shall fix, change, or modify the rates with due regard for the actions of the Interstate Commerce Commission authorized under this order.

(c) Shall post the rates for public inspection and file them with the Interstate Commerce Commission.

SEC. 3. *Rates; Interstate Commerce Commission.* (a) In respect of rates filed with the Interstate Commerce Commission pursuant to the provisions of this order, the Commission may act, to the extent practicable, and subject to the limitations provided in subsection (b) of this section, in the same manner as though the railroad were subject to Sections 1(1)(a), 1(4), 1(5), 1(5½), 1(6), 6(3), 6(6), 6(9), 13(1), 13(2) (to the extent that it relates to action by the Interstate Commerce Commission on its own motion), 15 (except 15(12) and 15(14)), 15a, 202(c)(1), and 202(c)(2) of the Interstate Commerce Act, as amended [sections 1(1)(a), 1(4), 1(5), 1(5½), 1(6), 6(3), 6(6), 6(9), 13(1), 13(2), 15 (except 15(12) and 15(14)), 15a, 302(c)(1) and 302(c)(2), respectively, of Title 49, Transportation].

(b) When determining the justness and reasonableness of rates or charges maintained, or from time to time proposed to be maintained by the railroad, the Interstate Commerce Commission shall exclude for valuation and cost finding purposes the portion of capital investment allocated to national public purposes by the Secretary of the Interior under Section 2(a) hereof, and such rates and charges shall not be deemed to be unjust or unreasonable by reason of failure to yield sufficient revenues to cover any amounts for taxes not actually required by law to be paid or provide a return on capital investment.

SEC. 4. *Transitional provisions.* (a) The issuance of this order shall not affect any action heretofore taken by the Secretary of the Interior or his representative until such action has been modified or revoked in accordance with the provisions of this order.

(b) As promptly after the date of this order as may be convenient, the Secretary of the Interior shall post for public inspection and file with the Interstate Commerce Commission rates as referred to in Section 2(c) of this order. The rates posted and filed under this subsection may be the rates in force on the date of this order, with or without subsequent changes or modifications, or new rates.

This order supersedes Executive Order No. 3861 of June 8, 1923, and shall be codified for inclusion in the Code of Federal Regulations.

JOHN F. KENNEDY

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975e of this title.

§ 975g. Same; officers, agents, etc., to make annual report to President; transmission to Congress.

The officers, agents, or agencies placed in charge of the work by the President shall make to the President annually, and at such other periods as may be required by the President or by either House of Congress, full and complete reports of all their acts and doings and of all moneys received and expended in the construction of said work and in the operation of said work or works and in the performance of their duties in connection therewith. The annual reports provided for in this section shall be by the President transmitted to Congress. (Mar. 12, 1914, ch. 37, § 4, 38 Stat. 307.)

TRANSFER OF FUNCTIONS

For transfer to the Secretary of Transportation of the administration of the Alaska Railroad and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to the operation of the railroad, see section 1655(i) of Title 49, Transportation.

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 3861, June 8, 1923, 48 C.F.R. §§ 1, which authorized and directed Secretary of Interior to operate railroads acquired or constructed under the Alaska Railroad Act, was superseded by Ex. Ord. No. 11107, Apr. 26, 1963, 28 F.R. 4225, set out as a note under section 975f of this title. Under Order 1040 of Feb. 13, 1936, the Secretary of the Interior delegated general supervision over the activities of the Alaska Railroad to the Division of Territories and Island Possessions which was established as a division in the Department of the Interior by Ex. Ord. No. 6726, May 29, 1934.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270–13, 975, 975c, 975e, 975f of this title.

Chapter 23.—GRANTS OF SWAMP AND OVERFLOWED LANDS

Sec.
981. Indemnity to States on sale of lands.
982. Grant to States to aid in construction of levees and drains.
983. Lists and plats of lands, for governors of States.
984. Legal subdivisions mostly wet and unfit for cultivation.
985. Patents to prior purchasers and locators.
986. Selection of lands confirmed.
987. Lands to be certified to State within one year.
988. Act extended to Minnesota and Oregon.
989. Homestead entries by purchasers from Missouri of lands declared not to be swamp lands.
990. Grant to Missouri.
991. Title of purchasers of unconfirmed lands in Arkansas confirmed
992. Sale of erroneously designated water-covered areas in Arkansas.
993. Sale of lands in Louisiana; preference rights; application for purchase; appraisal; payment for land.
994. Sale of lands in Wisconsin.

§ 981. Indemnity to States on sale of lands.

Upon proof by the authorized agent of the State, before the Secretary of the Interior or such officer as he may designate, that any of the lands purchased by any person from the United States, prior to March 2, 1855, were "swamp lands", within the true intent and meaning of the Act entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits", approved September 28, 1850, the purchase money shall be paid over to the State wherein said land is situate; and when the lands have been located by warrant or scrip, the said State shall be authorized to locate a like quantity of any of the public lands subject to entry, at $1.25 per acre, or less, and patents shall issue therefor. The decision of the Secretary or such officer shall be first approved by the Secretary of the Interior. (R. S. § 2482; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 2, 1855, ch. 147, § 2, 10 Stat. 634, 635.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The two references to the "Commissioner of the General Land Office" were changed to "Secretary of the Interior or such officer as he may designate," and "Secretary or such officer", respectively, on authority 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 982. Grant to States to aid in construction of levees and drains.

To enable the several States (but not including the States of Kansas, Nebraska, and Nevada) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein—the whole of the swamp and overflowed lands, made unfit thereby for cultivation, and remaining unsold on or after the 28th day of September, A. D. 1850, are granted and belong to the several States respectively, in which said lands are situated: *Provided, however,* That said grant of swamp and overflowed lands, as to the States of California, Minnesota, and Oregon, is subject to the limitations, restrictions and conditions hereinafter named and specified in this chapter, as applicable to said three last-named States respectively. (R. S. § 2479.)

DERIVATION

Acts Sept. 28, 1850, ch. 84, §§ 1, 4, 9 Stat. 520; Mar. 12. 1860, ch. 5, § 1, 12 Stat. 3; Feb. 19, 1874, ch. 30, 18 Stat. 16.

GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions in lieu of grant of land under this section (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 988 of this title.

§ 983. Lists and plats of lands, for governors of States.

It shall be the duty of the Secretary of the Interior, to make accurate lists and plats of all such lands, and transmit the same to the governors of the several States in which such lands may lie, and at the request of the governor of any State in which said swamp and overflowed lands may be, to cause patents to be issued to said State therefor, conveying to said State the fee simple of said land.

The proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the reclaiming said lands, by means of levees and drains. (R. S. § 2480.)

DERIVATION

Act Sept. 28, 1850, ch. 84, § 2, 9 Stat. 519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 988 of this title.

§ 984. Legal subdivisions mostly wet and unfit for cultivation.

In making out lists and plats of the lands aforesaid all legal subdivisions, the greater part whereof is wet and unfit for cultivation, shall be included in

said lists and plats, but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom. (R. S. § 2481.)

DERIVATION

Act Sept. 28, 1850, ch. 84, § 3, 9 Stat. 519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 988 of this title.

§ 985. Patents to prior purchasers and locators.

CODIFICATION

Section, R. S. § 2483, has been omitted as executed.

§ 986. Selection of lands confirmed.

All land selected and reported to the General Land Office as swamp and overflowed land by the several States entitled to the provisions of said Act of September 28, 1850, prior to March 3, A. D. 1857, are confirmed to said States respectively so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under any law of the United States. (R. S. § 2484.)

DERIVATION

Act Mar. 3, 1857, ch. 117, 11 Stat. 251.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

General Land Office and office of Commissioner of the General Land Office were abolished by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. Functions of the former were transferred to the Bureau of Land Management, and functions of the latter were transferred to the Secretary of the Interior or that officer as he may designate, by that plan. See note under former section 1 of this title.

§ 987. Lands to be certified to State within one year.

It shall be the duty of the Commissioner of the General Land Office, to certify over to the State of California as swamp and overflowed lands, all the lands represented as such upon the approved township surveys and plats, whether made before or after the 23d day of July 1866, under the authority of the United States.

The Supervisor of Surveys shall under the direction of the Commissioner of the General Land Office, examine the segregation maps and surveys of the swamp and overflowed lands, made by said State; and where he shall find them to conform to the system of surveys adopted by the United States, he shall construct and approve township plats accordingly, and forward to the General Land Office for approval.

In segregating large bodies of land, notoriously and obviously swamp and overflowed, it shall not be necessary to subdivide the same, but to run the exterior lines of such body of land.

In case such State surveys are found not to be in accordance with the system of United States surveys, and in such other townships as no survey has been made by the United States, the commissioner shall direct the Supervisor of Surveys to make segregation surveys, upon application by the governor of said State, within one year of such application, of all the swamp and overflowed land in such townships, and to report the same to the General Land Office, representing and describing what land was swamp and overflowed, under the grant, according to the best evidence he can obtain.

If the authorities of said State, shall claim as swamp and overflowed, any land not represented as such upon the map or in the returns of the surveyors, the character of such land at the date of the grant September 28, 1850, and the right to the same shall be determined by testimony, to be taken before the Supervisor of Surveys, who shall decide the same, subject to the approval of the Commissioner of the General Land Office. (R. S. § 2488; Mar. 3, 1925, ch. 462, 43 Stat. 1144.)

DERIVATION

Act July 23, 1866, ch. 219, § 4, 14 Stat. 219.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The offices of Commissioner of the General Land Office and Supervisor of Surveys, and the General Land Office were abolished by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. Functions of the Commissioner and the Supervisor were transferred to the Secretary of the Interior or those officers as he may designate, and functions of the General Land Office were transferred by the Bureau of Land Management, by that plan. See note under former section 1 of this title.

§ 988. Act extended to Minnesota and Oregon.

The provisions of sections 982 to 984 of this title are extended to the States of Minnesota and Oregon: *Provided,* That the grant shall not include any lands which the Government of the United States may have sold or disposed of under any law, enacted prior to March 12, 1860, prior to the confirmation of title to be made under the authority of said sections—and the selections to be made from lands already surveyed in each of the States last named, under the authority of said sections, shall have been made within two years from the adjournment of the legislature of each State, at its next session after the 12th day of March, A. D. 1860—and as to all lands surveyed or to be surveyed, thereafter, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed. (R. S. § 2490.)

DERIVATION

Act Mar. 12, 1860, ch. 5, §§ 1, 2, 12 Stat. 3.

§ 989. Homestead entries by purchasers from Missouri of lands declared not to be swamp lands.

In all cases in the State of Missouri where lands have, prior to February 23, 1875, been selected and claimed as swamp and overflowed lands by said State, and the various counties therein, by virtue of any Act of Congress, and said lands have been withheld from market in consequence thereof by the General Government, and the said State and counties have

sold said lands to actual settlers, and said settlers have improved the same to the value of $100; said settlers, their heirs, assigns, and legal representatives, who have continued to reside thereon, shall have priority of right to homestead all such lands as may be rejected by the United States as not being in fact swamp and overflowed lands; and it shall be the duty of the Secretary of the Interior to make such rules and regulations as may be necessary to carry into effect the provisions of this section: *Provided,* That nothing herein contained shall prejudice the rights of any person who may have made actual settlement upon such lands under the preemption or homestead laws prior to February 23, 1875. (Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

§ 990. Grant to Missouri.

All lands in the State of Missouri selected as swamp and overflowed lands, and regularly reported as such to the General Land Office, and on March 3, 1877, withheld from market as such, so far as the same remain vacant and unappropriated and not interfered with by any preemption, homestead, or other claim under any law of the United States, and the claim whereto has not been on said date rejected by the Commissioner of the General Land Office, or other competent authority, are confirmed to said State, and all title thereto vested in said State: and it is made the duty of the Secretary of the Interior to cause patents to issue for the same. (Mar. 3, 1877, ch. 116, 19 Stat. 395.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The General Land Office and the office of its Commissioner were abolished by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, which transferred functions of the former to the Bureau of Land Management, and transferred functions of the latter to the Secretary of the Interior or that officer as he may designate. See note under former section 1 of this title.

§ 991. Title of purchasers of unconfirmed lands in Arkansas confirmed.

The title of all persons who had, on April 29, 1898, purchased from the State of Arkansas any unconfirmed swamp land and held deeds for the same, is confirmed and made valid as against any claim or right of the United States, and without the payment by said persons, their heirs or assigns, of any sum whatever to the United States or to the State of Arkansas.

The State of Arkansas does relinquish and quitclaim to the United States all lands prior to April 29, 1898, confirmed, certified, or patented to the State which have been entered under the public land laws; and does cede, relinquish, and quitclaim to the United States all right, title, and interest under the Acts of September 28, 1850, March 2, 1855, and March 3, 1857, in and to all lands in the State which have been heretofore granted, confirmed, certified, or patented by the United States under any other Acts, and the title to such lands is confirmed in the grantees, their heirs, successors, or assigns, anything in this section or any other Act to the contrary notwithstanding: *Provided,* That this section shall be of no force or effect until the State of Arkansas shall have accepted and approved the conditions, limitations, and provisions herein contained by an act of the general assembly or by an instrument in writing duly executed by the governor under the authority conferred upon him by the legislature of said State, and filed with the Secretary of the Treasury and the Secretary of the Interior within one year from April 29, 1898: *Provided further,* That whereas the General Assembly of the State of Arkansas did, on the 10th day of March, 1897, accept and approve the conditions, limitations, and provisions herein contained before April 29, 1898, making the same effective and conclusive, therefore this section shall be in full force and effect from and after April 29, 1898. (Apr. 29, 1898, ch. 229, §§ 3, 4, 30 Stat. 368.)

§ 992. Sale of erroneously designated water-covered areas in Arkansas.

The Secretary of the Interior, in his judgment and discretion, is authorized to sell, in the manner hereinafter provided in this section, any of those public lands situated in the State of Arkansas which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any citizen of the United States who in good faith under color of title or claiming as a riparian owner, prior to September 21, 1922, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from September 21, 1922, if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled

to receive a patent must within thirty days from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated the appraised price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of lands hereunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising hereunder. (Sept. 21, 1922, ch. 362, §§ 1—5, 42 Stat. 922; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 993. Sale of lands in Louisiana; preference rights; application for purchase; appraisal; payment for land.

The Secretary of the Interior, in his judgment and discretion, is authorized to sell, in the manner hereinafter provided, in this section, any of those lands situated in the State of Louisiana which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any citizen of the United States who, or whose ancestors in title in good faith under color of title or claiming as a riparian owner, prior to February 19, 1925, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from February 19, 1925, if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from official notice to such claimant of the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant or in the actual possession of a person or persons who have improved the property and who have attempted to enter same in compliance with the laws and regulations of the United States land office.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled to receive a patent, must within six months from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, the appraised price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of the lands hereunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising hereunder.

All purchases made and patents issued under the provisions of this section shall be subject to and contain a reservation to the United States of all the coal, oil, gas, and other minerals in the lands so purchased and patented, together with the right to prospect for, mine, and remove the same. (Feb. 19, 1925, ch. 268, §§ 1, 2, 43 Stat. 951; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 994. Sale of lands in Wisconsin.

The Secretary of the Interior, in his judgment and discretion, is authorized to sell, in the manner hereinafter provided in this section, any of those lands situated in the State of Wisconsin which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any owner in good faith of land shown by the official public land surveys to be bounded in whole or in

part by such erroneously meandered area, and who acquired title to such land prior to February 27, 1925, or any citizen of the United States who in good faith under color of title or claiming as a riparian owner had, prior to said date, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from said date if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant under the public land laws.

In event such erroneously meandered land is bounded by two or more tracts of land held in private ownership with apparent riparian rights indicated by the official township plat of survey at date of disposal of title by the United States, the Secretary of the Interior or such officer as he may designate shall have discretionary power to cause such meandered area, when surveyed, to be divided into such tracts or lots as will permit a fair division of such meandered area among the owners of such surrounding or adjacent tracts under the provisions of this section. In administering the provisions of this section, where there shall exist a conflict of claims falling within its operation, if any claimant shall have placed valuable improvements upon the land involved, or shall have reduced the same to cultivation, then to the extent of such improvements or cultivation, such claimant shall be given preference in adjustment of such conflict: *Provided,* That no preference right of entry under this section shall be recognized for a greater area than one hundred and sixty acres, in one body, to any one applicant, whether an individual, an association, or a corporation: *Provided further,* That this section shall not be construed as in any manner abridging the existing rights of any settler or entryman under the public land laws.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled to receive a patent, must within thirty days from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated the appraisal price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of lands under this section shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising thereunder. (Feb. 27, 1925, ch. 363, §§ 1—6, 43 Stat. 1013, 1014; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "register" were changed to "officer, as the Secretary of the Interior may designate," and reference to "Commissioner of the General Land Office" was changed to "Secretary of the Interior or such officer as he may designate", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Chapter 24.—DRAINAGE UNDER STATE LAWS

LANDS IN MINNESOTA

Sec.
1021. Subjection of lands in Minnesota to State laws for drainage for agricultural purposes.
1022. Apportionment of cost of works.
1023. Sale for enforcement of charges.
1024. Certification of statement of sale.
1025. Unentered lands; patents to purchasers.
1026. Entered lands; patents to purchasers of entered lands; forfeiture on nonpayment.
1027. Notices to land office and to entrymen.
1028. Chippewa Indian lands; erroneous cash entries validated.
1029. Transfer of lands; filing of schedule and application for acquisition; approval of listing; appraisal.
1030. Issuance of patents; payment for land; conditions in patents.
1031. Claims; notification of sums due for drainage charges; cancellation of entry.
1032. Imposition of liens or assessments on Federal lands or any ceded or other Indian lands.
1033. Indian lands; consent of owners; title to lands; deposit of payments.
1034. Rules and regulations.

LANDS IN ARKANSAS

1041. Subjection of lands to State laws; rights of persons holding unpatented lands; lands included.
1042. Canals, ditches, levees, and other drainage works; assessment of cost.
1043. Lien of assessments; enforcement; sale of lands.
1044. Excess of price of lands sold to enforce lien of assessments.
1045. Patents to purchasers at sale of lands to enforce assessments.
1046. Patents to qualified homestead entrymen on failure of purchasers at sale to apply for patents.
1047. Copies of notices required by State drainage laws; rights of United States and entrymen.
1048. Lands not affected.

LANDS IN MINNESOTA

§ 1021. Subjection of lands in Minnesota to State laws for drainage for agricultural purposes.

All lands in the State of Minnesota, when subject to entry, and all entered lands for which no final certificates have issued, are made and declared to be subject to all of the provisions of the laws of said State relating to the drainage of swamp or overflowed lands for agricultural purposes to the same extent and in the same manner in which lands of a like character held in private ownership are or may be subject to said laws: *Provided,* That the United States and all persons legally holding unpatented lands under entries made under the public-land laws of the United States are accorded all the rights, privileges, and benefits given by said laws to persons holding lands of a like character in private ownership. (May 20, 1908, ch. 181, § 1, 35 Stat. 169.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1024, 1025, 1026, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1022. Apportionment of cost of works.

The cost of constructing canals, ditches, and other drainage works incurred in connection with any drainage project under said laws shall be equitably apportioned among all lands held in private ownership, all lands covered by unpatented entries, and all unentered public lands affected by such project; and officially certified lists showing the amount of the charges assessed against each smallest legal subdivision of such lands shall be furnished to the officer, as the Secretary of the Interior may designate, of the land district in which the lands affected are located as soon as said charges are assessed, but nothing in sections 1021 to 1027 of this title shall be construed as creating any obligation on the United States to pay any of said charges. (May 20, 1908, ch. 181, § 2, 35 Stat. 169; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1024, 1025, 1026, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1023. Sale for enforcement of charges.

All charges legally assessed may be enforced against any unentered lands, or against any lands covered by an unpatented entry, by the sale of such lands subject to the same manner and under the same proceedings under which such charges would be enforced against lands held in private ownership. (May 20, 1908, ch. 181, § 3, 35 Stat. 170.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1024, 1025, 1026, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1024. Certification of statement of sale.

When any unentered lands, or any lands covered by an unpatented entry, have been sold in the manner mentioned in sections 1021 to 1027 of this title, a statement of such sale showing the price at which each legal subdivision was sold shall be officially certified to such officer as the Secretary of the Interior may designate immediately after the completion of such sale. (May 20, 1908, ch. 181, § 4, 35 Stat. 170; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Words "and receiver" were omitted because of acts Oct. 28, 1921, and Mar. 3, 1925, which consolidated the offices of register and receiver. See note under former sections 70, 71 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "the register" was changed to "such officer as the Secretary of the Interior may designate", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1025, 1026, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1025. Unentered lands; patents to purchasers.

At any time after any sale of unentered lands has been made in the manner and for the purposes mentioned in sections 1021 to 1027 of this title patent shall issue to the purchaser thereof upon payment to such officer as the Secretary of the Interior may designate of the minimum price of $1.25 per acre, or such other price as may have been fixed by law for such lands, together with the usual fees and commissions charged in entry of like lands under the homestead laws. But purchasers at a sale of unentered lands shall have the qualification of homestead entrymen, and not more than one hundred and sixty acres of such lands shall be sold to any one purchaser under the provisions of said sections. This limitation shall not apply to sales to the State, but shall apply to purchases from the State of unentered lands bid in for the State. Any part of the purchase money arising from the sale of any lands in the manner and for the purposes provided in said sections which shall be in excess of the drainage charges then delinquent shall be paid to and used by the county in which such land is located for the purpose of maintenance, improving, and extending such drainage works within the area benefited by the drainage project in which such land shall have been assessed for such drainage charge. (May 20, 1908, ch. 181, § 5, 35 Stat. 170; Sept. 5, 1916, ch. 437, 39 Stat. 722; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3,

1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Reference to "receiver" was changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925. See note under former sections 70, 71 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "the register" was changed to "such officer as the Secretary of the Interior may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1024, 1026, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1026. Entered lands; patents to purchasers of entered lands; forfeiture on nonpayment.

Any entered lands sold in the manner and for the purposes mentioned in sections 1021 to 1027 of this title may be patented to the purchaser thereof at any time after the expiration of the period of redemption provided for in the drainage laws under which it may be sold (there having been no redemption) upon the payment to such officer as the Secretary of the Interior may designate of the fees and commissions and the price mentioned in section 1025 of this title, or so much thereof as has not already been paid by the entryman; and if the sum received at any such sale shall be in excess of the payments required in sections 1021 to 1027 of this title and of the drainage assessments and cost of the sale, such excess shall be paid to the proper county officer for the benefit of and payment to the entryman. Unless the purchasers of unentered lands shall, within ninety days after the sale provided for in section 1023 of this title, pay to the proper officer, as the Secretary of the Interior may designate, the fees, commissions, and purchase price to which the United States may be entitled, as provided in section 1025 of this title, and unless the purchasers of entered lands shall, within ninety days after the right of redemption has expired, make like payments, as provided for in this section, any person having the qualifications of a homestead entryman may pay to such officer for not more than one hundred and sixty acres of land for which such payment has not been made: First, the unpaid fees, commissions, and purchase price to which the United States may then be entitled; and, second, the sum due at the sale for drainage charges; and, in addition thereto, if bid in by the State, interest on the amount bid by the State at the rate of seven per centum per annum from the date of such sale, and thereupon the person making such payment shall become subrogated to the rights of such purchaser to receive a patent for said land. When any payment is made to effect such subrogation such officer shall transmit to the treasurer of the county where the land is situated the amount paid for drainage charges, together with the interest paid thereon. (May 20, 1908, ch. 181, § 6, 35 Stat. 170; Sept. 5, 1916, ch. 437, 39 Stat. 723; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Reference to "receiver" was changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925. See note under former sections 70, 71 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "the register" was changed to "such officer as the Secretary of the Interior may designate"; second reference, "proper register", was changed to "proper officer, as the Secretary of the Interior may designate,"; and subsequent references, "the proper register" and "the register", were changed to "such officer", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1024, 1025, 1027, 1029, 1030, 1031, 1032 of this title.

§ 1027. Notices to land office and to entrymen.

A copy of all notices required by the drainage laws mentioned in sections 1021 to 1027 of this title to be given to the owners or occupants of lands held in private ownership shall, as soon as such notices issue, be delivered to the officer, as the Secretary of the Interior may designate, of the proper district land office in cases where unentered lands are affected thereby and to the entrymen whose unpatented lands are included therein, and the United States and such entrymen shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership; and all entrymen shall be given the same rights of redemption as are given to the owners of lands held in private ownership. (May 20, 1908, ch. 181, § 7, 35 Stat. 171; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Rorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1024, 1025, 1026, 1029, 1030, 1031, 1032 of this title.

§ 1028. Chippewa Indian lands; erroneous cash entries validated.

CODIFICATION

Section, act Mar. 3, 1919, ch. 113, 40 Stat. 1321, validated and confirmed prior erroneous cash entries on Chippewa Indian lands in Minnesota ceded under act Jan. 14, 1889, 25 Stat. 642.

§ 1029. Transfer of lands; filing of schedule and application for acquisition; approval of listing; appraisal.

(a) The State of Minnesota may, within three years after May 1, 1958, file with the Secretary of the Interior (1) a schedule showing (A) each tract of public land which the State may have selected and which has not been reserved or withdrawn for some Federal use, and each tract of ceded or other Indian lands, which tracts are subject to liens under sections 1021 to 1027 of this title; (B) the amount of the lien under sections 1021 to 1027 of this title, on each such tract of land, and the sum of the liens on all such tracts, which liens shall not include any interest charges which may have accrued after April 19, 1929, for land in the Red Lake Game Preserve and after April 25, 1931, for other lands; (C) the date when the lien on each such tract became effective; and (D) the authority under which the charges were assessed; and (2) an application to acquire the lands listed in such schedule in the manner provided in sections 1029 to 1034 of this title.

(b) The Secretary may, in his discretion, approve the listing of the lands in such schedule and accept the application for such lands. Upon such acceptance, the Secretary shall appraise the tracts listed in accordance with their fair market value. Such appraisal shall be conclusive for the purposes of sections 1029 to 1034 of this title. The Secretary shall also determine the amount, if any, by which the total appraised value of the lands listed exceeds the total amount of the liens on such lands under sections 1021 to 1027 of this title. (Pub. L. 85–387, § 1, May 1, 1958, 72 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1030, 1031, 1033, 1034 of this title.

§ 1030. Issuance of patents; payment for land; conditions in patents.

(a) Subject to the provisions of sections 1031 and 1033 of this title, the Secretary shall patent to the State the lands listed in any application accepted under section 1029 of this title upon payment by the State to the United States of the excess of the total appraised value of the lands listed in such application over the total amount of the liens on such lands under sections 1021 to 1027 of this title: *Provided*, That the payment for each tract of ceded or other Indian land shall be not less than $1.25 per acre for the use and benefit of the Indian tribe or individual owning the tract. The Secretary shall issue a patent to the State under the authority of this subsection only if the State makes payment of the amount of such excess within two years after the determination of such amount. The failure of the State to make payment within the time required by this subsection shall not operate as a bar to the filing of any subsequent schedule and application by the State in the manner, and within the time, prescribed by section 1029 of this title.

(b) Notwithstanding any other provisions of sections 1029 to 1034 of this title, the Secretary may issue a patent to the State for the public lands subject to liens under sections 1021 to 1027 of this title, not withdrawn or reserved for Indians or some Federal use, without payment, if he determines through appraisal or otherwise that the total amount of the liens on such lands under sections 1021 to 1027 of this title is approximately equal to or exceeds the total value of the lands.

(c) Any patent issued to the State under sections 1029 to 1034 of this title shall contain the provisions and reservations which are inserted in patents for public lands entered under the homestead law. (Pub. L. 85–387, § 2, May 1, 1958, 72 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1029, 1031, 1033, 1034 of this title.

§ 1031. Claims; notification of sums due for drainage charges; cancellation of entry.

Nothing in sections 1029 to 1034 of this title shall be construed to prejudice any valid claims relating to the lands for which an application has been made and accepted under section 1029 of this title. The Secretary shall notify all entrymen of the sum due the State for drainage charges under sections 1021 to 1027 of this title, and shall give to the entrymen any extension of time which he determines is reasonable within which to comply with the requirements of the law under which the entry was made, and to make the payments due the State. The Secretary shall not patent to the State any lands subject to such entries unless and until the entry involved is canceled in accordance with the law under which the entry was made. (Pub. L. 85–387, § 3, May 1, 1958, 72 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1029, 1030, 1033, 1034 of this title.

§ 1032. Imposition of liens or assessments on Federal lands or any ceded or other Indian lands.

After May 1, 1958, no further liens or assessments shall be imposed on any Federal lands or any ceded or other Indian lands in the State of Minnesota under authority of sections 1021 to 1027 of this title. (Pub. L. 85–387, § 4, May 1, 1958, 72 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1029, 1030, 1031, 1033, 1034 of this title.

§ 1033. Indian lands; consent of owners; title to lands; deposit of payments.

(a) With respect to ceded or other Indian lands, the Secretary may exercise the authority granted in sections 1029 and 1030 of this title only with the consent of the Indian owner or owners. The consent of the individuals owning two-thirds of the beneficial interest shall be sufficient in the case of undivided heirship lands. The consent of the Minnesota Chippewa Tribe and of the Red Lake Band of Chippewas, in the case of tribal lands,

shall be evidenced by resolution of the recognized governing body of the tribe or band.

(b) Nothing in sections 1029 to 1034 of this title shall be construed to prejudice Indian title to any lands subject to lien, nor to preclude the right of the Indian owner, or owners, to clear title to their lands by payment of the lien claimed by the State.

(c) Payments made by the State under sections 1029 to 1034 of this title for the purchase of tribally owned Indian lands shall be deposited in the Treasury of the United States to the credit of the tribe owning such lands, and payments made for the purchase of individually owned Indian lands shall be deposited with the officer in charge of the Indian agency having jurisdiction over such lands to the credit of the Indian owners thereof. (Pub. L. 85-387, § 5, May 1, 1958, 72 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1029, 1030, 1031, 1034 of this title.

§ 1034. Rules and regulations.

The Secretary may prescribe rules and regulations which he determines will effectuate the purposes of sections 1029 to 1034 of this title. (Pub. L. 85-387, § 6, May 1, 1958, 72 Stat. 101.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1029, 1030, 1031, 1033 of this title.

LANDS IN ARKANSAS

§ 1041. Subjection of lands to State laws; rights of persons holding unpatented lands; lands included.

All of those unentered, unreserved public lands, and all of those entered lands for which no final certificates have been issued, within the areas hereinafter described, are made and declared to be subject to the laws of the State of Arkansas relating to the organization, government, and regulation of drainage districts to the same extent and in the same manner, except as hereinafter provided, in which lands held under private ownership are or may be subject to said laws: *Provided,* That the United States and all persons legally holding unpatented lands under entries made under the public land laws of the United States shall be accorded all the rights, privileges, and benefits given by said laws to persons holding lands in private ownership, said lands being those public lands in Mississippi County, Arkansas, in townships 14, 15, and 16 north, range 9 east, and townships 15 and 16 north, range 10 east, fifth principal meridian, according to the official surveys thereof approved October 12, 1915, and all of those unentered public lands, and all of those entered lands for which no final certificates have been issued in Poinsett County, Arkansas, in townships 11 and 12 north, range 6 east, fifth principal meridian, according to the official surveys thereof approved July 30, 1913. (Jan. 17, 1920, ch. 47, § 1, 41 Stat. 392.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1044, 1045, 1047, 1048 of this title.

§ 1042. Canals, ditches, levees, and other drainage works; assessment of cost.

The construction and maintenance of canals, ditches, levees, and other drainage works upon and across the lands subject to the operation of sections 1041 to 1048 of this title are authorized, subject to the same conditions as are imposed by the laws of the State of Arkansas upon lands held in private ownership, and the cost of construction and maintenance of canals, ditches, levees, and other drainage works incurred in connection with any drainage project under said laws shall be equitably apportioned among all lands held in private ownership, all unentered public lands, and all lands embraced in unpatented entries affected by such project. Officially certified lists showing the amount of charges assessed against each smallest legal subdivision of such lands shall be furnished to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands affected are situated as soon as said charges would become a lien if the lands were held in private ownership. (Jan. 17, 1920, ch. 47, § 2, 41 Stat. 392; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1043, 1044, 1045, 1047, 1048 of this title.

§ 1043. Lien of assessments; enforcement; sale of lands.

All charges legally assessed pursuant to the drainage laws of the State of Arkansas by a drainage district against any unentered public lands, or against any lands embraced in unpatented entries, subject to the provisions of sections 1041 to 1048 of this title, shall be a lien upon said lands, which may be enforced by sale in the same manner and subject to the same conditions, except as hereinafter, in said sections set forth under which said charges shall be enforced against lands held in private ownership, and whenever any of said lands shall be sold for nonpayment of such charges, inclusive of lands bid in for a drainage district, a statement showing the name of the purchaser, the price at which each legal subdivision was sold, the amount assessed against it, together with penalties and interest, if any, and the cost of the sale, and the amount of excess, if any, over and above all lawful assessment charges and the cost of sale, shall be officially certified to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated immediately after the completion of such sale, but nothing in said sections shall be construed as creating any obligation on the United States to pay any of said charges. (Jan. 17, 1920, ch. 47, § 3, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42

Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1044, 1045, 1047, 1048 of this title.

§ 1044. Excess of price of lands sold to enforce lien of assessments.

All moneys received from the sale of entered or unentered lands subject to the operation of sections 1041 to 1048 of this title which shall be in excess of assessments due thereon, together with penalties and interest and the cost of the sales, shall be paid by the proper county officer to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, and such excess moneys shall be covered into the United States Treasury as proceeds from the sales of public lands. (Jan. 17, 1920, ch. 47, § 4, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1045, 1047, 1048 of this title.

§ 1045. Patents to purchasers at sale of lands to enforce assessments.

At any time within ninety days after the sale of unentered public lands and at any time within ninety days after the expiration of the period of redemption provided for in the drainage laws under which the lands are sold, no redemption having been made, after the sale of lands embraced within unpatented entries, the purchaser at such sale, a drainage district being herein expressly excepted from the operation of this provision, shall, upon the filing of an application therefor and an affidavit containing proof of necessary qualifications with such officer as the Secretary of the Interior may designate of the United States land office, and upon payment to such officer of the price of $5 per acre, together with the usual fees and commissions charged in entry of lands under the homestead laws, be entitled to receive a patent: *Provided,* That such purchaser shall have the qualifications required in making entry of lands under the homestead laws, and any such purchase shall exhaust any further homestead right of the purchaser to the extent of the amount of lands thus purchased by him. Not more than one hundred and sixty acres of such lands shall be sold and patented to any one purchaser under the provisions of sections 1041 to 1048 of this title. This limitation shall not apply to lands subject to the operation of said sections which may be bid in for a drainage district, but no patent shall be issued to a drainage district or to any one bidding in said lands for a drainage district. The proceeds derived by the Government shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands. (Jan. 17, 1920, ch. 47, § 5, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

CODIFICATION

Reference to "receiver" was changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925. See note under former sections 70, 71 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "the register" were changed to "such officer as the Secretary of the Interior may designate," and "such officer", respectively, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1044, 1046, 1047, 1048 of this title.

§ 1046. Patents to qualified homestead entrymen on failure of purchasers at sale to apply for patents.

Unless the purchaser shall, within the time specified in section 1045 of this title, file with the officer, as the Secretary of the Interior may designate, of the United States land office an application for a patent, together with the required affidavit, and make payment of the purchase price, fees, and commissions as provided in said section 1045, any person having the qualifications of an entryman under the homestead laws may file an application for a patent, together with the required affidavit, and upon payment to such officer of the purchase price of $5 per acre, fees, and commissions, and in addition thereto an amount equal to the drainage charges, penalties, interest, and costs for which the lands were sold, and if the lands were bid in for the drainage district, an additional amount equal to 6 per centum per annum on the sum for which the lands were sold from the date of such sale, said applicant shall become subrogated to the rights of such purchaser and shall be entitled to

receive a patent for not more than one hundred and sixty acres of said lands. When payment is made to effect subrogation as herein provided such officer of the United States land office shall serve notice upon the purchaser that an application for patent for the lands purchased by him has been filed, and that the amount of the drainage charges, penalties, interests, and costs of the sale will be paid to him upon submission of proof of purchase and payment by him of said sums. Such officer shall make such payment as soon as said requirement shall have been fulfilled. If the lands were bid in for a drainage district, such officer will pay to the proper county officers the amount of the drainage charges, penalties, and interests and costs of sale, together with the additional sum of 6 per centum per annum, to which said drainage district is entitled. All remaining moneys to which the United States may be entitled shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands. (Jan. 17, 1920, ch. 47, § 6, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

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TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," and remaining references to "the register" were changed to "such officer", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1044, 1045, 1047, 1048 of this title.

§ 1047. Copies of notices required by State drainage laws; rights of United States and entrymen.

A copy of all notices required by the drainage laws of the State of Arkansas to be given to the owners and occupants of lands held in private ownership shall, as soon as such notice is issued, be delivered to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated where any of the lands subject to the operation of sections 1041 to 1048 of this title are affected, and the United States and the entryman claiming under the public land laws of the United States shall be accorded the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise, as are given to persons holding lands in private ownership, and all entrymen shall be given the same rights of redemption as are given to the owners of land held in private ownership. (Jan. 17, 1920, ch. 47, § 7, 41 Stat. 394; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "register" was changed to "officer, as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1044, 1045, 1048 of this title.

§ 1048. Lands not affected.

Sections 1041 to 1048 of this title shall not be effective as to any lands involved in suits instituted on behalf of the United States with a view to quieting title in the Government to such lands until and unless such suits shall be finally determined in favor of the United States. (Jan. 17, 1920, ch. 47, § 8, 41 Stat. 394.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1042, 1043, 1044, 1045, 1047 of this title.

Chapter 25.—UNLAWFUL INCLOSURES OR OCCUPANCY; OBSTRUCTING SETTLEMENT OR TRANSIT

Sec.
1061. Inclosure of or assertion of right to public lands without title.
1062. Suits for violations of law.
1063. Obstruction of settlement on or transit over public lands.
1064. Violations of chapter; punishment.
1065. Summary removal of inclosures.
1066. Permission of Secretary to sue.

§ 1061. Inclosure of or assertion of right to public lands without title.

All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such inclosure was or shall be made, are declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and prohibited. (Feb. 25, 1885, ch. 149, § 1, 23 Stat. 321.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1062 of this title.

§ 1062. Suits for violations of law.

It shall be the duty of the United States attorney for the proper district, on affidavit filed with him by any citizen of the United States that section 1061 of this title is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also conferred on any United States district court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this chapter; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court. (Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States." See section 541 of Title 28, Judiciary and Judi-1071 to 1073. Repealed.

The words "district court" were substituted for "district or circuit court" in two places to conform to act Mar. 3, 1911 which abolished the circuit courts and transferred their powers and duties to the district courts.

FEDERAL RULES OF CIVIL PROCEDURE

Process, see Rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

Precedence of actions, see Rule 40.

§ 1063. Obstruction of settlement on or transit over public lands.

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: *Provided,* This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith. (Feb. 25, 1885, ch. 149, § 3, 23 Stat. 322.)

§ 1064. Violations of chapter; punishment.

Any person violating any of the provisions of this chapter, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding $1,000, or be imprisoned not exceeding one year, or both, for each offense. (Feb. 25, 1885, ch. 149, § 4, 23 Stat. 322; Mar. 10, 1908, ch. 75, 35 Stat. 40.)

§ 1065. Summary removal of inclosures.

The President is authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of the public lands mentioned in this chapter, and to employ civil or military force as may be necessary for that purpose. (Feb. 25, 1885, ch. 149, § 5, 23 Stat. 322.)

§ 1066. Permission of Secretary to sue.

Where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this chapter without authority from the Secretary of the Interior. (Feb. 25, 1885, ch. 149, § 6, 23 Stat. 322.)

Chapter 25A.—LANDS HELD UNDER COLOR OF TITLE

Sec.
1068. Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims.
1068a. Appraisal.
1068b. Mineral reservation.

§ 1068. Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims.

The Secretary of the Interior (a) shall, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for more than twenty years, and that valuable improvements have been placed on such land or some part thereof has been reduced to cultivation, or (b) may, in his discretion, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application during which time they have paid taxes levied on the land by State and local governmental units, issue a patent for not to exceed one hundred and sixty acres of such land upon the payment of not less than $1.25 per acre: *Provided,* That where the area so held is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres, may be patented hereunder: *Provided further,* That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States

shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *And provided further,* That no patent shall issue under the provisions of this chapter for any tract to which there is a conflicting claim adverse to that of the applicant, unless and until such claim shall have been finally adjudicated in favor of such applicant. (Dec. 22, 1938, ch. 47, § 1, 45 Stat. 1069; July 28, 1953, ch. 254, § 1, 67 Stat. 227.)

AMENDMENTS

1953—Act July 28, 1953, provided for mandatory issuance of land patents to certain adverse possessors and broadened the discretionary power of the Secretary to issue patents to parties who have paid taxes on certain public lands since Jan. 1, 1901.

§ 1068a. Appraisal.

Upon the filing of an application to purchase any lands subject to the operation of this chapter, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement of the lands by the applicant or his predecessors in interest, and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant. (Dec. 22, 1928, ch. 47, § 2, 45 Stat. 1070.)

§ 1068b. Mineral reservation.

If the claimant requests that the patent to be issued under this chapter not contain a mineral reservation and if he can establish to the satisfaction of the Secretary that the requirements of this chapter have been complied with by such claimant and his predecessors for the period commencing not later than January 1, 1901, to the date of application, no mineral reservation shall be made unless the lands are, at the time of issuance of the patent, within a mineral withdrawal or subject to an outstanding mineral lease. (Dec. 22, 1928, ch. 47, § 3, as added July 28, 1953, ch. 254, § 2, 67 Stat. 228.)

Chapter 26.—ABANDONED MILITARY RESERVATIONS

Sec.
1071 to 1073. Repealed.
1074. Disposition of mineral lands.
1075. Homestead and desert land laws applicable to reservations in Nevada.
1076. Grants to municipalities.
1077. Lands opened to settlement; preference right of entry.
1078. Effect of section 1077 limited.
1079. Confirmation of selections by States in lieu of school sections; disposal of sections.
1080. Application of sections.
1081. Fort Abraham Lincoln Military Reservation.

§§ 1071 to 1073. Repealed. Oct. 31, 1951, ch. 654, § 1 (114), 65 Stat. 706.

Sections, act July 5, 1884, ch. 214, §§ 1—3, 23 Stat. 103, provided for the designation by the President of abandoned military reservations for disposition by the Secretary of the Interior; the survey or subdivision of those lands, appraisal, advertisement and sale, and rights of settlers; and appraisal and sale of improvements or other property on those reservations.

§ 1074. Disposition of mineral lands.

Whenever any lands containing valuable mineral deposits shall be vacated by the reduction or abandonment of any military reservation under the provisions of this Act, the same shall be disposed of exclusively under the mineral-land laws of the United States. (July 5, 1884, ch. 214, § 5, 23 Stat. 104.)

REFERENCES IN TEXT

This Act, referred to in the text, means act July 5, 1884, ch. 214, 23 Stat. 104, which was classified to this section, sections 933 and 1071—1073 of this title and former section 1348 of Title 10. Sections 933 and 1071—1073 of this title have been repealed. See sections 4777 and 9777 of Title 10, Armed Forces.

§ 1075. Homestead and desert land laws applicable to reservations in Nevada.

All the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition shall be disposed of under the homestead and desert-land laws, and not otherwise: *Provided,* That this section is intended to make applicable to the desert-land laws only such lands as were included under sections 321 to 323, 325, and 327 to 329 of this title, providing for the disposition of public lands under the desert-land laws. (Aug. 21, 1916, ch. 361, 39 Stat. 518.)

CODIFICATION

Section is also set out as section 207 of this title.

§ 1076. Grants to municipalities.

The President is authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place. (Mar. 3, 1893, ch. 208, 27 Stat. 593.)

§ 1077. Lands opened to settlement; preference right of entry.

All lands not disposed of prior to August 23, 1894, which were included within the limits of any abandoned military reservation placed under the control of the Secretary of the Interior prior to said date for disposition under Act July 5, 1884, or under any law in force prior to July 5, 1884, the disposal of which has not been provided for by a subsequent Act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are reserved for some public use, are opened to settlement under the public-land laws of the United States, and a preference right of entry shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements, upon any agricultural lands in said reservations, for a period of six months from the date of settlement after August 23, 1894: *Provided,* That persons who enter under the homestead law shall pay for such lands not less than the value determined by appraisement, nor less than the price of the land at the time of the entry, and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior. (Aug. 23, 1894, ch. 314, § 1, 28 Stat. 491; Feb. 15, 1895, ch. 92, § 1, 28 Stat. 664.)

REFERENCES IN TEXT

Act July 5, 1884, referred to in the text, means Act July 5, 1884, ch. 214, 23 Stat. 104, which was classified to sections 933 and 1071—1074 of this title, and former section 1348 of Title 10. Sections 933 and 1071—1073 of this title have been repealed.

CROSS REFERENCES

Patents to be granted to persons filing homestead applications on land situated in Fort Abraham Lincoln Military Reservation without requiring payment of appraised values, see section 1081 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1080 of this title.

§ 1078. Effect of section 1077 limited.

Nothing contained in this section and section 1077 of this title shall be construed to suspend or to interfere with the operation of Act July 5, 1884, as to all lands included in abandoned military reservations placed under the control of the Secretary of the Interior for disposal subsequent to August 23, 1894, and all appraisements required by section 1077 of this title shall be in accordance with the provisions of sections 1072 and 1073 of this title. (Aug. 23, 1894, ch. 314, § 2, 28 Stat. 491.)

REFERENCES IN TEXT

Act July 5, 1884, referred to in the text, means Act July 5, 1884, ch. 214, 23 Stat. 104, which was classified to sections 933 and 1071—1074 of this title, and former section 1348 of Title 10. Sections 933 and 1071—1073 of this title have been repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1080 of this title.

§ 1079. Confirmation of selections by States in lieu of school sections; disposal of sections.

All State school indemnity selections in lieu of what are known as school sections in abandoned military reservations made pursuant to the decision of the Secretary of the Interior dated January 28, 1898, and before notice of the withdrawal of that decision was received at the local land office at which the selections were made, and which are otherwise regular and free from any prior lawful claim, shall be confirmed by the Secretary of the Interior; and the lands in such school sections in lieu of which such confirmed selections were made shall be disposed of under the laws applicable to other lands in such abandoned military reservations, a preference right being accorded to those who have made and maintained a bona fide settlement or entry pursuant to said decision of the Secretary of the Interior. (Feb. 11, 1903, ch. 543, 32 Stat. 822.)

§ 1080. Application of sections.

The provisions of sections 1077 and 1078 of this title are extended to all abandoned military reservations which were placed under the control of the Secretary of the Interior under any law in force prior to July 5, 1884. (Feb. 15, 1895, ch. 92, § 1, 28 Stat. 664.)

§ 1081. Fort Abraham Lincoln Military Reservation.

All persons having, on April 23, 1904, or who may thereafter file homestead applications upon any of the lands situate within the abandoned Fort Abraham Lincoln Military Reservation, in Morton County, State of North Dakota, shall be entitled to a patent to the land filed upon by such person upon compliance with the provisions of the homestead law of the United States and proper proof thereof, and shall not be required to pay the appraised values of such lands in addition to such compliance with the said homestead law. (Aug. 23, 1894, ch. 314, § 3, as added Apr. 23, 1904, ch. 1496, 33 Stat. 306.)

Chapter 27.—PUBLIC LANDS IN OKLAHOMA

GENERAL PROVISIONS

Sec.
1091. Homestead entries on Indian lands; soldiers' and sailors' homesteads; reservation of school and missionary lands; rights of railroads.
1092. Procedure; selections in square form; amount of holding; soldiers' and sailors' homesteads.
1093. Patents on homestead entries on payment twelve months after location.
1094. Town-site laws applicable; lands open to entry; reservations; rights of homestead settlers.
1095. Reservations between sections for highway purposes.
1096. Fraudulent settlement.
1097. Rights of occupants not impaired.
1098. Nonmineral character of lands.
1099. Division into counties before opening to settlement; reservation for county seats.
1100. Disposition of certain lands south of Cimarron base line; reservation of mineral deposits; time for filing patent applications.
1101. Same; relinquishment of title to town lots; reservation of mineral deposits.
1102. Same; management and disposition of reconveyed Choctaw and Chickasaw Indian lands.
1102a. Same; public or private sale of lands; relinquishments; preferences.
1102b. Same; sale or lease of lands to State of Oklahoma or other agency or organization; relinquishment of surface rights.
1102c. Same; quitclaim deeds; minimum price; reservation of mineral deposits; survey.
1102d. Same; easements, leases or permits.
1102e. Same; contributions or donations of money, services, and property.
1102f. Same; regulations.
1102g. Same; deposit of moneys.

TOWN SITES

1111. Entry by trustees.
1112. Evidence of occupancy.
1113. Church lots.
1114. Sale or reservation of lots.
1115. Kansas town-site law to govern.
1116. Preference of pending entries; appeals.
1117. Authority, duties, and compensation of trustees.
1118. Town-site laws extended to Cherokee Outlet.
1119. Vacation of town-sites; homestead entries; sale.

LANDS IN GREER COUNTY

1131. Homestead settlers on lands in Greer County.
1132. Unoccupied lands subject to homestead entry only.
1133. Town-site entries.
1134. Application restricted to Greer County; repeal: commutation of homesteads.

GENERAL PROVISIONS

§ 1091. Homestead entries on Indian lands; soldiers' and sailors' homesteads; reservation of school and missionary lands; rights of railroads.

Whenever any of the lands within the former Territory of Oklahoma, other than those specified in the first three paragraphs of section 18 of the Act of May 2, 1890, occupied on that date by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section 173 of this title, which shall not apply: *Provided, however,* That each settler, under and in

accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than $1.25 per acre. The rights of honorably discharged soldiers and sailors in the Civil War, as defined and described in sections 271 and 272 of this title, shall not be abridged except as to such payment. All tracts of land in former Oklahoma Territory which, prior to May 2, 1890, have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the former Oklahoma Territory shall inure to the use or benefit of any railroad corporation, except the rights-of-way and land for stations granted to certain railroad corporations prior to May 2, 1890. Nor shall any provision of sections 1091 to 1097 of this title or any act of any officer of the United States, done or performed under the provisions of said sections or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or the former Oklahoma Territory, with any land or right to any land in either of said Territories, and said sections shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation. (May 2, 1890, ch. 182, § 18, 26 Stat. 90.)

CODIFICATION

The word "former" preceding "Oklahoma Territory" did not appear in the original text of this section and succeeding sections, Oklahoma having been admitted as a State by act June 16, 1906, ch. 3335, 34 Stat. 267.

The portion of section 18 of act May 2, 1890, at the beginning thereof, preceding the part classified to this section, provided for reservation of school lands, and for entries under the homestead laws on the "Public Land Strip," and on lands ceded by the Muskogee (or Creek) and Seminole Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1092, 1097 of this title.

§ 1092. Procedure; selections in square form; amount of holding; soldiers' and sailors' homesteads.

The procedure in applications, entries, contests, and adjudications in the former Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of sections 1091 to 1097 of this title and the acts of Congress approved March 1 and 2, 1889, relating to the cession of lands of the Muscogee (or Creek) Nation of Indians, and the Seminole and Cherokee Indians, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof. All persons who shall settle on land in said Territory, under the provisions of the homestead laws of the United States, and of sections 1091 to 1097 of this title, shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory, shall after May 2, 1890, be entitled to enter land in the former Territory of Oklahoma. The provisions of sections 271 and 272 of this title shall, except so far as modified by sections 1091 to 1097 of this title, apply to all homestead settlements in said Territory. (May 2, 1890, ch. 182, § 20, 26, Stat. 91.)

REFERENCES IN TEXT

Acts Mar. 1 and 2, 1889, referred to in the text, are act Mar. 1, 1889, ch. 317, 25 Stat. 757, which ratified and confirmed an agreement with the Muskogee (or Creek) Indians for the cession of certain of their lands, and provided for homestead entries thereon, and act Mar. 2, 1889, ch. 412, 25 Stat. 1004, which appropriated money for payment to the Seminole Indians for lands ceded by them, and provided for entry thereon under the homestead laws, authorized negotiations for the cession of lands from the Cherokee Indians, and provided for the opening of said lands, if ceded, for settlement.

CODIFICATION

The words "relating to the cession of lands of the Muscogee (or Creek) Nation of Indians, and the Seminole and Cherokee Indians," did not appear in the original text, but were inserted to indicate the nature of the acts referred to.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1097 of this title.

§ 1093. Patents on homestead entries on payment twelve months after location.

Any person, entitled by law to take a homestead in the former Territory of Oklahoma, who has prior to May 2, 1890, located and filed upon, or shall thereafter locate and file upon, a homestead within the limits described in the President's proclamation of April 1, 1889, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of $1.25 per acre for land embraced in such homestead. (May 2, 1890, ch. 182, § 21, 26 Stat. 91.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1092, 1097 of this title.

§ 1094. Town-site laws applicable; lands open to entry; reservations; rights of homestead settlers.

The provisions of sections 711 to 715 and 717 to 724 of this title relating to reservation and sale of town sites on the public lands shall apply to the lands open, or to be opened to settlement in the former Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the 22d day of April 1889: *Provided,* That after May 2, 1890, all surveys for town sites in said former Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns

respectively when organized as municipalities: *Provided further,* That in case any lands in said former Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said former Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town-site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town site, and if such plat shall be approved by the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of $10 per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only. (May 2, 1890, ch. 182, § 22, 26 Stat. 91.)

APPROPRIATIONS

Effective July 1, 1935, the appropriation provided for in the last sentence of this section was repealed by act June 26, 1934, ch. 756, § 3, 48 Stat. 1226, which provided for certification of claims to Congress for appropriation. See section 725b (b) of Title 31, Money and Finance.

ADMISSION OF OKLAHOMA AS STATE

Oklahoma was admitted into the Union as a State by act June 16, 1906, ch. 3335, 34 Stat. 267.

INDIAN LANDS

The provisions of this section for commutation for town-site purposes of homestead entries was made applicable to certain ceded Indian lands in Oklahoma, by act Mar. 11, 1902, ch. 180, 32 Stat. 63.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1092, 1097, 1119 of this title.

§ 1095. Reservations between sections for highway purposes.

There shall be reserved public highways four rods wide between each section of land in said former Territory of Oklahoma, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey. (May 2, 1890, ch. 182, § 23, 26 Stat. 92.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1092, 1097 of this title.

§ 1096. Fraudulent settlement.

It shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the former Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding $1,000, or by both such fine and imprisonment, in the discretion of the court. (May 2, 1890, ch. 182, § 24, 26 Stat. 92.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1092, 1097 of this title.

§ 1097. Rights of occupants not impaired.

The provisions of sections 1091 to 1097 of this title shall not be so construed as to invalidate or impair any legal claims or rights of persons occupying prior to May 2, 1890, any portion of said former Territory of Oklahoma, under the laws of the United States, but such claims shall be adjudicated by the Land Department, or the courts, in accordance with their respective jurisdictions. (May 2, 1890, ch. 182, § 27, 26 Stat. 93.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies, and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1091, 1092 of this title.

§ 1098. Nonmineral character of lands.

All the lands in Oklahoma except as otherwise provided by law are declared to be agricultural lands, and proof of their nonmineral character shall not be required as a condition precedent to final entry. (Mar. 3, 1891, ch. 543, § 16, 26 Stat. 1026.)

CODIFICATION

This was the concluding provision of section 16 of act Mar. 3, 1891.

The preceding portion of section 16 of act Mar. 3, 1891, provided for the opening of certain lands of the Pottawatomie, Shawnee, and Cheyenne and Arapahoe Indians.

The words "except as otherwise provided by law" did not appear in the original text.

INDIAN LANDS

The laws relating to mineral lands were extended over certain ceded Indian lands by provisions of acts Mar. 2, 1895, ch. 188, 28 Stat. 899, and June 6, 1900, ch. 813, § 6, 31 Stat. 680.

§ 1099. Division into counties before opening to settlement; reservation for county seats.

Before any lands in Oklahoma are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into counties which shall contain as near as possible not less than seven hundred square miles in each county: *Provided,* That as soon as the county lines are designated by the Secretary he shall reserve not to exceed one-half section of land in each, to be located near the center of said county, for county seat purposes, to be entered under sections 718 and 719 of this title. (Mar. 3, 1891, ch. 543, § 37, 26 Stat. 1043.)

§ 1100. Disposition of certain lands south of Cimarron base line; reservation of mineral deposits; time for filing patent applications.

Whenever it shall be shown, under such regulations as the Secretary of the Interior may prescribe, that public land situated south of the Cimarron base line in Oklahoma and north of the north line of Texas has been used, improved, or cultivated in connection with abutting land, and has been held in good faith, in peaceful, open, adverse possession by a citizen or citizens of the United States, his or their ancestors, or grantors, for a period not less than twenty years prior to August 7, 1946, such citizen or citizens shall be entitled to receive a patent therefor upon payment of $1.25 per acre: *Provided,* That oil, gas, or other mineral deposits contained therein are reserved to the United States; that said minerals shall be and remain subject to sale or disposal by the United States under applicable laws; and that permittees, lessees, grantees, or agents of the United States shall have a right to enter upon said lands for the purpose of prospecting for and mining said minerals: *And provided further,* That any person entitled to patent under this section and section **1101** of this title shall present his application within one year from the official filing of the township plat. (Aug. 7, 1946, ch. 772, § 1, 60 Stat. 872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101 of this title.

§ 1101. Same; relinquishment of title to town lots; reservation of mineral deposits.

Where any land included within the area described in section 1100 of this title has been included in townsite plats recorded on the county records in Texas or Oklahoma, and the lots, blocks, streets, alleys, and highways, have been shown on the official United States township plats, according to such townsite plats, the title of the United States to town lots shown on such plats is relinquished to and confirmed in those persons, their heirs, assigns, or successors, who would be the true and lawful owners if the lands had been owned in fee simple at the time of the recordation of such townsite plats. The township plats representing streets and alleys of any townsite shall be considered as executed under the townsite laws, and shall constitute a dedication of the streets, alleys, and public highways shown thereon: *Provided,* That the oil, gas, or other mineral deposits in the land relinquished, confirmed, or dedicated by this section, are reserved to the United States for disposal as provided in section **1100** of this title. (Aug. 7, 1946, ch. 772, § 2, 60 Stat. 872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1100 of this title.

§ 1102. Same; management and disposition of reconveyed Choctaw and Chickasaw Indian lands.

The Secretary of the Interior is authorized to provide, in accordance with the terms of sections 1102 to 1102g of this title, for the management and disposition of any interest of the United States in those lands which were reconveyed to the United States by deeds of conveyance executed on November 29, 1950, by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, or which have been, or may be, reconveyed to the United States by any further and supplemental conveyances made under the authority of the Interior Department Appropriation Act of June 28, 1944 (58 Stat. 463, 483), the joint resolution of June 24, 1948 (62 Stat. 596), and the First Deficiency Appropriation Act of May 24, 1949 (63 Stat. 76, 84). (Aug. 3, 1955, ch. 498, § 1, 69 Stat. 445.)

REFERENCES IN TEXT

The Interior Department Appropriation Act of June 28, 1944, referred to in the text, is act June 28, 1944, ch. 298, 58 Stat. 463. For distribution in this Code, see Tables.

The joint resolution of June 24, 1948, referred to in the text, is Joint Res. June 24, 1948, ch. 618, 62 Stat. 596, which was not classified to the Code.

The First Deficiency Appropriation Act of May 24, 1949, referred to in the text, is act May 24, 1949, ch. 138, 63 Stat. 76. For distribution in this Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102a, 1102b, 1102c, 1102e, 1102f, 1102g of this title.

§ 1102a. Same; public or private sale of lands; relinquishment; preferences.

(a) The Secretary of the Interior, in order to facilitate the administration and management of the lands, to remove any clouds on the titles of any persons to interests in such lands, or to establish definite boundaries for such lands, may (1) sell any tract of the lands at public sale to the highest responsible bidder, or at private sale; or (2) relinquish any tract of such lands, with or without compensation, to any person having a legal or equitable interest therein. In passing upon a proposed disposition of any tract of land under this subsection, the Sectract involved is most suited and whether it may be retary shall take into account the uses to which the better utilized in private ownership.

(b) In selling any tract under subsection (a) of this section, the Secretary shall make such provision as he may deem appropriate to give a preference right to any occupant of the tract who has, or whose predecessors in interest have, lawfully and continuously occupied the tract for home, business, or school purposes since April 30, 1949, or earlier. The Secretary shall give any occupant who is lawfully in possession of a tract at the time of its offer for sale, an appropriate period within which such occupant may remove improvements constructed by him or by his predecessors in interest, or may elect to receive compensation for such improvements, from the successful purchaser of the tract in an amount equal to the appraised value of the improvements as determined by the Secretary.

(c) In disposing of an interest in any tract under sections 1102 to 1102g of this title, the Secretary may also give a preference right, when he deems it appropriate, to any owner of an interest in any land adjoining the tract to be disposed. (Aug. 3, 1955, ch. 498, § 2, 69 Stat. 445.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102b, 1102c, 1102e, 1102f, 1102g of this title.

§ 1102b. Same; sale or lease of lands to State of Oklahoma or other agency or organization; relinquishment of surface rights.

(a) The Secretary may sell or lease any tract under the provisions of sections 869 to 869–3 of this title, to the State of Oklahoma or any other agency or organization qualified under said sections.

(b) Upon the filing of an application by an appropriate local governing body within two years

after the first issuance of regulations under sections 1102 to 1102g of this title, the Secretary of the Interior may relinquish or convey to such body, without compensation, the surface rights to any tract of the lands which, prior to the transfer of title to the United States, was set apart for streets, alleys, or other public purposes, even though not legally dedicated to such purposes. (Aug. 3, 1955, ch. 498, § 3, 69 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102c, 1102e, 1102f, 1102g of this title.

§ 1102c. Same; quitclaim deeds; minimum price; reservation of mineral deposits; survey.

(a) The Secretary of the Interior shall issue quitclaim deeds for any lands disposed of under section 1102a or 1102b of this title. The Secretary shall fix through appraisal the minimum price to be paid for lands that are offered for sale under subsection (a) (1) of section 1102a of this title. If any lands are relinquished under subsection (a) (2) of section 1102a of this title, without compensation, the Secretary shall require the grantee to pay a service charge of not less than $10.

(b) And deed for lands disposed of under section 1102a of this title shall contain a reservation to the United States of all mineral deposits, together with the right to prospect for, mine, and remove the same under applicable provisions of law. Any deed for lands disposed of under sections 1102 to 1102g of this title shall contain any provision which the Secretary determines is necessary in order to protect the rights of the holders of existing interests in the lands, or to permit access to any of the lands in which the Federal Government retains an interest.

(c) If a survey is necessary to describe properly any lands that are to be disposed of under sections 1102 to 1102g of this title, the Secretary shall require the proposed grantee to pay the proportionate cost of such survey. (Aug. 3, 1955, ch. 498, § 4, 69 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102b, 1102e, 1102f, 1102g of this title.

§ 1102d. Same; easements, leases or permits.

The Secretary of the Interior may issue easements, leases, or permits for the development and use of nonmineral resources of the lands or may sell such resources. (Aug. 3, 1955, ch. 498, § 5, 69 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102b, 1102c, 1102e, 1102f, 1102g of this title.

§ 1102e. Same; contributions or donations of money, services, and property.

The Secretary of the Interior may accept contributions or donations of money, services, and property to further the provisions of sections 1102 to 1102g of this title. Moneys received under this section shall be covered into the Treasury and are appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to contributors of amounts contributed by them in excess of their appropriate share of such expenses, as determined by the Secretary. (Aug. 3, 1955, ch. 498, § 6, 69 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102b, 1102c, 1102f, 1102g of this title.

§ 1102f. Same; regulations.

The Secretary of the Interior may issue such regulations as may be necessary or appropriate to carry out the provisions of sections 1102 to 1102g of this title, including regulations providing for the protection of the surface and other nonmineral values of lands disposed of under said sections whenever any mineral rights reserved to the United States are exercised by it or under its authority. (Aug. 3, 1955, ch. 498, § 7, 69 Stat. 447.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102b, 1102c, 1102e, 1102g of this title.

§ 1102g. Same; deposit of moneys.

All moneys realized under the provisions of sections 1102 to 1102g of this title, except moneys received under the provisions of section 1102e of this title, shall be deposited in the Treasury as miscellaneous receipts. (Aug. 3, 1955, ch. 498, § 8, 69 Stat. 447.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1102a, 1102b, 1102c, 1102e, 1102f of this title.

TOWN SITES

§ 1111. Entry by trustees.

So much of the public lands situate in the former Territory of Oklahoma, open to settlement prior to May 14, 1890, as may be necessary to embrace all the legal subdivisions covered by actual occupancy for purposes of trade and business, not exceeding twelve hundred and eighty acres in each case, may be entered as town sites, for the several use and benefit of the occupants thereof, by three trustees to be appointed by the Secretary of the Interior for that purpose, such entry to be made under the provisions of section 718 of this title as near as may be; and when such entry shall have been made, the Secretary of the Interior shall provide regulations for the proper execution of the trust by such trustees, including the survey of the land into streets, alleys, squares, blocks, and lots when necessary, or the approval of such survey as may already have been made by the inhabitants thereof, the assessment upon the lots of such sum as may be necessary to pay for the lands embraced in such town site, costs of survey, conveyance of lots, and other necessary expenses, including compensation of trustees: *Provided*, That the Secretary of the Interior may when practicable cause more than one town site to be entered and the trust thereby created executed in the manner herein provided by a single board of trustees, but not more than seven boards of trustees in all shall be appointed for said Territory, and no more than two members of any of said boards shall be appointed from one political party.

On January 1, 1899, the boards of trustees for town sites, and each of them in said Territory, shall cease

and be abolished, and no compensation shall be allowed or paid to anyone, member or trustee or disbursing agent, on or after January 1, 1899. And so much of the trust vested in said boards and prior to July 7, 1898, initiated as shall remain unexecuted on said date shall be vested in the Commissioner of the General Land Office, who is authorized and empowered to complete the same. (May 14, 1890, ch. 207, § 1, 26 Stat. 109; July 7, 1898, ch. 571, § 1, 30 Stat. 674.)

CODIFICATION

The first paragraph of this section is from act May 14, 1890.

The second paragraph of this section was a proviso annexed to an appropriation for the boards on townsite entries in act July 7, 1898.

The word "former" before "Territory of Oklahoma" did not appear in the original text, Oklahoma being admitted into the Union as a State by act June 16, 1906, ch. 3335, 34 Stat. 267.

INDIAN LANDS

Special provisions relating to townsites upon lands ceded by particular Indian bands or tribes were made by acts May 2, 1890, ch. 182, § 22, 26 Stat. 91, and Mar. 11, 1902, ch. 180, 32 Stat. 63.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or such officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1116, 1117, 1118 of this title.

§ 1112. Evidence of occupancy.

In the execution of such trust, and for the purpose of the conveyance of title by said trustees, or by the Commissioner, after January 1, 1899, any certificate or other paper evidence of claim duly issued by the authority recognized for such purpose by the people residing upon any town site the subject of entry hereunder, shall be taken as evidence of the occupancy by the holder thereof of the lot or lots therein described, except that where there is an adverse claim to said property such certificate shall only be prima facie evidence of the claim of occupancy of the holder: *Provided,* That nothing in sections 1111 to 1117 of this title shall be so construed as to make valid any claim invalid, prior to May 14, 1890, of those who entered upon and occupied said lands in violation of the laws of the United States or the proclamation of the President thereunder: *Provided further,* That the certificates hereinbefore mentioned shall not be taken as evidence in favor of any person claiming lots who entered upon said lots in violation of law or the proclamation of the President thereunder. (May 14, 1890, ch. 207, § 2, 26 Stat. 109; July 7, 1898, ch. 571, 30 Stat. 674.)

CODIFICATION

The words "or by the Commissioner, after January 1, 1899," did not appear in the original text. Under act July 7, 1898, incorporated in section 1111 of this title, boards of trustees were abolished on Jan. 1, 1899, and the unexecuted portion of their trusts vested in the Commissioner of the General Land Office.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or that officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1116, 1117, 1118 of this title.

§ 1113. Church lots.

Lots of land occupied by any religious organization, incorporated or otherwise, conforming to the approved survey within the limits of such town site, shall be conveyed to or in trust for the same. (May 14, 1890, ch. 207, § 3, 26 Stat. 109.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1116, 1117, 1118 of this title.

§ 1114. Sale or reservation of lots.

All lots not disposed of as hereinbefore provided for shall be sold under the direction of the Secretary of the Interior for the benefit of the municipal government of any such town, or the same or any part thereof may be reserved for public use as sites for public buildings, or for the purpose of parks, if in the judgment of the Secretary such reservation would be for the public interest, and the Secretary shall execute proper conveyances to carry out the provisions of this section. (May 14, 1890, ch. 207, § 4, 26 Stat. 109.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1116, 1117, 1118 of this title.

§ 1115. Kansas town-site law to govern.

The provisions of sections 4, 5, 6, and 7 of an act of the Legislature of the State of Kansas, entitled "An act relating to town sites", approved March 2, 1868, shall, so far as applicable, govern the trustees, or the commissioner after January 1, 1899, in the performance of their duties hereunder. (May 14, 1890, ch. 207, § 5, 26 Stat. 109; July 7, 1898, ch. 571, 30 Stat. 674.)

REFERENCES IN TEXT

For Kansas Act Mar. 2, 1868, §§ 4–7, referred to in the text, see Kansas G.S. 1949, 67–601.

CODIFICATION

The words "or the Commissioner after January 1, 1899," did not appear in the original text. They refer to the Commissioner of the General Land Office who took charge of the unexecuted portions of the trusts vested in the boards of trustees on such date, under act July 7, 1898,

incorporated in section 1111 of this title, which abolished aboards of trustees on Jan. 1, 1899.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or that officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1116, 1117, 1118 of this title.

§ 1116. Preference of pending entries; appeals.

All entries of town sites pending, prior to May 14, 1890, on application thereafter made under sections 1111 to 1117 of this title shall have preference at the local land office of the ordinary business of the office and shall be determined as speedily as possible, and if an appeal shall be taken from the decision of the local office in any such case to the Commissioner of the General Land Office, the same shall be made special, and disposed of by him as expeditiously as the duties of his office will permit, and so if an appeal should be taken to the Secretary of the Interior. And all applications, prior to May 14, 1890, filed in the proper land office shall have the same force and effect as if made under the provisions of sections 1111 to 1117 of this title, and upon the application of the trustees herein provided for, or of the commissioner after January 1, 1899, such entries shall be prosecuted to final issue in the names of such trustees or commissioner without other formality, and when final entry is made the title of the United States to the land covered by such entry shall be conveyed to said trustees or commissioner for the uses and purposes provided in said sections. (May 14, 1890, ch. 207, § 6, 26 Stat. 110; July 7, 1898, ch. 571, 30 Stat. 674.)

CODIFICATION

The words "or the Commissioner after January 1, 1899," and subsequent references to the Commissioner, did not appear in the original text. They refer to the Commissioner of the General Land Office, who, under act July 7, 1898, incorporated in section 1111 of this title, was, on Jan. 1, 1899, vested with the unexecuted portions of the trusts formerly vested in the boards of trustees.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or that officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1117, 1118 of this title.

§ 1117. Authority, duties, and compensation of trustees.

The trustees appointed under sections 1111 to 1117 of this title, or the commissioner after January 1, 1899, shall have the power to administer oaths, to hear and determine all controversies arising in the execution of said sections, shall keep a record of their proceedings, which shall, with all papers filed with them and all evidence of their official acts, except conveyances, be filed in the General Land Office and become part of the records of the same, and all conveyances executed by them shall be acknowledged before an officer duly authorized for that purpose. They shall be allowed prior to January 1, 1899, such compensation as the Secretary of the Interior may prescribe, not exceeding $10 per day while actually employed; and such traveling and other necessary expenses as the Secretary may authorize and the Secretary of the Interior shall also provide them with necessary clerical force by detail or otherwise. (May 14, 1890, ch. 207, § 7, 26 Stat. 110; July 7, 1898, ch. 571, 30 Stat. 674.)

CODIFICATION

The words "or the Commissioner after January 1, 1899," at the beginning of this section, and "prior to January 1, 1899," preceding "such compensation as the Secretary of the Interior may prescribe" did not appear in the original text. Act July 7, 1898, incorporated into section 1111 of this title, abolished the boards of trustees on Jan. 1, 1899, vested the unexecuted portions of their trusts in the Commissioner of the General Land Office and it also provided that no compensation should be paid after Jan. 1, 1899.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or that officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1112, 1116, 1118 of this title.

§ 1118. Town-site laws extended to Cherokee Outlet.

The provisions of sections 1111 to 1117 of this title are made applicable to the territory known as the "Cherokee Outlet", and on September 1, 1893, a part of the Territory of Oklahoma. (Sept. 1, 1893, No. 4, 28 Stat. 11.)

CODIFICATION

An omitted provision of the original text repealed inconsistent laws.

ADMISSION OF OKLAHOMA AS STATE

Oklahoma, referred to in the text as a territory, was admitted into the Union as a State by act June 16, 1906, ch. 3335, 34 Stat. 267.

PROCLAMATION

The Cherokee Outlet was opened to settlement by Proclamation No. 5, of Aug. 19, 1893, 28 Stat. 1222.

§ 1119. Vacation of town-sites; homestead entries; sale.

In all cases where a town site, or an addition to a town site, entered under the provisions of section 1094 of this title shall be vacated in accordance with the laws of Oklahoma, and patents for the public reservations in such vacated town site, or addition thereto, have not been issued, it shall be lawful for the Secretary of the Interior, or such officer as he may designate, upon an official showing that such town site, or addition thereto, has been vacated, and upon payment of the homestead price for such reservations, to issue a patent for such reservations to the original entryman. If the original entryman shall fail or neglect to make application for the reservations within six months from the vacation of such town site, or from May 11, 1896, the reservations shall be subject to disposal under the provisions of section 1171 of this title.

If a patent has issued prior to May 11, 1896, or shall thereafter issue, for any such reservation, to any town or municipality, such town or municipality, upon the vacation of the town site or addition thereto, as aforesaid, may sell the same at public or private sale to the highest bidder after thirty days' public notice of such sale, and convey said lands to the purchaser by proper deed of conveyance, and cover the proceeds of such sale into the school fund of such town or municipality: *Provided,* That where, by reason of the vacation of an entire town site and all its additions, the municipal organization has ceased to exist, the reservations in such vacated town site which may have been patented to the town may be disposed of as isolated tracts under the provisions of section 1171 of this title. **(May 11, 1896, ch. 168, §§ 1, 2, 29 Stat. 117; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)**

CODIFICATION

The first and second pars. of this section are comprised of sections 1 and 2 of act May 11, 1896, respectively. The words "Territory of" preceding "Oklahoma" in the original text are omitted from this section, Oklahoma having been admitted into the Union as a state by act June 16, 1906, ch. 3335, 34 Stat. 267.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior, or such officer as he may designate," was substituted for "Commissioner of the General Land Office," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

LANDS IN GREER COUNTY

§ 1131. Homestead settlers on lands in Greer County.

Every person qualified under the homestead laws of the United States, who, on March 16, 1896, was a bona fide occupant of land within the territory established as Greer County, Oklahoma, shall be entitled to continue his occupation of such land with improvements thereon, not exceeding one hundred and sixty acres, and shall be allowed until January 1, 1898, the preference right, within which to initiate his claim thereto, and shall be entitled to perfect title thereto under the provisions of the homestead law, upon payment of land office fees only, at the expiration of five years from the date of entry, except that such person shall receive credit for all time during which he or those under whom he claims shall have continuously occupied the same prior to March 16, 1896. Every such person shall, until January 1, 1898, also have the right, prior to all other persons, to purchase at $1 an acre, in five equal annual payments, any additional land of which he was in actual possession on March 16, 1896, not exceeding one hundred and sixty acres, which, prior to said date, shall have been cultivated, purchased, or improved by him. When any person entitled to a homestead or additional land, as above provided, is the head of a family, and though still living, shall not take such homestead or additional land, prior to January 1, 1898, any member of such family over the age of twenty-one years, other than husband or wife, shall succeed to the right to take such homestead or additional land for three months longer, and any such member of the family shall also have the right to take, as before provided, any excess of additional land actually cultivated or improved prior to March 16, 1896, above the amount to which such head of the family is entitled, not to exceed one hundred and sixty acres to any one person thus taking as a member of such family.

In case of the death of any settler who actually established residence and made improvement on land in said Greer County prior to March 16, 1896, the entry shall be treated as having accrued at the time the residence was established, and sections 164 and 171 of this title shall be applicable thereto.

The above provisions of this section are so extended as to allow parties who, prior to March 1, 1899, have had the benefit of the homestead laws of the United States, and who had purchased land in Greer County from the State of Texas prior to March 16, 1896, to perfect titles to said lands according to the provisions of this section, under such regulations as the Commissioner of the General Land Office may prescribe, and according to the legal subdivisions of the public surveys, if no adverse rights have attached: *Provided,* That no settler shall be permitted to acquire to exceed three hundred and twenty acres under this provision. **(Jan. 18, 1897, ch. 62, § 1, 29 Stat. 490; June 23, 1897, ch. 8, 30 Stat. 105; Mar. 1, 1899, ch. 328, 30 Stat. 966.)**

CODIFICATION

Act Mar. 1, 1899 added par. relating to right of purchasers from Texas to perfect title under the homestead laws.

Act June 23, 1897 extended the time within which the preference right was to be exercised from six months from Jan. 18, 1897 to Jan. 1, 1898. Conforming changes were made by the insertion of, "until January 1, 1898," following "Every such person shall", the deletion of "for six months" following "also have the right," and the substitution of "prior to January 1, 1898" for "within six months from January 18, 1897" following "such homestead or additional land,".

Provisions constituting the third par. of Act Jan. 18, 1897 and formerly classified as the third par. of this section provided for a right of removal of crops and improvements on land not taken by person entitled to the homestead or additional land.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

The office of Commissioner of the General Land Office was abolished and its functions transferred to the Secretary of the Interior or that officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132, 1133, 1134 of this title.

§ 1132. Unoccupied lands subject to homestead entry only.

All land in said county not occupied, cultivated, or improved, as provided in section 1131 of this title, or not included within the limits of any town site or reserve shall be subject to entry to actual settlers only, under the provisions of the homestead law. (Jan. 18, 1897, ch. 62, § 2, 29 Stat. 490.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1133, 1134 of this title.

§ 1133. Town-site entries.

The inhabitants of any town located in said county shall be entitled to enter the same as a town site under the provisions of sections 718 to 720 of this title: *Provided*, That all persons who have made or own improvements on any town lots in said county made prior to March 16, 1896, shall have the preference right to enter said lots under sections 1131 to 1134 of this title and of the general town site laws. (Jan. 18, 1897, ch. 62, § 3, 29 Stat. 490.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134 of this title.

§ 1134. Application restricted to Greer County; repeal; commutation of homesteads.

The provisions of sections 1131 to 1134 of this title shall apply only to Greer County, Oklahoma, and all laws, existing prior to January 18, 1897, inconsistent with the provisions of said sections applying to said territory in said county, are repealed; and all laws authorizing commutations of homesteads in Oklahoma shall apply to Greer County. (Jan. 18, 1897, ch. 62, § 7, 29 Stat. 491.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1133 of this title.

Chapter 28.—MISCELLANEOUS PROVISIONS RELATING TO THE PUBLIC LANDS

PATENTS FOR PRIVATE LAND CLAIMS

Sec.
1151. Patents for confirmed claims.
1152. Patents to persons dead before issue; effect of.
1153. Titles to lands in Missouri confirmed.
1154. Same; existing rights not affected.
1155. Certificates of location of private land claims; issue and location.
1156. Patents for locations under certificates made prior to January 28, 1879.

DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

Sec.
1161. "Suspended entries of public lands" and "suspended preemption land claims".
1162. Adjudications as to suspended entries; approval.
1163. Patents surrendered and new ones issued.
1164. Extent of foregoing provisions.
1165. Suspension of entries for correction of clerical errors; patents.
1166. Limitations of suits to annul patents.
1167. Entries and final proofs, made out of proper district, confirmed.

SALES OF ISOLATED TRACTS

1171. Sale of isolated or disconnected tracts.
1171a. Application of section 1171 to certain lands in Oklahoma.
1171b. Application of section 1171 to certain lands in Alabama.
1172. Sale of ceded Chippewa Indian lands.
1173. Sale of isolated tracts in former Fort Berthold Indian Reservation.
1174. Repealed.
1175. Sale of isolated tracts in abandoned Fort Buford Military Reservation.
1176. Sale of lands on former Fort Hall Indian Reservation.
1177. Sale of lands on Crow Indian Reservation, Montana.

TIMBER CULTURE

1181. Repeal of laws.

OREGON AND CALIFORNIA RAILROAD AND COOS BAY WAGON ROAD GRANT LANDS

1181a. Conservation management by Department of Interior; permanent forest production; sale of timber; subdivision.
1181b. Cooperative agreements with other agencies or private owners for coordinated administration.
1181c. Classification of lands more suitable for agricultural use; reclassification.
1181d. Leasing of lands for grazing; disposition of moneys; rules and regulations covering grazing lands.
1181e. Rules and regulations generally; consultation and agreements with other agencies regarding fire regulations.
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PATENTS FOR PRIVATE LAND CLAIMS

§ 1151. Patents for confirmed claims.

In case of any claim to land in any State or Territory which had, prior to December 22, 1854, been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been made, to issue patents for the claims so confirmed, upon the presentation to the Secretary of the Interior, or such officer as he may designate, of plats of survey thereof, duly approved by such surveying officer as the Secretary may designate, if the same be found correct by the Secretary or such officer as he may designate. But such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land. (R. S. § 2447; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Dec. 22, 1854, ch. 10, 10 Stat. 599.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate," and "Supervisor of Surveys" was changed to "such surveying officer as the Secretary may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Titles to lands in Missouri granted, released, and relinquished by United States, in fee simple, to respective equitable owners, see section 1153 of this title.

§ 1152. Patents to persons dead before issue; effect of.

Where patents for public lands have been or may be issued, in pursuance of any law of the United States, to a person who has died before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentee as if the patent had issued to the deceased person during life. (R. S. § 2448.)

DERIVATION

Act May 20, 1836, ch. 76, 5 Stat. 31.

§ 1153. Titles to lands in Missouri confirmed.

All of the right, title, and interest of the United States in and to all of the lands in the State of Missouri which, prior to June 6, 1874, had been confirmed to any person or persons by any Act of Congress, or by any officer or officers, or board or boards of commissioners, acting under and by authority of any Act of Congress, shall be and the same are granted, released, and relinquished by the United States, in fee simple, to the respective owners of the equitable titles thereto, and to their respective heirs and assigns forever, as fully and as completely, in every respect whatever, as could be done by patents issued therefor according to law. (June 6, 1874, ch. 223, § 1, 18 Stat. 62.)

CROSS REFERENCES

Restriction on right of private entry on public lands except in Missouri, see section 700 of this title and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1154. Same; existing rights not affected.

Nothing contained in section 1153 of this title shall, in any manner, abridge, divest, impair, injure, or prejudice any valid right, title or interest of any person or persons in or to any portion or part of the lands mentioned in said section; and this section and section 1153 of this title shall in nowise affect any lands or lots relinquished to the United States prior to June 6, 1874. (June 6, 1874, ch. 223, § 2, 18 Stat. 62.)

§ 1155. Certificates of location of private land claims; issue and location.

Whenever, in cases prosecuted under the Acts of Congress of June 22, 1860, March 2, 1867, and the first section of the Act of June 10, 1872, providing for the adjustment of private land claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at $1.25 per acre, or to receive certificate of location for as much of the

land, the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Secretary of the Interior, or such officer as he may designate, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid Act of Congress of June 22, 1860, or applied according to the provisions of this section; and said certificate of location or scrip shall be subdivided according to the request of the confirmee or confirmees, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Secretary, or such officer, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name. Such scrip shall be received from actual settlers only in payment of preemption claims or in commutation of homestead claims, in the same manner and to the same extent as on January 28, 1879, was authorized by law in the case of military bounty-land warrants. The officer designated by the Secretary of the Interior of the proper land office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Secretary of the Interior, or such officer as he may designate, that such certificate has been fairly obtained, according to the true intent and meaning of this section, a patent shall issue, as in other cases, in the name of the locator or his legal representative. The provisions of this section respecting the assignment and patenting of scrip and its application to preemption and homestead claims shall apply to the indemnity certificates of location provided for by the Act of the 2d of June 1858, entitled "An Act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes." (Jan. 28, 1879, ch. 30, §§ 1—4, 20 Stat. 274, 275; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

First and third references to "Commissioner of the General Land Office" were changed to "Secretary of the Interior, or such officer as he may designate,"; second reference thereto was changed to "Secretary, or such officer," and "register" was changed to "officer designated by the Secretary of the Interior", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Restriction on private entry of public lands except in Missouri, see section 700 of this title and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1156 of this title.

§ 1156. Patents for locations under certificates made prior to January 28, 1879.

It shall be lawful for the Secretary of the Interior, or such officer as he may designate, to cause patents to be issued, as evidence of title, for all valid locations made with land scrip issued pursuant to decrees of the Supreme Court of the United States, which valid locations were made prior to January 28, 1879, in the same manner that patents are issued under the provisions of section 1155 of this title. (May 30, 1894, ch. 87, 28 Stat. 84; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Restriction on private entry of public lands except in Missouri, see section 700 of this title and note thereunder.

DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

§ 1161. "Suspended entries of public lands" and "suspended preemption land claims."

The Secretary of the Interior, or such officer as he may designate, is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be approved by the Secretary of the Interior, consistently with such principles, all cases of suspended entries of public lands and of suspended preemption land claims, and to adjudge in what cases patents shall issue upon the same. (R. S. § 2450; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; Sept. 20, 1922, ch. 350, 42 Stat. 857; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Aug. 3, 1846, ch. 78, § 1, 9 Stat. 51; Mar. 3, 1853, ch 152, § 1, 10 Stat. 258; June 26, 1856, ch. 47, 11 Stat. 22; June 1, 1874, ch. 200, 18 Stat. 50; Feb. 27, 1877, ch. 69, 19 Stat. 244.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Alaska Public Sale Act, equitable principles applicable to sales under, see section 687b–5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 687b–5, 1164 of this title.

§ 1162. Adjudications as to suspended entries; approval.

Every such adjudication shall be approved by the Secretary of the Interior and shall operate only to divest the United States of the title to the land embraced thereby, without prejudice to the rights of conflicting claimants. (R. S. § 2451; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; Sept. 20, 1922, ch. 350, 42 Stat. 858.)

DERIVATION

Acts Aug. 3, 1846, ch. 78, § 1, 9 Stat. 51; Feb. 27, 1877, ch. 69, 19 Stat. 244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1164 of this title.

§ 1163. Patents surrendered and new ones issued.

Where patents have been already issued on entries which are approved by the Secretary of the Interior, the Secretary of the Interior, or such officer as he may designate, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such approval, to the person who made the entry, his heirs or assigns. (R. S. § 2456; Sept. 20, 1922, ch. 350, 42 Stat. 858; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act Mar. 3, 1853, ch. 152, § 2, 10 Stat. 258.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1164 of this title.

§ 1164. Extent of foregoing provisions.

Sections 1161 to 1163 of this title shall be applicable to all cases of suspended entries and locations, which have arisen in the Bureau of Land Management since the 26th day of June 1856 as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and preemption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or preemptor are prejudiced, or where there is no adverse claim. (R. S. § 2457; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Act June 26, 1856, ch. 47, 11 Stat. 22.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Land Management" was substituted for "General Land Office" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Issuance of bounty land warrants, see note under former section 785 of this title.

§ 1165. Suspension of entries for correction of clerical errors; patents.

Whenever it shall appear to the Secretary of the Interior, or such officer as he may designate, that a clerical error has been committed in the entry of any of the public lands such entry may be suspended, upon proper notification to the claimant, through the local land office, until the error has been corrected; and all entries made under the preemption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued, and to which there are no adverse claims originating prior to final entry and which have been sold or incumbered prior to the 1st day of March, 1888, and after final entry, to bona fide purchasers, or incumbrancers, for a valuable consideration, shall unless upon an investigation by a Government agent, fraud on the part of the purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the Land Department of such sale or incumbrance: *Provided,* That after the lapse of two years from the date of the issuance of the receipt of such officer as the Secretary of the Interior may designate upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or preemption laws, or under the Act of March 3, 1891, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor. (Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of Mar. 3, 1891, referred to in the text, is act Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098. For distribution of such act in this Code, see Tables.

REPEALS

Repeal of "Act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under said law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1,

2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate,"; and "register's receipt" was changed to "receipt of such officer as the Secretary of the Interior may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 1166. Limitations of suits to annul patents.

Suits by the United States to vacate and annul any patent shall only be brought within six years after the date of the issuance of such patents. (Mar. 3, 1891, ch. 559, § 1, 26 Stat. 1093; Mar. 3, 1891, ch. 561, § 8, 26 Stat. 1099.)

§ 1167. Entries and final proofs, made out of proper district, confirmed.

Whenever it shall appear to the Secretary of the Interior, or such officer as he may designate, that an error was made prior to March 9, 1904, by the officers of any local land office in receiving any application, declaratory statement, entry, or final proof under the homestead or other land laws, and that there was no fraud practiced by the entryman, and that there are no prior adverse claimants to the land described in the entry, and that no other reason why the title should not vest in the entryman exists, except that said application, declaratory statement, entry, or proof was not made within the land district in which the lands applied for were situated, as provided by the Act of March 11, 1902, such entry or proof shall be confirmed. (Mar. 9, 1904, ch. 503, § 1, 33 Stat. 64; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of March 11, 1902, referred to in text, is classified to section 254 of this title, and former sections 481 and 491 of Title 28. See sections 541 and 561 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of the General Land Office" was changed to "Secretary of the Interior, or such officer as he may designate," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SALES OF ISOLATED TRACTS

§ 1171. Sale of isolated or disconnected tracts.

Notwithstanding the provisions of sections 212, 321, 662, 678, and 945 of this title, it shall be lawful for the Secretary of the Interior to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than the appraised value, any isolated or disconnected tract or parcel of the public domain not exceeding one thousand five hundred and twenty acres which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land office of the district in which such land may be situated: *Provided,* That for a period of not less than thirty days after the highest bid has been received, any owner or owners of contiguous land shall have a preference right to buy the offered lands at such highest bid price, and where two or more persons apply to exercise such preference right the Secretary of the Interior is authorized to make an equitable division of the land among such applicants, but in no case shall the adjacent land owner or owners be required to pay more than three times the appraised price: *Provided further,* That any legal subdivisions of the public land, not exceeding seven hundred and sixty acres, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of the said Secretary, be ordered into the market and sold pursuant to this section upon the application of any person who owns land or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this section: *Provided further,* That this section shall not defeat any valid right which has already attached under any pending entry or location. The word "person" in this section shall be deemed to include corporations, partnerships, and associations. (R. S. § 2455; Feb. 26, 1895, ch. 133, 28 Stat. 687; June 27, 1906, ch. 3554, 34 Stat. 517; Mar. 28, 1912, ch. 67, 37 Stat. 77; Mar. 9, 1928, ch. 164, 45 Stat. 253; June 28, 1934, ch. 865, § 14, 48 Stat. 1274; July 30, 1947, ch. 383, 61 Stat. 630.)

DERIVATION

Act Aug. 3, 1846, ch. 78, § 5, 9 Stat. 51.

AMENDMENTS

1947—Act July 30, 1947, increased the size of the isolated tract or parcel allowed sold at public auction from seven hundred and sixty acres to one thousand five hundred and twenty, and substituted seven hundred and sixty acres for one hundred and sixty in second proviso.

CROSS REFERENCES

Oil, coal and gas deposit bearing lands in Alaska, sale under provisions of this section, see section 270–13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 208, 270–13, 671, 1119, 1171a, 1171b, 1172, 1173, 1175, 1176, 1177, 1181c of this title; title 30 section 601.

§ 1171a. Application of section 1171 to certain lands in Oklahoma.

All the provisions of section 1171 of this title are extended to surveyed, unreserved, unappropriated nonmineral public lands in that part of the State of Oklahoma formerly comprised in Oklahoma Territory: *Provided,* That this section shall not apply to any such area where under existing law such lands were on April 24, 1928, subject to public or private sale: *Provided further,* That the proceeds of all sales hereunder shall be deposited in the Treasury of the United States to the credit of such fund or funds as may be provided by existing law for the disposition of such lands. (Apr. 24, 1928, ch. 428, 45 Stat. 457.)

§ 1171b. Application of section 1171 to certain lands in Alabama.

The provisions of section 1171 of this title are extended to the surveyed, unreserved, unappropriated public lands in the State of Alabama which have

been reported as containing coal deposits and which were withheld from homestead entry under the provisions of section 171 of Title 30, but there shall be a reservation to the United States of the coal in all such lands so sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of sections 83 to 85 of Title 30, and such lands shall be subject to all the conditions and limitation of said sections. (May 23, 1930, ch. 313, 46 Stat. 377.)

§ 1172. Sale of ceded Chippewa Indian lands.

The provisions of section 1171 of this title, relating to the sale of isolated tracts of the public domain, are extended and made applicable to ceded Chippewa Indian lands in the State of Minnesota: *Provided,* That the provisions of this section shall not apply to lands which are not subject to homestead entry: *Provided further,* That purchasers of land under this section must pay for the lands not less than the price fixed in the law opening the lands to homestead entry. (Feb. 4, 1919, ch. 13, 40 Stat. 1055.)

§ 1173. Sale of isolated tracts in former Fort Berthold Indian Reservation.

The provisions of section 1171 of this title are extended and made applicable to lands within the portion of the Fort Berthold Indian Reservation, North Dakota, opened under the Act of June 1, 1910 (Thirty-sixth Statutes at Large, page 455): *Provided,* That the provisions of this section shall not apply to lands which are not subject to homestead entry: *Provided further,* That purchasers of land under this section shall pay for the lands not less than the price fixed in the law opening such lands to homestead entry. (May 10, 1920, ch. 178, 41 Stat. 595.)

§ 1174. Repealed. Aug. 28, 1937, ch. 876, title II, § 201 (c), 50 Stat. 876.

Section, act May 25, 1920, ch. 200, 41 Stat. 622, which related to sale of class 3 of the revested Oregon and California Railroad grant lands, is now covered by sections 1181a—1181f of this title. See repeal note under section 1181a of this title.

§ 1175. Sale of isolated tracts in abandoned Fort Buford Military Reservation.

The provisions of section 1171 of this title are extended to all nonmineral lands within the abandoned Fort Buford Military Reservation in the States of North Dakota and Montana, which were restored to disposal under the homestead, town-site, and desert-land laws under the provisions of the Act of May 19, 1900 (Thirty-first Statutes at Large, page 180). (Aug. 11, 1921, ch. 62, 42 Stat. 159.)

§ 1176. Sale of lands on former Fort Hall Indian Reservation.

The provisions of section 1171 of this title are made applicable to the ceded lands on the former Fort Hall Indian Reservation: *Provided,* That no land shall be sold at less than the price fixed by the law opening the lands to homestead entry. (May 19, 1926, ch. 337, 44 Stat. 566.)

§ 1177. Sale of lands on Crow Indian Reservation, Montana.

The provisions of section 1171 of this title are made applicable to lands within the portion of the Crow Indian Reservation, Montana, ceded by the Act of March 3, 1891 (26 Statutes at Large, page 1040). (Feb. 14, 1931, ch. 170, 46 Stat. 1105.)

TIMBER CULTURE

§ 1181. Repeal of laws.

An Act entitled "An Act to amend an Act entitled 'An Act to encourage the growth of timber on the western prairies,'" approved June 14, 1878, and all laws supplementary thereto or amendatory thereof are repealed: *Provided,* That this repeal shall not affect any valid rights accrued or accruing under said laws but all bona fide claims lawfully initiated prior to March 3, 1891, may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this section had not been passed: *Provided further,* That the following words of the last clause of section 2 of said Act, namely, "That not less than twenty-seven hundred trees were planted on each acre," are repealed: *Provided further,* That in computing the period of cultivation the time shall run from the date of the entry, if the necessary acts of cultivation were performed within the proper time: *Provided further,* That the preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute: *Provided further,* That if trees, seeds, or cuttings were in good faith planted as provided by law and the same and the land upon which so planted were thereafter in good faith cultivated as provided by law for at least eight years by a person qualified to make entry and who has a subsisting entry under the timber-culture laws, final proof may be made without regard to the number of trees that may have been then growing on the land: *And provided,* That any person who has made entry of any public lands of the United States under the timber-culture laws, and who has for a period of four years in good faith complied with the provisions of said laws and who is an actual bona fide resident of the State or Territory in which said land is located shall be entitled to make final proof thereto, and acquire title to the same, by the payment of $1.25 per acre for such tract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, and such officers as the Secretary may designate shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries: *And provided further,* That no land acquired under the provisions of this section shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor. (Mar. 3, 1891, ch. 561, § 1, 26 Stat. 1095; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers,

agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reference to "registers" was changed to "such officers as the Secretary may designate" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

OREGON AND CALIFORNIA RAILROAD AND COOS BAY WAGON ROAD GRANT LANDS

§ 1181a. Conservation management by Department of Interior; permanent forest production; sale of timber; subdivision.

Notwithstanding any provisions in the Acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), as amended, such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, shall be managed, except as provided in section 1181c of this title, for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal[1] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilties[2]: *Provided,* That nothing in this section shall be construed to interfere with the use and development of power sites as may be authorized by law.

The annual productive capacity for such lands shall be determined and declared as promptly as possible after August 28, 1937, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: *Provided,* That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market.

If the Secretary of the Interior determines that such action will facilitate sustained-yield management, he may subdivide such revested lands into sustained-yield forest units, the boundary lines of which shall be so established that a forest unit will provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region; but until such subdivision is made the land shall be treated as a single unit in applying the principle of sustained yield: *Provided,* That before the boundary lines of such forest units are established, the Department, after published notice thereof, shall hold a hearing thereon in the vicinity of such lands open to the attendance of State and local officers, representatives of dependent industries, residents, and other persons interested in the use of such lands. Due consideration shall be given to established lumbering operations in subdividing such lands when necessary to protect the economic stability of dependent communities. Timber sales from a forest unit shall be limited to the productive capacity of such unit and the Secretary is authorized, in his discretion, to reject any bids which may interfere with the sustained-yield management plan of any unit. (Aug. 28, 1937, ch. 876, title I, § 1, 50 Stat. 874.)

[1] So in original. Probably should read "principle".
[2] So in original. Probably should read "facilities".

REFERENCES IN TEXT

Acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), referred to in first paragraph of the text, are acts June 9, 1916, ch. 137, 39 Stat. 218; Feb. 26, 1919, ch. 47, 40 Stat. 1179, which are not classified to the Code.

REPEAL

Act Aug. 28, 1937, title II, § 201 (c), second par., provided: "All Acts or parts of Act in conflict with this Act [sections 1181a—1181f of this title] are hereby repealed to the extent necessary to give full force and effect to this Act [sections 1181a–1181f of this title]."

LEASE OF SMALL TRACTS FOR RESIDENTIAL, RECREATIONAL, OR COMMUNITY SITE PURPOSES

Lease of small tracts of the lands described in this section for residential, recreational, or community site purposes, and conditions with respect thereto, see section 682e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 1181b, 1181d, 1181e, 1181f, 1383 of this title; title 30 sections 601, 603.

§ 1181b. Cooperative agreements with other agencies or private owners for coordinated administration.

The Secretary of the Interior is authorized, in his discretion, to make cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators for the coordinated administration, with respect to time, rate, method of cutting, and sustained yield, of forest units comprising parts of revested or reconveyed lands, together with lands in private ownership or under the administration of other public agencies, when by such agreements he may be aided in accomplishing the purposes mentioned in sections 1181a and 1181b of this title. (Aug. 28, 1937, ch. 876, title I, § 2, 50 Stat. 874.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 1181d, 1181e, 1181f, 1383 of this title; title 30 sections 601, 603.

§ 1181c. Classification of lands more suitable for agricultural use; reclassification.

The Secretary of the Interior is authorized to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 1171 of this title, any of such revested or reconveyed land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes.

Any of said lands heretofore classified as agricultural may be reclassified as timber lands, if found, upon examination, to be more suitable for the production of trees than agricultural use, such reclassified timber lands to be managed for permanent forest production as herein provided. (Aug. 28, 1937, ch. 876, title I, § 3, 50 Stat. 875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 1181a, 1181d, 1181e, 1181f, 1383 of this title; title 30 sections 601, 603.

§ 1181d. Leasing of lands for grazing; disposition of moneys; rules and regulations covering grazing lands.

The Secretary of the Interior is authorized, in his discretion, to lease for grazing any of said revested or reconveyed lands which may be so used without interfering with the production of timber or other purposes of sections 1181a to 1181f of this title as stated in section 1181a of this title: *Provided,* That all the moneys received on account of grazing leases shall be covered either into the "Oregon and California land-grant fund" or the "Coos Bay Wagon Road grant fund" in the Treasury as the location of the leased lands shall determine, and be subject to distribution as other moneys in such funds: *Provided further,* That the Secretary is also authorized to formulate rules and regulations for the use, protection, improvement, and rehabilitation of such grazing lands. (Aug. 28, 1937, ch. 876, title I, § 4, 50 Stat. 875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 1181e, 1181f, 1383 of this title; title 30 sections 601, 603.

§ 1181e. Rules and regulations generally; consultation and agreements with other agencies regarding fire regulations.

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of sections 1181a to 1181f of this title into full force and effect. The Secretary of the Interior is further authorized, in formulating forest-practice rules and regulations, to consult with the Oregon State Board of Forestry, representatives of timber owners and operators on or contiguous to said revested and reconveyed lands, and other persons or agencies interested in the use of such lands.

In formulating regulations for the protection of such timberlands against fire, the Secretary is authorized, in his discretion, to consult and advise with Federal, State, and county agencies engaged in forest-fire-protection work, and to make agreements with such agencies for the cooperative administration of fire regulations therein: *Provided,* That rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States. (Aug. 28, 1937, ch. 876, title I, § 5, 50 Stat. 875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 1181d, 1181f, 1383 of this title; title 30 sections 601, 603.

§ 1181f. Annual distribution of moneys in special fund.

On and after March 1, 1938, all moneys deposited in the Treasury of the United States in the special fund designated the "Oregon and California land-grant fund" shall be distributed annually as follows:

(a) Fifty per centum to the counties in which the lands revested under the Act of June 9, 1916 (39 Stat. 218), are situated, to be payable on or after June 30, 1938, and each year thereafter to each of said counties in the proportion that the total assessed value of the Oregon and California grant lands in each of said counties for the year 1915 bears to the total assessed value of all of said lands in the State of Oregon for said year, such moneys to be used as other county funds: *Provided, however,* That for the purposes of this subsection the portion of the said revested Oregon and California railroad grant lands in each of said counties which was not assessed for the year 1915 shall be deemed to have been assessed at the average assessed value of the grant lands in said county.

(b) Twenty-five per centum to said counties as money in lieu of taxes accrued or which shall accrue to them prior to March 1, 1938, under the provisions of the Act of July 13, 1926 (44 Stat. 915), and which taxes are unpaid on said date, such moneys to be paid to said counties severally by the Secretary of the Treasury of the United States, upon certification by the Secretary of the Interior, until such tax indebtedness as shall have accrued prior to March 1, 1938, is extinguished.

From and after payment of the above accrued taxes said 25 per centum shall be accredited annually to the general fund in the Treasury of the United States until all reimbursable charges against the Oregon and California land-grant fund owing to the general fund in the Treasury have been paid: *Provided,* That if for any year after the extinguishment of the tax indebtedness accruing to the counties prior to March 1, 1938, under the provisions of Forty-fourth Statutes, page 915, the total amount payable under subsection (a) of this section is less than 78 per centum of the aggregate amount of tax claims which accrued to said counties under said Act for the year 1934, there shall be additionally payable for such year such portion of said 25 per centum (but not in excess of three-fifths of said 25 per centum), as may be necessary to make up the deficiency. When the general fund in the Treasury has been fully reimbursed for the expenditures which were made charges against the Oregon and California land-grant fund said 25 per centum shall be paid annually, on or after June 30, to the several counties in the manner provided in subsection (a) of this section.

(c) Twenty-five per centum to be available for the administration of sections 1181a to 1181f of this title, in such annual amounts as the Congress shall from time to time determine. Any part of such per centum not used for administrative purposes shall be covered into the general fund of the Treasury of the United States: *Provided,* That moneys covered into the Treasury in such manner shall be used to satisfy the reimbursable charges against the Oregon and California land-grant fund mentioned in subsection (b) of this section so long as any such charges shall exist. (Aug. 28, 1937, ch. 876, Title II, § 201, 50 Stat. 875; June 24, 1954, ch. 357, § 1 (b), 68 Stat. 271.)

REFERENCES IN TEXT

Act of June 9, 1916 (39 Stat. 218), referred to in subsec. (a), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of July 13, 1926 (44 Stat. 915), "Forty-fourth Statutes, page 915", and "said Act", all referred to in subsec. (b), are, in each case, act July 13, 1926, ch. 897, 44 Stat. 915, which is not classified to the Code.

CODIFICATION

Section comprises all of section 201 of act Aug. 28, 1937, title II, except a second paragraph of subsec. (c) of that section. See repeal note under section 1181a of this title.

AMENDMENTS

1954—Subsec. (a). Act June 24, 1954, added the proviso relating to determination of assessment.

CROSS REFERENCES

Provisions respecting administration, management and consolidation of certain national forest lands as not affecting status of Oregon and California Railroad grant lands, see section 521a of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682e, 869-4, 1181, 1181d, 1181e, 1181g; 1383 of this title; title 16 section 521a; title 30 sections 601, 603.

§ 1181g. Unselected and unpatented odd-numbered sections as revested grant lands; administration as national-forest lands; revenues; prohibition against disposition or exchange.

Those unselected and unpatented odd-numbered sections within the indemnity limits of the Oregon and California Railroad land grant authorized by the Act of July 25, 1866 (14 Stat. 239), as amended by the Act of April 10, 1869 (16 Stat. 47), and for which payment was made by the United States to such railroad or its successors in interest under the Act of June 9, 1916 (39 Stat. 218), pursuant to the decree in the case of United States against Oregon and California R. R. Co. (8 F. (2d) 645), which were included within the boundaries of national forests by proclamations of the President of the United States issued under the dates of June 17, 1892, September 28, 1893, October 5, 1906, January 25, 1907, March 1, 1907, and March 2, 1907, are declared to be revested Oregon and California railroad grant lands; and said lands shall continue to be administered as national-forest lands by the Secretary of Agriculture subject to all laws, rules, and regulations applicable to the national forests: *Provided,* That all revenues hereafter derived from said lands and those revenues heretofore derived from such lands and placed in special deposit by agreement between the Secretary of Agriculture and the Secretary of the Interior shall be disposed of in accordance with the provisions of section 1181f of this title and said lands shall not hereafter be subject to the provisions of any other laws or parts of laws which otherwise prescribe the disposal or distribution of receipts from lands of the United States, except that none of the provisions of sections 1181f (a), 1181g to 1181j of this title shall affect revenues heretofore distributed. No part of said lands or the resources thereof shall be subject to exchange under the provisions of sections 1181f (a) and 1181g to 1181j of this title or any other law applicable to national-forest lands or otherwise. (June 24, 1954, ch. 357, § 1 (a), 68 Stat. 270.)

REFERENCES IN TEXT

Acts July 25, 1866 (14 Stat. 239); Apr. 10, 1869 (16 Stat. 47); June 9, 1916 (39 Stat. 218), referred to in the text, were not classified to the Code.

CODIFICATION

Section constitutes subsec. (a) of section 1 of act June 24, 1954. Subsec. (b) of section 1 amended section 1181f (a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1181i of this title; title 16 section 521a; title 30 sections 601, 603.

§ 1181h. Exchange of jurisdiction between Secretaries; conditions; publication in Federal Register.

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed, within two years after June 24, 1954, to exchange administrative jurisdiction of revested Oregon and California railroad grant lands lying within the boundaries of any national forest or within two miles of such boundaries, and national-forest lands of approximately equal aggregate value, when by such exchange the administration of the lands will be facilitated. Such exchanges shall be made subject to outstanding contracts, permits or other existing rights: *Provided,* That the said national-forest lands, administrative jurisdiction of which is transferred to the Secretary of the Interior, shall be excluded from the national forest and shall become subject to administration under the same provisions of law as the revested lands in exchange for which they were transferred, and the revested lands, administrative jurisdiction of which is transferred to the Secretary of Agriculture, shall become a part of the national forests subject to administration under the laws applicable to national forests: *Provided further,* That subject to the requirement of approximate equal aggregate value for the overall exchange, the revested lands and the national-forest lands, administrative jurisdiction of which is exchanged in any county, shall be approximately equal in area unless otherwise agreed to by the counties concerned. The exchanges provided for in this section shall in each case be evidenced by an order signed by the Secretary of the Interior and the Secretary of Agriculture and such orders shall be transmitted to the Division of the Federal Register for filing and publication. (June 24, 1954, ch. 357, § 2, 68 Stat. 271.)

CROSS REFERENCES

Documents required by act of Congress to be published in the Federal Register, see section 1505 (a) (3) of Title 44, Public Printing and Documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1181g, 1181j of this title; title 16 section 521a; title 30 sections 601, 603.

§ 1181i. Designation of national-forest areas within counties; disposition of revenues; approval by court.

For the purpose of consolidating and thereby facilitating administration and accounting the Secretary of Agriculture is authorized to designate in the several counties in which the lands described in section 1181g of this title are situated (such designation to be published in the Federal Register), an area of national-forest land of a value substantially equal to the value of the lands in such county from which all revenues shall be disposed of in accordance with the provisions of section 1181f of this title, and upon such designation the provisions of said section shall be applicable to the lands so designated in lieu of the lands described in section 1181g of this title: *Provided, however,* That such designation shall not become effective until approved by the county court of the county in which the lands are located. (June 24, 1954, ch. 357, § 3, 68 Stat. 271.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1181g, 1181j of this title; title 16 section 521a; title 30 sections 601, 603.

§ 1181j. Appropriations to carry out sections 1181h and 1181i.

For the purpose of carrying out the provisions of sections 1181h and 1181i of this title there are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary. (June 24, 1954, ch. 357, § 4, 68 Stat. 272.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1181g of this title; title 16 section 521a; title 30 sections 601, 603.

DISPOSAL OF MATERIALS ON PUBLIC LANDS

§§ 1185 to 1188. Transferred.

CODIFICATION

Sections 1185—1188 transferred to sections 601—604, respectively, of Title 30, Mineral Lands and Mining.

EVIDENCES OF TITLE

§ 1191. False making or altering of instrument concerning lands, mines, or minerals in California.

Every person who falsely makes, alters, forges, or counterfeits, or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person, who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, title paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, shall be punishable by imprisonment at hard labor not less than three years and not more than ten years, and by a fine of not more than $10,000. (R. S. § 2471.)

DERIVATION

Act May 18, 1858, ch. 40, § 1, 11 Stat. 290.

CROSS REFERENCES

Making, forging, counterfeiting, or altering, or transmitting such public records with intent to defraud the United States made punishable by fine or imprisonment or both, see section 494 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1192, 1193 of this title.

§ 1192. Falsely dating evidence of title under Mexican authority to lands in California.

Every person who makes, or causes or procures to be made, or willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the 7th day of July 1846 for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in section 1191 of this title. (R. S. § 2472.)

DERIVATION

Act May 18, 1858, ch. 40, § 2, 11 Stat. 291.

CROSS REFERENCES

Making, forging, counterfeiting, or altering, or transmitting such public records with intent to defraud the United States made punishable by fine or imprisonment or both, see section 494 of Title 18, Crimes and Criminal Procedure.

§ 1193. Presenting false or counterfeited evidences of title to lands in California.

Every person who, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, presents, or causes or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely

dated, shall be punishable as prescribed in section 1191 of this title. (R. S. § 2473.)

DERIVATION

Act May 18, 1858, ch. 40, § 3, 11 Stat. 291.

CROSS REFERENCES

Making, forging, counterfeiting, or altering, or transmitting such public records with intent to defraud the United States, made punishable by fine or imprisonment or both, see section 494 of Title 18, Crimes and Criminal Procedure.

INDIAN LANDS

§ 1195. Negotiations for cession of lands.

The Secretary of the Interior is authorized, in his discretion, to negotiate, through any United States Indian inspector, agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress. (Mar. 3, 1901, ch. 832, § 1, 31 Stat. 1077.)

§ 1196. Classification and appraisement of unallotted and unreserved lands.

The Secretary of the Interior is authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands within any Indian reservation opened to settlement and entry but not classified and appraised in the manner provided for in the Act or Acts opening such reservations to settlement and entry, or where the existing classification or appraisement is, in the opinion of the Secretary of the Interior, erroneous. (June 6, 1912, ch. 155, 37 Stat. 125.)

§ 1197. Agreements with Indians not affected.

Nothing in the Act of March 3, 1891, chapter 561, shall change, repeal, or modify any agreements or treaties made with any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements; except as provided in sections 161 and 162 of this title. (Mar. 3, 1891, ch. 561, § 10, 26 Stat. 1099.)

§ 1198. Condemnation of Sioux lands for dam purposes; negotiation of contracts.

The Chief of Engineers, Department of the Army, and the Secretary of the Interior, jointly representing the United States of America are authorized and directed to negotiate separate contracts containing the provisions outlined in sections 1198 to 1200e of this title with the Sioux Indians of the Lower Brule Reservation, South Dakota, and with the Sioux Indians of the Crow Creek Reservation, South Dakota, acting through representatives of each tribe appointed for such purpose by its tribal council. (July 6, 1954, ch. 463, § 1, 68 Stat. 452.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1199, 1200c, 1200d of this title.

§ 1199. Same; provisions to be included in contracts.

The contract with each tribe negotiated pursuant to section 1198 of this title shall—

(a) convey to the United States title to all tribal, allotted, assigned, and inherited lands or interests therein belonging to the Indians of the tribe, and title to all undivided interests in such allotted or inherited lands owned by non-Indians or by Indian nonmembers of the tribe, required by the United States for the reservoir to be created by the construction of the dams across the Missouri River in South Dakota, to be known as Fort Randall Dam, including such lands along the margins as may be required by the Chief of Engineers, Department of the Army, for the protection, development, and use of said reservoir: *Provided*, That the contract may provide for retention by the owners of any oil and gas rights in such lands that are not needed by the United States for the protection of such dam and reservoir;

(b) provide for the payment of—

(1) just compensation for the lands and improvements and interests therein conveyed by the contract;

(2) costs of relocating the tribe and its members who reside upon the lands conveyed by the contract in a manner that will reestablish and protect their economic, social, religious, and community life;

(3) costs of relocating Indian cemeteries, tribal monuments, and shrines located upon the lands conveyed by the contract.

(c) Provide a schedule of dates for the orderly removal of the Indians and their personal property from the taking area of the Fort Randall Reservoir within the reservation; and

(d) State that the payments authorized to be made shall be in full and complete settlement of all claims by the tribe and its members against the United States arising because of the construction of the Fort Randall project. (July 6, 1954, ch. 463, § 2, 68 Stat. 452.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88-97, Aug. 15, 1963, 77 Stat. 124.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200, 1200a, 1200b, 1200c, 1200d of this title.

§ 1200. Same; judicial determination where compensation rejected.

The just compensation payable for the individual property of any person conveyed pursuant to subsection (a) of section 1199 of this title shall be judicially determined, if such person rejects the compensation specified in the contract with the tribe, in proceedings instituted for such purpose by the Department of the Army in the United States district court for the district in which the lands are situated. (July 6, 1954, ch. 463, § 3, 68 Stat. 453.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200c, 1200d of this title.

§ 1200a. Same; preparation of appraisal schedule; contents; transmittal to tribal representatives.

To assist the negotiators in arriving at the amount of just compensation payable for the property conveyed pursuant to subsection (a) of section 1199 of this title, the Secretary of the Interior and the Chief of Engineers, Department of the Army, shall cause to be prepared an appraisal schedule on an individual tract basis of the tribal, allotted, and assigned lands, including heirship interests therein, located within the taking area in each reservation. The appraisal schedule shall show the fair market value of the lands, giving full and proper weight to the following elements of appraisal, among others: Improvements, severance damage, standing timber, mineral rights, and the uses to which the lands are reasonably adapted. The appraisal schedule shall be transmitted to the representatives of the tribe appointed to negotiate a contract, and shall be used, together with any other appraisals which may be available, as a basis for determining the amount of just compensation to be included in the contract. (July 6, 1954, ch. 463, § 4, 68 Stat. 453.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200c, 1200d of this title.

§ 1200b. Same; inclusion of other provisions in contracts.

The specification in section 1199 of this title of certain provisions to be included in each contract shall not preclude the inclusion of other provisions beneficial to the Indians who are parties of such contracts. (July 6, 1954, ch. 463, § 5, 68 Stat. 453.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200c, 1200d of this title.

§ 1200c. Same; submission of contracts and reports covering disagreements to Congress; ratification; effect.

Each contract negotiated pursuant to sections 1198 to 1200e of this title shall be submitted to the Congress for approval. The Chief of Engineers, Department of the Army, and the Secretary of the Interior are requested to submit such contract within one year from July 6, 1954. If the negotiating parties are unable to agree on a proposed contract each party shall submit to the Congress separate detailed reports of the negotiations, together with their recommendations. In the event the negotiating parties are unable to agree on any provision in the proposed contracts such provision shall be included in an appendix to the contract, together with the views of each party, for consideration and determination by Congress. The contract shall not take effect unless, after determination of any disputed provision, it is ratified by Act of Congress and is ratified within six months after such action by the Congress by a majority of the adult members of the tribe: *Provided*, That when so ratified the contract shall constitute a taking by the United States as of the date the contract was signed by the Chief of Engineers, Department of the Army, and the Secretary of the Interior, for purposes of determining the ownership of the Indian tribal, allotted, and assigned lands and interests therein. (July 6, 1954, ch. 463, § 6, 68 Stat. 453.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200d of this title.

§ 1200d. Same; effect on construction of Fort Randall Dam.

Nothing in sections 1198 to 1200e of this title shall be construed to restrict completion of the Fort Randall Dam to provide flood protection and other benefits on the Missouri River. (July 6, 1954, ch. 463, § 7, 68 Stat. 453.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88-97, Aug. 15, 1963, 77 Stat. 124.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200c of this title.

§ 1200e. Same; authorization of appropriation for relocating certain tribe members; conditions; title to lands acquired.

There is authorized to be appropriated to the Secretary of the Interior the sum of $106,500, which shall be available until expended for the purpose of relocating the members of the Yankton Sioux Tribe, South Dakota, who reside or have resided, on tribal and allotted lands acquired by the United States for the Fort Randall Dam and Reservoir project, Missouri River Development, in a manner that will reestablish and protect their economic, social, religious, and community life. Title to any lands acquired within Indian country pursuant to this section shall be taken in the name of the United States in trust for the Yankton Sioux Tribe or members thereof. The said sum of $106,500 shall be assessed against the costs of the Fort Randall Dam and Reservoir, Missouri River Development. (July 6, 1954, ch. 463, § 8, 68 Stat. 453.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88-97, Aug. 15, 1963, 77 Stat. 124.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1198, 1200c, 1200d of this title.

ENFORCEMENT OF PROVISIONS

§ 1201. Power of Secretary or designated officer.

The Secretary of the Interior, or such officer as he may designate, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this title not otherwise specially provided for. (R. S. § 2478; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

DERIVATION

Acts Sept. 28, 1850, ch. 84, §§ 1, 4, 9 Stat. 520; Mar. 12, 1860, ch. 5, § 1, 12 Stat. 3; Feb. 19, 1874, ch. 30, 18 Stat. 16.

REFERENCES IN TEXT

The provisions of this title, referred to in the text, refer to Title XXXII of the Revised Statutes, entitled "The

Public Lands" which contained in chapters 1–11 sections 2207–2490. For distribution of such sections in the Code, see Tables.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words, "Commissioner of the General Land Office, under the direction of the Secretary of the Interior,", were changed to "Secretary of the Interior or such officer as he may designate,", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

OATHS IN CERTAIN LAND MATTERS

§ 1211. Elimination of oaths for written statements; discretion of Secretary of Interior.

Written statement in public land matters within the jurisdiction of the Department of the Interior, heretofore required by law to be made under oath, need no longer be made under oath unless the Secretary of the Interior shall, in his discretion, so require. (June 3, 1948, ch. 392, § 1, 62 Stat. 301.)

§ 1212. Unsworn written statements subject to penalties of presenting false claims.

Unsworn written statements made in public land matters within the jurisdiction of the Department of the Interior shall remain subject to section 80 of Title 18. (June 3, 1948, ch. 392, § 2, 62 Stat. 301.)

REFERENCES IN TEXT

Section 80 of Title 18, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by sections 287 and 1001 of Title 18, Crimes and Criminal Procedure.

EXEMPTION OF DEPARTMENT OF THE INTERIOR FROM PROVISIONS OF DISTRICT OF COLUMBIA CODE § 1–501

Section 3 of act June 3, 1948, provided: "That part of section 558 of the Act of March 3, 1901, entitled 'An Act to establish a code of law for the District of Columbia' (31 Stat. 1279), as amended December 15, 1944 (58 Stat. 810, D. C. Code, 1951 edition, sec. 1–501), which reads as follows: '*And provided further,* That no notary public shall be authorized to take acknowledgments, administer oaths, certify papers, or perform any official acts in connection with matters in which he is employed as counsel, attorney or agent or in which he may be in any way interested before any of the Departments aforesaid' shall not apply to matters before the Department of the Interior."

WISCONSIN RIVER AND LAKE LAND TITLES

§ 1221. Issuance of patents; application.

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract of public land, lying between the meander line of an inland lake or river in Wisconsin as originally surveyed and the meander line of that lake or river as subsequently resurveyed, has been held in good faith and in peaceful, adverse possession by a person, or his predecessors in interest, who had been issued a patent, prior to January 21, 1953, for lands lying along the meander line as originally determined, the Secretary of the Interior shall cause a patent to be issued to such person for such land upon the payment of the same price per acre as that at which the land included in the original patent was purchased and upon the same terms and conditions. All persons seeking to purchase lands under sections 1221 to 1223 of this title shall make application to the Secretary within one year from August 24, 1954, or from the date of the official filing of the plat or resurvey, whichever is later, and the Secretary of the Interior shall cause no patents to be issued for land lying between the original meander line and the resurveyed meander line until the conclusion of such periods. (Aug. 24, 1954, ch. 900, § 1, 68 Stat. 789.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1222, 1223 of this title.

§ 1222. Notice of opening of lands to purchase.

Upon the filing of a plat of resurvey under section 1221 of this title the Secretary shall give such notice as he finds appropriate by newspaper publication or otherwise of the opening of the lands to purchase under sections 1221 to 1223 of this title. (Aug. 24, 1954, ch. 900, § 2, 68 Stat. 790.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221, 1223 of this title.

§ 1223. Valid existing rights unaffected.

Nothing in sections 1221 to 1223 of this title shall affect valid existing rights. (Aug. 24, 1954, ch. 900, § 3, 68 Stat. 790.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221, 1222 of this title.

MOVING EXPENSES RESULTING FROM ACQUISITION OF LANDS BY SECRETARY OF INTERIOR

§§ 1231 to 1234. Repealed. Pub. L. 91–646, title II, § 220 (a)(1), Jan. 2, 1971, 84 Stat. 1903.

Sections, Pub. L. 85–433, §§ 1—4, May 29, 1958, 72 Stat. 152, related to moving expenses resulting from acquisition of lands by Secretary of Interior, providing as follows:

Section 1231, payment of moving expenses to owners and tenants of lands acquired for developments; limitation on amount; application for payment;

Section 1232, Administration, rules and regulations, exemption from Administrative Procedure Act;

Section 123, definitions; and

Section 1234, availability of appropriations.

Subject matter is now covered by chapter 61 (section 4601 et seq.) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Jan. 2, 1971, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of Title 42, The Public Health and Welfare.

SAVINGS PROVISION

Any rights or liabiilties existing under provisions repealed by section 220(a) of Pub. L. 91–646 as not affected by such repeal, see section 220(b) of Pub. L. 91–646, set out as a note under section 4621 of Title 42, The Public Health and Welfare.

STATE CONTROL OF NOXIOUS PLANTS ON GOVERNMENT LANDS

§ 1241. Control of noxious plants on government lands; State programs; terms of entry.

The heads of Federal departments or agencies are authorized and directed to permit the commissioner of agriculture or other proper agency head of any State in which there is in effect a program for the control of noxious plants to enter upon any lands under their control or jurisdiction and destroy noxious plants growing on such land if—

(1) such entry is in accordance with a program submitted to and approved by such department or agency: *Provided,* That no entry shall occur when the head of such Federal department or agency, or his designee, shall have certified that entry is inconsistent with national security;

(2) the means by which noxious plants are destroyed are acceptable to the head of such department or agency; and

(3) the same procedure required by the State program with respect to privately owned land has been followed.

(Pub. L. 90–583, § 1, Oct. 17, 1968, 82 Stat. 1146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1242, 1243 of this title.

§ 1242. Reimbursement of States for expenses.

Any State incurring expenses pursuant to section 1241 of this title upon presentation of an itemized account of such expenses shall be reimbursed by the head of the department or agency having control or jurisdiction of the land with respect to which such expenses were incurred: *Provided,* That such reimbursement shall be only to the extent that funds appropriated specifically to carry out the purposes of sections 1241 to 1243 of this title are available therefor during the fiscal year in which the expenses are incurred. (Pub. L. 90–583, § 2, Oct. 17, 1968, 82 Stat. 1146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1243 of this title.

§ 1243. Authorization of appropriations.

There are hereby authorized to be appropriated to departments or agencies of the Federal Government such sums as the Congress may determine to be necessary to carry out the purposes of sections 1241 to 1243 of this title. (Pub. L. 90–583, § 3, Oct. 17, 1968, 82 Stat. 1146.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1242 of this title.

Chapter 29.—SUBMERGED LANDS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 section 941.

SUBCHAPTER I.—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1335 of this title.

§ 1301. Definitions.

When used in this chapter—

(a) The term "lands beneath navigable waters" means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 1312 of this title but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico;

(c) The term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms "grantees" and "lessees" include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: *Provided, however,* That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term "natural resources" includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term "lands beneath navigable waters" does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term "State" means any State of the Union;

(h) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation. (May 22, 1953, ch. 65, title I, § 2, 67 Stat. 29.)

SHORT TITLE

Congress in enacting this chapter provided by section 1 of act May 22, 1953 that it should be popularly known as the "Submerged Lands Act."

SEPARABILITY OF PROVISIONS

Section 11 of act May 22, 1953, provided that: "If any provision of this Act [chapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act [this chapter] and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3 (a) 1, 3 (a) 2, 3 (b) 1, 3 (b) 2, 3 (b) 3, or 3 (c) [section 1311 (a) (1), (a) (2), (b) (1), (b) (2), (b) (3), (c) of this title] or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby."

NAVAL PETROLEUM RESERVE

Section 10 of act May 22, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F. R. 405, "insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof [this section]". Ex. Ord. 10426 set aside

certain submerged lands as a naval petroleum reserve and transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

APPLICATION TO STATE OF ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Applicability of this chapter to the State of Alaska, see section 6(m) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48.

APPLICATION TO STATE OF HAWAII

Applicability of this chapter to the State of Hawaii, see section 5(i) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 6, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1331 of this title.

§ 1302. Resources seaward of the Continental Shelf.

Nothing in this chapter shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 1301 of this title, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is confirmed. (May 22, 1953, ch. 65, title II, § 9, 67 Stat. 32.)

§ 1303. Sections not affected.

Nothing in this chapter shall be deemed to amend, modify, or repeal the Acts of July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), March 3, 1877 (19 Stat. 377), June 17, 1902 (32 Stat. 388), and December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto. (May 22, 1953, ch. 65, title II, § 7, 67 Stat. 32.)

REFERENCES IN TEXT

Act July 26, 1866, referred to in the text, is classified to sections 661, 766 and 932 of this title, and sections 43, 46, 47, and 51 of Title 30, Mineral Lands and Mining.

Act July 9, 1870, referred to in the text, is classified to sections 35, 36, 38, and 52 of Title 30.

Act March 3, 1877, referred to in the text, is classified to sections 321-323, 325, 327, 328, and 329 of this title.

Act June 17, 1902, is classified to sections 372, 373, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title, and former section 485 of Title 5, Executive Departments and Government Officers and Employees.

Act December 22, 1944, referred to in the text, is classified to sections 460d and 825s of Title 16, Conservation, and sections 701—1, 701a—1, 701b—1, 708, and 709 of Title 33, Navigation and Navigable Waters.

SUBCHAPTER II.—LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES

SECTION REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1335 of this title.

§ 1311. Rights of the States.

(a) Confirmation and establishment of title and ownership of lands and resources; management, administration, leasing, development, and use.

It is determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

(b) Release and relinquishment of title and claims of United States; payment to States of moneys paid under leases.

(1) The United States releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources; (2) the United States releases and relinquishes all claims of the United States, if any it has, for money or damages arising out of any operations of said States or persons pursuant to State authority upon or within said lands and navigable waters; and (3) the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States shall pay to the respective States or their grantees issuing leases covering such lands or natural resources all moneys paid thereunder to the Secretary of the Interior or to the Secretary of the Navy or to the Treasurer of the United States and subject to the control of any of them or to the control of the United States on May 22, 1953, except that portion of such moneys which (1) is required to be returned to a lessee; or (2) is deductible as provided by stipulation or agreement between the United States and any of said States;

(c) Leases in effect on June 5, 1950.

The rights, powers, and titles hereby recognized, confirmed, established, and vested in and assigned to the respective States and their grantees are subject to each lease executed by a State, or its grantee, which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing, or whose grantee issued, such lease, and such rights, powers, and titles are further subject to the rights herein now granted to any person holding any such lease to continue to maintain the lease, and to conduct operations thereunder, in accordance with its provisions, for the full term thereof, and any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued such lease: *Provided, however,* That, if oil or gas was not being produced from such lease on and before December 11, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from May 22, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued, such lease: *Provided, however,* That within ninety days from May 22, 1953 (i) the lessee shall pay to the State or its grantee issuing such lease all rents, royalties, and other sums

payable between June 5, 1950, and May 22, 1953, under such lease and the laws of the State issuing or whose grantee issued such lease, except such rents, royalties, and other sums as have been paid to the State, its grantee, the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States and not refunded to the lessee; and (ii) the lessee shall file with the Secretary of the Interior or the Secretary of the Navy and with the State issuing or whose grantee issued such lease, instruments consenting to the payment by the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States to the State or its grantee issuing the lease, of all rents, royalties, and other payments under the control of the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States or the United States which have been paid, under the lease, except such rentals, royalties, and other payments as have also been paid by the lessee to the State or its grantee;

(d) Authority and rights of the United States respecting navigation, flood control and production of power.

Nothing in this chapter shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power;

(e) Ground and surface waters west of the 98th meridian.

Nothing in this chapter shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian, relating to the ownership and control of ground and surface waters; and the control, appropriation, use, and distribution of such waters shall continue to be in accordance with the laws of such States. (May 22, 1953, ch. 65, title II, § 3, 67 Stat. 30.)

SEPARABILITY OF PROVISIONS

Provisions of this section as separable, see note set out under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1313, 1314 of this title.

§ 1312. Seaward boundaries of States.

The seaward boundary of each original coastal State is approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. Any claim heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is approved and confirmed, without prejudice to its claim, if any it has, that its boundaries extend beyond that line. Nothing in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond three geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress. (May 22, 1953, ch. 65, title II, § 4, 67 Stat. 31.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1301 of this title.

§ 1313. Exceptions from confirmation and establishment of States' title, power and rights.

There is excepted from the operation of section 1311 of this title—

(a) all tracts or parcels of land together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from any State or from any person in whom title had vested under the law of the State or of the United States, and all lands which the United States lawfully holds under the law of the State; all lands expressly retained by or ceded to the United States when the State entered the Union (otherwise than by a general retention or cession of lands underlying the marginal sea); all lands acquired by the United States by eminent domain proceedings, purchase, cession, gift, or otherwise in a proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights the United States has in lands presently and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the United States in the exercise of its navigational servitude. (May 22, 1953, ch. 65, title II, § 5, 67 Stat. 32.)

§ 1314. Rights and powers retained by the United States; purchase of natural resources; condemnation of lands.

(a) The United States retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 1311 of this title.

(b) In time of war or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law

and paying just compensation therefor. (May 22, 1953, ch. 65, title II, § 6, 67 Stat. 32.)

§ 1315. Rights acquired under laws of the United States unaffected.

Nothing contained in this chapter shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this chapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however,* That nothing contained in this chapter is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact or in law applies to the lands subject to this chapter, or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything contained in this chapter. (May 22, 1953, ch. 65, title II, § 8, 67 Stat. 32.)

SUBCHAPTER III.—OUTER CONTINENTAL SHELF LANDS

CODIFICATION

This subchapter was not enacted as part of the Submerged Lands Act, which comprises subchapters I and II of this chapter.

CROSS REFERENCES

Fair Labor Standards Act of 1938, applicability of, see section 213 (f) of Title 29, Labor.

§ 1331. Definitions.

When used in this subchapter—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation. (Aug. 7, 1953, ch. 345, § 2, 67 Stat. 462.)

SHORT TITLE

Congress in enacting this subchapter provided by section 1 of act Aug. 7, 1953, that it should be popularly known as the "Outer Continental Shelf Lands Act."

SEPARABILITY OF PROVISIONS

Section 17 of act Aug. 7, 1953, provided that: "If any provision of this Act [this subchapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act [subchapter] and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby."

NAVAL PETROLEUM RESERVE

Section 13 of act Aug. 7, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F. R. 405, which had set aside certain submerged lands as a naval petroleum reserve and had transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

APPROPRIATIONS

Section 16 of act Aug. 7, 1953, provided that: "There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [subchapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 155 of this title and title 26 sections 48 and 617.

§ 1332. Congressional declaration of policy; jurisdiction; construction.

(a) It is declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this subchapter.

(b) This subchapter shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected. (Aug. 7, 1953, ch. 345, § 3, 67 Stat. 462.)

§ 1333. Laws and regulations governing lands.

(a) Constitution and United States laws; laws of adjacent States; publication of projected State lines; restriction on State taxation and jurisdiction.

(1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of August 7, 1953 are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) Jurisdiction of United States district courts.

The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations

conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

(c) Applicability of Longshoremen's and Harbor Workers' Compensation Act; definitions.

With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b) of this section, compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

(d) Applicability of National Labor Relations Act.

For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

(e) Coast Guard regulations; marking of islands and structures; offenses and penalties.

(1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) of this section or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

(f) Prevention of obstruction to navigation by Secretary of the Army.

The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is extended to artificial islands and fixed structures located on the outer Continental Shelf.

(g) Provisions as non-exclusive.

The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) of this section or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended. (Aug. 7, 1953, ch. 345, § 4, 67 Stat. 462.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, referred to in subsec. (c), is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

The National Labor Relations Act, as amended, referred to in subsec. (d), is classified to section 151 et seq. of Title 29, Labor.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Oil and gas leases on public lands generally, see section 181 et seq. of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1334 of this title; title 33 section 941.

§ 1334. Administration of leasing.

(a) Rules and regulations; amendment; cooperation with State agencies; violations and penalties; compliance with regulations as condition of lease.

(1) The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or

other easements necessary for operations or production.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this subchapter shall be conditioned upon compliance with the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or with the regulations issued under the provisions of section 1335 (b) (2) of this title if the lease is maintained under the provisions of section 1335 of this title.

(b) Cancellation of lease; judicial review.

(1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or of the regulations issued under the provisions of section 1335 (b) (2) of this title, if the lease is maintained under the provisions of section 1335 of this title, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 1337 (j) of this title, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 1337 of this title, or of the regulations issued under the provisions of section 1335 (b) (2) of this title, hereof, if the lease is maintained under the provisions of section 1335 of this title, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 1333 (b) of this title.

(c) Pipeline rights-of-way; forfeiture of grant.

Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 1333 (b) of this title. (Aug. 7, 1953, ch. 345, § 5. 67 Stat. 464.)

KEY LARGO CORAL REEF PRESERVE

Secretary of the Interior to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in the area designated Key Largo Coral Reef Preserve, see Proc. No. 3339, Mar. 15, 1960, 25 F. R. 2352, set out as a note under section 461 of Title 16, Conservation.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Oil and gas leases on public lands—

Forfeiture or cancellation of, see section 188 of Title 30, Mineral Lands and Mining.

Rights-of-way for pipe lines, see section 185 of Title 30.

Rules and regulations relating to, see section 189 of Title 30.

Written relinquishment of rights under, see section 187b of Title 30.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1335 of this title.

§ 1335. Validation and maintenance of prior leases.

(a) Requirements for validation.

The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this subchapter, or within such further period or periods as provided in section 1336 of this title or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had the authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 1336 of this title hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and August 7, 1953, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after August 7, 1953, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 1338 of this title;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on August 7, 1953;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and August 7, 1953 and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on August 7, 1953;

(10) such lease will terminate within a period of not more than five years from August 7, 1953 in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Conduct of operations under lease; sulphur rights.

Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8)—(10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from August 7, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 1334 of this title prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however,* That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of this subsection unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further,* That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this subchapter: *Provided further,* That, if the primary term of a lease being maintained under this subsection has expired prior to August 7, 1953 and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from August 7, 1953 and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

(c) Non-waiver of United States claims.

The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to August 7, 1953.

(d) Judicial review of determination.

Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) Lands beneath navigable waters.

In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in subchapters I and II of this chapter, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf. (Aug. 7, 1953, ch. 345, § 6, 67 Stat. 465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1336, 1337 of this title.

§ 1336. Controversies over jurisdiction; agreements; payments; final settlement or adjudication; approval of notice concerning oil and gas operations in Gulf of Mexico.

In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this subchapter, the Secretary is authorized, notwithstanding the provisions of section 1335 (a) and (b) of this title and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this subchapter. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 1335 (a) (4) of this title. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this subchapter, the lessee, if he has not already done so, shall comply with the requirements of section 1335 (a) of this title, and thereupon the provisions of section 1335 (b) of this title shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is approved and confirmed. (Aug. 7, 1953, ch. 345, § 7, 67 Stat. 467.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1335, 1337 of this title.

§ 1337. Grant of leases by Secretary.

(a) Oil and gas leases; award to highest bidder; method of bidding.

In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of section 1335 (a) of this title. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

(b) Terms and provisions of oil and gas leases.

An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

(c) Sulphur leases; award to highest bidder; method of bidding.

In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of section 1335 (a) of this title, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) Terms and provisions of sulphur leases.

A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the

sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(e) Other mineral leases; award to highest bidder; terms and conditions.

The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(f) Publication of notices of sale and terms of bidding.

Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(g) Disposition of revenues.

All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 1338 of this title.

(h) Issuance of lease as non-prejudicial to ultimate settlement or adjudication of controversies.

The issuance of any lease by the Secretary pursuant to this subchapter, or the making of any interim arrangements by the Secretary pursuant to section 1336 of this title shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

(i) Cancellation of leases for fraud.

The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Judicial review of cancellation of lease; petition within sixty days.

Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action. (Aug. 7, 1953, ch. 345, § 8, 67 Stat. 468.)

CROSS REFERENCES

Oil and gas leases on public lands—

Conditions of, see section 225 of Title 30, Mineral Lands and Mining.

Payment of royalties from, see section 192 of Title 30.

Terms of, see section 223 of Title 30.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1334 of this title.

§ 1338. Disposition of revenues.

All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts. (Aug. 7, 1953, ch. 345, § 9, 67 Stat. 469.)

CROSS REFERENCES

Disposition of moneys received from royalties and rentals of public lands, see section 191 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1335, 1337, 1339 of this title.

§ 1339. Refunds; filing time limitation; certification of repayment; necessity of report to Congress.

(a) Subject to the provisions of subsection (b) of this section, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this subchapter in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after August 7, 1953. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 1338 of this title and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress. (Aug. 7, 1953, ch. 345, § 10, 67 Stat. 469.)

CROSS REFERENCES

Reduction of royalties under oil and gas leases on public lands, see section 226c of Title 30, Mineral Lands and Mining.

§ 1340. Geological and geophysical explorations.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area. (Aug. 7, 1953, ch. 345, § 11, 67 Stat. 469.)

§ 1341. Reservation of lands and rights.

(a) Withdrawal of unleased lands by President.

The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) First refusal of mineral purchases.

In time of war, or when the President shall so prescribe, the United States shall have the right

of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) National security clause.

All leases issued under this subchapter, and leases, the maintenance and operation of which are authorized under this subchapter, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) National defense areas; suspension of operations; extension of leases.

The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) Source materials essential to production of fissionable materials.

All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are reserved for the use of the United States.

(f) Helium ownership; rules and regulations governing extraction.

The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this subchapter, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas. (Aug. 7, 1953, ch. 345, § 12, 67 Stat. 469.)

REFERENCES IN TEXT

Paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, referred to in subsec. (e), is covered by sections 2014 (x) and 2091 of Title 42, The Public Health and Welfare.

KEY LARGO CORAL REEF PRESERVE

Withdrawal of area designated Key Largo Coral Reef Preserve from disposition, see Proc. No. 3339, Mar. 15, 1960, 25 F. R. 2352, set out as a note under section 461 of Title 16, Conservation.

§ 1342. Prior claims as unaffected.

Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however,* That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this subchapter or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained. (Aug. 7, 1953, ch. 345, § 14, 67 Stat. 470.)

§ 1343. Annual report by Secretary to Congress.

As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this subchapter during the preceding fiscal year. (Aug. 7, 1953, ch. 345, § 15, 67 Stat. 470.)

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 1361. Definition of "public lands".

For the purposes of this chapter the term "public lands" means all Federal lands administered by the Bureau of Land Management. (Pub. L. 86-649, § 2, July 14, 1960, 74 Stat. 506.)

SHORT TITLE

Section 1 of Pub. L. 86-649 provided that Pub. L. 86-649, which added subchapters I-III of this chapter and repealed sections 23, 82, 84, and 95—98a of this title, may be known as the "Public Land Administration Act."

§ 1362. Improvement, management, use and protection of public lands and resources; investigations, studies, and experiments.

The Secretary of the Interior may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction. (Pub. L. 86-649, title I, § 101, July 14, 1960, 74 Stat. 506.)

§ 1362a. Same; fire protection; contract authority for use of aircraft, and for supplies and services, in advance of appropriation; accrual of obligation; contingent obligation.

The Secretary of the Interior is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for protection from fire of public lands administered by him. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred. Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure (Pub. L. 91-429, Sept. 26, 1970, 84 Stat. 885.)

CODIFICATION

Section was not enacted as part of the Public Land Administration Act which comprises subchapters I—III of this chapter.

§ 1363. Same; cooperative agreements.

The Secretary of the Interior may enter into cooperative agreements involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction. The provisions of this section shall apply only in those cases where the making of cooperative agreements for such purposes is neither expressly authorized nor expressly prohibited by other provisions of law. (Pub. L. 86-649, title I, § 102, July 14, 1960, 74 Stat. 506.)

§ 1364. Same; acceptance of contributions and donations.

(a) The Secretary of the Interior may accept contributions or donations of money, services, and property, real, personal, or mixed, for the improvement, management, use, and protection of the public lands and their resources under his jurisdiction including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be covered into the Treasury and are appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where the contribution is in excess of their share of the cost.

(b) This section shall not in any manner limit or repeal any existing statutory authority empowering

the Secretary of the Interior to accept contributions or donations. (Pub. L. 86–649, title I, § 103, July 14, 1960, 74 Stat. 506.)

SUBCHAPTER II.—SERVICE CHARGES AND EXCESS PAYMENTS

§ 1371. Fees, charges and commissions for applications and other documents relating to public lands and resources; publication in Federal Register.

Notwithstanding any other provision of law, the Secretary of the Interior may establish reasonable filing fees, service fees and charges, and commissions with respect to applications and other documents relating to public lands and their resources under his jurisdiction, and may change and abolish such fees, charges, and commissions. Before any action is taken under this section, the Secretary shall publish in the Federal Register notice of his intention to take such action, and shall afford interested parties a period of thirty days, or, if he shall find it advisable, more, within which to submit data, views and arguments, either in writing or, if he shall deem it desirable, in open hearing. (Pub. L. 86–649, title II, § 201, July 14, 1960, 74 Stat. 506.)

§ 1372. Existing fees, charges, and commissions.

All fees, charges, and commissions prescribed by existing law or regulation shall remain in effect until changed or abolished by the Secretary. (Pub. L. 86–649, title II, § 202(a), July 14, 1960, 74 Stat. 506.)

CODIFICATION

Section comprises subsec. (a) of section 202 of Pub. L. 86–649. Subsec. (b) of section 202 is set out as a note under this section.

REPEALS

Section 202(b) of Pub. L. 86–649 provided that: "Subject to the provisions of this section, any provisions in statutes which fix fees, service fees or charges, or commissions for the purposes covered in this title, are hereby repealed, including, without limitation, the first proviso of the General Land Office appropriations in the Act of February 14, 1931 (46 Stat. 1115, 1118; 43 U.S.C. 23), section 2239 of the Revised Statutes (43 U.S.C. 84), and such provisions of the following Acts as are contained in section 82, title 43, United States Code:

Act	*Citation*
"Revised Statutes	Section 2238.
"May 14, 1880 (in sec. 2)	21 Stat. 140, 141.
"December 17, 1880	21 Stat. 311.
"July 26, 1892	27 Stat. 270.
"March 22, 1904	33 Stat. 144.
"May 29, 1908 (in sec. 14)	35 Stat. 465, 468.
"January 24, 1923	42 Stat. 1174, 1179.
"June 5, 1924	43 Stat. 390, 395.
"March 3, 1925	43 Stat. 1141, 1145."

§ 1373. Price of copies of records furnished by Department.

This chapter shall not be construed as affecting the provisions of section 1460 of this title, relating to the price of copies of records furnished by the Department of the Interior. (Pub. L. 86–649, title II, § 203, July 14, 1960, 74 Stat. 507.)

§ 1374. Refund of excess and other payments.

In any case where it shall appear to the satisfaction of the Secretary of the Interior that any person has made a payment under any statute relating to the sale, entry, lease, use, or other disposition of the public lands which is not required, or is in excess of the amount required, by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds. (Pub. L. 86–649, title II, § 204(a), July 14, 1960, 74 Stat. 507.)

SUBCHAPTER III.—DEPOSITS AND FORFEITURES

§ 1381. Forfeiture of bond or deposit by timber purchaser or permittee; deposit into Treasury; availability for forest improvement, protection, or rehabilitation work.

Any moneys received by the United States as a result of the forfeiture of a bond or deposit by a timber purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Department, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to timberlands, shall be covered into the Treasury and are appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any forest improvement, protection, or rehabilitation work, which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement. (Pub. L. 86–649, title III, § 301, July 14, 1960, 74 Stat. 507.)

§ 1382. Maintenance of roads and trails under jurisdiction of Bureau of Land Management; deposit of money; availability.

The Secretary of the Interior may require a user or users of roads or trails under the jurisdiction of the Bureau of Land Management to maintain such roads or trails in a satisfactory condition commensurate with the particular use requirements and the use made by each, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be covered into the Treasury and are appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any road or trail under the jurisdiction of the Bureau of Land Management. (Pub. L. 86–649, title III, § 302, July 14, 1960, 74 Stat. 507.)

§ 1383. Oregon and California Railroad and Coos Bay Wagon Road Grant lands; expenditure of moneys collected for benefit of land; transfer of excess.

Any moneys collected under this chapter in connection with lands administered under sections 1181a to 1181f of this title shall be expended for the benefit of such land only. If any portion of a deposit or amount forfeited under this chapter is found by the Secretary to be in excess of the cost of doing the work authorized under this chapter, the amount in excess shall be transferred to miscellaneous receipts. (Pub. L. 86–649, title III, § 303, July 14, 1960, 74 Stat. 508.)

SUBCHAPTER IV.—PUBLIC LAND LAW REVIEW COMMISSION

CODIFICATION

Subchapter was not enacted as part of the Public Land Administration Act which comprises subchapters I—III of this chapter.

§ 1391. Congressional declaration of policy.

It is hereby declared to be the policy of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public. (Pub. L. 88-606, § 1, Sept. 19, 1964, 78 Stat. 982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1393, 1394 of this title.

§ 1392. Review of public land laws.

Because the public land laws of the United States have developed over a long period of years through a series of Acts of Congress which are not fully correlated with each other and because those laws, or some of them, may be inadequate to meet the current and future needs of the American people and because administration of the public lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and the rules and regulations promulgated thereunder and to determine whether and to what extent revisions thereof are necessary. (Pub. L. 88-606, § 2, Sept. 19, 1964, 78 Stat. 982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393 of this title.

§ 1393. Commission on public land law review.

(a) Establishment.

For the purpose of carrying out the policy and purpose set forth in sections 1391 and 1392 of this title, there is hereby established a commission to be known as the Public Land Law Review Commission, hereinafter referred to as "the Commission."

(b) Membership; selection; appointment; Chairman.

The Commission shall be composed of nineteen members, as follows:

(i) Three majority and three minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the President of the Senate;

(ii) Three majority and three minority members of the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House of Representatives;

(iii) Six persons to be appointed by the President of the United States from among persons who at the time appointment is to be made hereunder are not, and within a period of one year immediately preceding that time have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

(iv) One person, elected by majority vote of the other eighteen, who shall be the Chairman of the Commission.

(c) Vacancies.

Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) Organization meeting.

The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

(e) Quorum.

Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Compensation of Congressmen members.

Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) Compensation of Presidential appointees.

The members appointed by the President shall each receive $50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties. (Pub. L. 88-606, § 3, Sept. 19, 1964, 78 Stat. 982.)

§ 1394. Duties of Commission; report to President and to Congress; termination of existence; records and papers.

(a) The Commission shall (i) study existing statutes and regulations governing the retention, management, and disposition of the public lands; (ii) review the policies and practices of the Federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands; (iii) compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the foreseeable future; and (iv) recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy set forth in section 1391 of this title.

(b) The Commission shall, not later than June 30, 1970, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report or on December 31, 1970, whichever is earlier. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States. (Pub. L. 88-606, § 4, Sept. 19, 1964, 78 Stat. 983; Pub. L. 90-213, § 1 (1), (2), Dec. 18, 1967, 81 Stat. 660.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-213 extended time for submission of final report from Dec. 31, 1968, to June 30, 1970, and continued existence of the Commission beyond June 30, 1969, to Dec. 31, 1970, respectively.

§ 1395. Departmental liaison officers.

The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this subchapter. (Pub. L. 88-606, § 5, Sept. 19, 1964, 78 Stat. 983.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396 of this title.

§ 1396. Advisory council; establishment; membership; vacancies; duties; compensation; organization meeting; final meeting.

(a) There is hereby established an Advisory Council, which shall consist of the liaison officers appointed under section 1395 of this title, together with 25 additional members appointed by the Commission who shall be representative of the various major citizens' groups interested in problems relating to the retention, management, and disposition of the public lands, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor, and public utilities. Any vacancy occurring on the Advisory Council shall be filled in the same manner as the original appointment.

(b) The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

(c) Members of the Advisory Council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the Council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

(d) The Chairman of the Commission shall call an organization meeting of the Advisory Council as soon as practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission. (Pub. L. 88-606, § 6, Sept. 19, 1964, 78 Stat. 983.)

§ 1397. Governors' representatives.

The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council in matters pertaining to this subchapter. (Pub. L. 88-606, § 7, Sept. 19, 1964, 78 Stat. 984.)

§ 1398. Powers of Commission.

(a) The Commission or, on authorization of the Commission, any committee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this subchapter, hold such hearings, take testimony or receive evidence under oath, and sit and act at such times and places as the Commission or such authorized committee may deem advisable. The member of the Commission presiding at any such hearing is authorized to administer the oath to witnesses. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matters which would require the presence of the parties subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or transacts business.

A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 192 to 194 of Title 2, inclusive, shall apply in case of any failure of any witness to comply with any subpena or testimony when summoned under this section.

(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subchapter and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requires of any witness or of any governmental agency production of any materials which have theretofore been submitted to a government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held confidential by the Commission. (Pub. L. 88-606, § 8, Sept. 19, 1964, 78 Stat. 984; Pub. L. 90-213, § 114), Dec. 18, 1967, 81 Stat. 660.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-213 authorized the Commission or any committee thereof to take testimony or receive evidence under oath and the member of the Commission presiding at any hearing to administer the oath to witnesses.

§ 1399. Authorization of appropriations; compensation of Chairman, staff director, and additional personnel; civil service laws; contracts; transfer of funds; conflict of interest.

(a) There are hereby authorized to be appropriated such sums, but not more than $7,390,000 as may be necessary to carry out the provisions of this subchapter and such moneys as may be appropriated shall be available to the Commission until expended.

(b) The Commission is authorized, without regard to the civil service laws and regulations and without regard to chapter 51 and subchapter III of chapter 53 of Title 5, to fix the compensation of its Chairman and appoint and fix the compensation of its staff director, and such additional personnel as may be

necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this subchapter to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

(d) Service of an individual as a member of the Advisory Council, as the representative of a Governor, or employment by the Commission of an attorney or expert in any job or professional field on a part-time or full-time basis with or without compensation shall not be considered as service or employment bringing such individuals within the provisions of the Act of October 23, 1962. (Pub. L. 88-606, § 9, Sept. 19, 1964, 78 Stat. 985; Pub. L. 90-213, § 1(3), Dec. 18, 1967, 81 Stat. 660.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (b), are classified generally to Title 5, Government Organization and Employees.

The Act of October 23, 1962, referred to in subsec. (d), is classified to section 201 et seq. of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-213 increased appropriation authorization from $4,000,000 to $7,390,000.

§ 1400. Definition of public lands.

As used in this subchapter, the term "public lands" includes (a) the public domain of the United States, (b) reservations, other than Indian reservations, created from the public domain, (c) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws, (d) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws, (e) national forests, (f) wildlife refuges and ranges, and (g) the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf. (Pub. L. 88-606, § 10, Sept. 19, 1964, 78 Stat. 985.)

SUBCHAPTER V.—CLASSIFICATION OF LANDS TO PROVIDE FOR DISPOSAL OR INTERIM MANAGEMENT

CODIFICATION

Subchapter was not enacted as part of the Public Land Administration Act which comprises subchapters I—III of this chapter.

§ 1411. Disposal or retention of lands; classification by Secretary; considerations; designations.

Consistent with and supplemental to the Taylor Grazing Act of June 28, 1934, as amended, and pending the implementation of recommendations to be made by the Public Land Law Review Commission—

(a) The Secretary of the Interior shall develop and promulgate regulations containing criteria by which he will determine which of the public lands and other Federal lands, including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (a) disposed of because they are (1) required for the orderly growth and development of a community or (2) are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development or (b) retained, at least during this period, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, or (10) preservation of public values that would be lost if the land passed from Federal ownership. No such regulation shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing theron. Before such public hearing is held, a notice of at least thirty days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives, both of whom shall receive with the notice a copy of the proposed regulation.

(b) The Secretary of the Interior shall, as soon as possible, review the public lands as defined herein, in the light of the criteria contained in the regulations issued with this section to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership for interim management under the principles enunciated in this section. In making his determinations the Secretary shall give due consideration to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

(1) None of the land subject to this subchapter shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior. (Pub. L. 88-607, § 1, Sept. 19, 1964, 78 Stat. 986.)

REFERENCES IN TEXT

The Taylor Grazing Act of June 28, 1934, as amended, referred to in the text, is classified to chapter 8A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1416 of this title.

§ 1412 Publication of notice.

At least sixty days prior to taking the following action the Secretary of the Interior or his designee shall give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land:

(a) Classification for sale or other disposal under any statute of a tract of land in excess of two thousand five hundred and sixty acres.

(b) Classification for management by the Bureau of Land Management of an area in excess of two

thousand five hundred and sixty acres when the action will exclude from the area permanently, or for a substantial period of time, one or more uses enumerated in section 1411 of this title. (Pub. L. 88-607, § 2, Sept. 19, 1964, 78 Stat. 986.)

§ 1413. Development and administration of lands for multiple use and sustained yield.

The Secretary of the Interior shall develop and administer for multiple use and sustained yield of the several products and services obtainable therefrom those public lands that are determined to be suitable for interim management in accordance with regulations promulgated pursuant to this subchapter. (Pub. L. 88-607, § 3, Sept. 19, 1964, 78 Stat. 987.)

§ 1414. Exemption of lands from other forms of disposal; time period; continuation beyond period.

Publication of notice in the Federal Register by the Secretary of the Interior of a proposed classification under this subchapter shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws. The segregative effect of such proposed classification shall continue for a period of two years from the date of publication unless classification has theretofore been completed in accordance with the provisions of this subchapter and the regulations to be promulgated hereunder, or unless the Secretary of the Interior shall terminate it sooner. Lands classified for sale or other disposal shall be offered for sale or such other disposal within two years of the date of publication of the proposed classification and if not so offered for sale or other disposal the segregative effect shall cease at the expiration of two years from the date of publication. The proposed classification or proposed sale or other disposal may be continued beyond the two-year period if notice of such proposed continuance, including a statement of necessity for continued segregation, is submitted to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register not more than ninety days nor less than thirty days prior to the expiration of the two-year period specified herein; and thereupon the segregative effect shall be extended for such additional period as is specified in the notice, not exceeding two years, unless Congress or the Secretary of the Interior terminates the segregation at any earlier date. (Pub. L. 88-607, § 4, Sept. 19, 1964, 78 Stat. 987.)

§ 1415. Definitions.

As used in this subchapter, the following terms shall have the following meanings:

(a) The term "public lands" means any lands (1) withdrawn or reserved by Executive Order Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934, as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal use or purpose.

(b) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(c) "Sustained yield of the several products and services" means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land. (Pub. L. 88-607, § 5, Sept. 19, 1964, 78 Stat. 987.)

REFERENCES IN TEXT

The Act of June 28, 1934, as amended, referred to in paragraph (a), is classified to chapter 8A of this title.

§ 1416. Supplemental legislation; repeal of other laws.

The purposes of the subchapter are declared to be supplemental to the purposes for which any of the Federal lands in section 1411 of this title have been designated, acquired, withdrawn, reserved, held, or administered. This subchapter shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws. (Pub. L. 88-607, § 6, Sept. 19, 1964, 78 Stat. 988.)

§ 1417. Restrictions; jurisdiction or responsibilities of States.

Nothing herein contained shall be construed as—

(a) Restricting prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the lands to which this subchapter applies under law applicable thereto pending action inconsistent therewith under this subchapter.

(b) Restricting the entry and settlement of lands open to entry and settlement under the public land laws pending action inconsistent therewith under this subchapter.

(c) Restricting the Secretary of the Interior from disposing of lands under applicable status after the land has been classified in accordance with this subchapter.

(d) Affecting the jurisdiction or responsibilities of the several States with respect to the lands referred to herein. (Pub. L. 88-607, § 7, Sept. 19, 1964, 78 Stat. 988.)

§ 1418. Termination of authority; exceptions.

The authorizations and requirements of this subchapter shall expire six months after the final report of the Public Land Law Review Commission has been submitted to Congress, except that any segregation prior to such time of any public lands from settlement, location, sale, selection, entry, lease, or

other form of disposal under the public land laws shall continue for the period of time allowed by this subchapter. (Pub. L. 88-607, § 8, Sept. 19, 1964, 78 Stat. 988; Pub. L. 90-213, § 2, Dec. 18, 1967, 81 Stat. 660.)

AMENDMENTS

1967—Pub. L. 90-213 substituted provision for termination of authority six months after the final report of the Public Land Review Commission has been submitted to Congress for expiration date of June 30, 1969.

SUBCHAPTER VI.—SALE OF PUBLIC LAND

CODIFICATION

Subchapter was not enacted as part of the Public Land Administration Act which comprises subchapters I—III of this chapter.

§ 1421. Determinations affecting disposal; size of tracts; valuation.

Pending the implementation of recommendations to be made by the Public Land Law Review Commission, in addition to any other authority that he may have, the Secretary of the Interior is authorized and directed to dispose of public lands that have been classified for disposal in accordance with a determination that (a) the lands are required for the orderly growth and development of a community or (b) the lands are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development. Such disposals shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary of the Interior or to qualified individuals through competitive bidding at not less than the appraised fair market value as determined by the Secretary of the Interior. (Pub. L. 88-608, § 1, Sept. 19, 1964, 78 Stat. 988.)

CROSS REFERENCES

Public Land Law Review Commission, see subchapter IV of this chapter.

§ 1422. Notification to local zoning authority.

At least ninety days prior to offering lands for sale in accordance with this subchapter, the Secretary of the Interior shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local planning and development. No sale shall be conducted under the authority of this subchapter until zoning regulations have been enacted by the appropriate local authority. (Pub. L. 88-608, § 2, Sept. 19, 1964, 78 Stat. 988.)

§ 1423. Notice of land offerings; publication.

At least thirty days before entering into an agreement with a governmental agency or of the opening of bids from individuals, notice of the offering of lands for sale in accordance with this subchapter shall be furnished by the Secretary of the Interior through a newspaper of general circulation in the area in which the lands are situated and by publication of the notice in the Federal Register. (Pub. L. 88-608, § 3, Sept. 19, 1964, 78 Stat. 989.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1424. Title reservations.

All patents or other evidences of title issued under this subchapter shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title may contain such reservations and reasonable restrictions as are necessary in the public interest, but no restriction to insure proper development of the lands after they have passed from Federal ownership shall be imposed. (Pub. L. 88-608, § 4, Sept. 19, 1964, 78 Stat. 989.)

§ 1425. Definitions.

For the purposes of this subchapter the following terms have the following meanings—

(a) "Public lands" means any public lands which are withdrawn by Executive Order Numbered 6910, dated November 26, 1934, as amended, or by Executive Order Numbered 6964, dated February 5, 1935, as amended, or pursuant to section 315 of this title, and not otherwise reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

(b) "Qualified governmental agency" means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

(c) "Qualified individual" means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citzen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A) of this subsection; and (C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located. (Pub. L. 88-608, § 5, Sept. 19, 1964, 78 Stat. 989.)

§ 1426. Sales in Alaska.

Ninety per centum of the proceeds from lands sold in the State of Alaska pursuant to this subchapter shall be transferred to the State of Alaska in consideration for which the State shall surrender its right to select an equal acreage of land pursuant to section 6(b) of the Alaska Statehood Act. (Pub. L. 88-608, § 6, Sept. 19, 1964, 78 Stat. 989.)

REFERENCES IN TEXT

Section 6(b) of the Alaska Statehood Act, referred to in the text, is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

§ 1427. Termination of authority; exceptions.

The authority granted by this subchapter shall expire six months after the final report of the Public Land Law Review Commission has been submitted to Congress, except that sales concerning which notice

has been given in accordance with section 1423 of this title prior to such time may be consummated and patents issued in connection therewith after such time. (Pub. L. 88–608, § 7, Sept. 19, 1964, 78 Stat. 989; Pub. L. 90–213, § 3, Dec. 18, 1967, 81 Stat. 660.)

AMENDMENTS

1967—Pub. L. 90–213 substituted provision for termination of authority six months after the final report of the Public Land Review Commission has been submitted to Congress for expiration date of June 30, 1969.

SUBCHAPTER VII.—SALE OF PUBLIC LANDS SUBJECT TO UNINTENTIONAL TRESPASS

CODIFICATION

Subchapter was not enacted as part of the Public Land Administration Act which comprises subchapters I—III of this chapter.

§ 1431. Authority to sell at public auction; 120-acre limit on size of tract.

The Secretary of the Interior is authorized, on his own motion or on application of an owner of contiguous lands, and upon a finding that it is not needed for public purposes, to sell at public auction any tract of public domain not exceeding one hundred and twenty acres that has been or is now subject to unintentional trespass, as determined by the Secretary, and that contains some land which has been or can be put to cultivation but which is insufficient because of climatic, topographic, ecologic, soil, or other factors to justify a classification as proper for disposal under the homestead or desert land laws. Except as provided in section 1432 of this title the tract shall be sold to the highest bidder. Except as provided in section 1433 of this title, no tract shall be sold for less than its appraised fair market value. (Pub. L. 90–516, § 1, Sept. 26, 1968, 82 Stat. 870.)

§ 1432. Preference right of contiguous landowners.

For a period of thirty days from the day the high bid is received, any owner of contiguous lands shall have a preference right to buy the tract at such highest bid price. If two or more contiguous owners assert the preference right, the Secretary is authorized to make such division of the land among the applicants as he deems equitable. (Pub. L. 90–516, § 2, Sept. 26, 1968, 82 Stat. 870.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1433 of this title.

§ 1433. Continuing liability for unauthorized prior use.

If a person who has a preference right under section 1432 of this title is the purchaser of land sold pursuant to this subchapter he shall not be required to pay for any values he or his predecessors in interest have added to the land. However, nothing in this subchapter shall relieve any person from liability to the United States for unauthorized use of the land prior to conveyance of title by the United States. (Pub. L. 90–516, § 3, Sept. 26, 1968, 82 Stat. 870.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431 of this title.

§ 1434. Acreage limitation.

No person may acquire from the Secretary more than one hundred and twenty acres of land under the provisions of this subchapter. (Pub. L. 90–516, § 4, Sept. 26, 1968, 82 Stat. 870.)

§ 1435. Expiration date.

The authority granted by this subchapter shall expire three years from September 26, 1968, but sales for which application has been made in accordance with this subchapter prior to the expiration of the three years may be consummated and patents may be issued in connection therewith after the three-year period. (Pub. L. 90–516, § 5, Sept. 26, 1968, 82 Stat. 870.)

Chapter 31.—DEPARTMENT OF THE INTERIOR

Sec.
1451. Establishment.
1452. Under Secretary of Interior; appointment.
1453. Assistant Secretaries of Interior.
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1455. Solicitor; appointment; duties.
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1468. Same; availability for uniforms or allowances therefor.

§ 1451. Establishment.

There shall be at the seat of government an executive department to be known as the Department of the Interior, and a Secretary of the Interior, who shall be the head thereof. (R.S. § 437.)

DERIVATION

Act Mar. 3, 1849, ch. 108, § 1, 9 Stat. 395.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out below.

COMPENSATION OF SECRETARY

Compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

EX. ORD. NO. 9432

Ex. Ord. 9432, Mar. 28, 1944, 9 F.R. 3411, which related to designation of Under Secretary and Assistant Secretaries of the Interior to act as Secretary of the Interior, was superseded by Ex. Ord. 9866, June 14, 1947, 12 F.R. 3909.

EX. ORD. NO. 9866

Ex. Ord. 9866, June 14, 1947, 12 F.R. 3909, which related to designation of officers to act as Secretary of the Interior, was superseded by Ex. Ord. 10156, Aug. 26, 1950, 15 F.R. 5789.

EX. ORD. NO. 10156

Ex. Ord. 10156, Aug. 26, 1950, 15 F.R. 5789, which related to designation of certain officers of the Department of the Interior to act as Secretary of the Interior, was superseded by Ex. Ord. 10753, Feb. 15, 1958, 23 F.R. 1107.

EX. ORD. NO. 10753. DESIGNATION OF OFFICERS TO ACT AS SECRETARY OF THE INTERIOR

Ex. Ord. No. 10753, Feb. 15, 1958, 23 F.R. 1107, provided: In case of the death, resignation, absence, or sickness of the Secretary of the Interior, the following-designated officers of the Department of the Interior shall, in the order of succession indicated, act as Secretary of the Interior until a successor is appointed or until the absence or sickness of the incumbent shall cease:

1. Under Secretary of the Interior.
2. Assistant Secretaries of the Interior and Assistant Secretary for Fish and Wildlife, in the order fixed by their length of service as such.
3. Solicitor of the Department of the Interior.

This order supersedes Executive Order No. 10156 of August 26, 1950, entitled "Designation of Certain Officers of the Department of the Interior to Act as Secretary of the Interior."

DWIGHT EISENHOWER

REORGANIZATION PLAN NO. 3 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, as amended July 5, 1952, ch. 369, ch. XI, § 1101, 66 Stat. 121.

DEPARTMENT OF THE INTERIOR

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [now covered by sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

§ 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by an other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 3. ASSISTANT SECRETARY OF THE INTERIOR

There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

§ 4. ADMINISTRATIVE ASSISTANT SECRETARY

There shall be in the Department of the Interior an Administrative Assistant Secretary of the Interior, who shall be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate of $14,800 per annum.

§ 5. INCIDENTAL TRANSFERS

The Secretary of the Interior may from time to time effect such transfers within the Department of the Interior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

ORDER OF SUCCESSION

For order of succession in event of vacancy in office of Secretary, or during his absence or disability, see Ex. Ord. No. 11487, Oct. 6, 1969, 34 F.R. 15593, set out as a note under section 3347 of Title 5, Government Organization and Employees.

§ 1452. Under Secretary of Interior; appointment.

The position of Under Secretary is established in the Department of the Interior with appointment thereto by the President, by and with the advice and consent of the Senate. (May 9, 1935, ch. 101, § 1, 49 Stat. 177.)

CODIFICATION

Provisions of this section which prescribed the annual rate of basic compensation of the Under Secretary were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5314 of Title 5, Government Organization and Employees.

REPEALS

Act Oct. 15, 1949, ch. 695, § 3, 63 Stat. 880, formerly set out in the credit to this section, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1453. Assistant Secretaries of Interior.

There shall be in the Department of the Interior two Assistant Secretaries of the Interior who shall be without numerical distinction of rank and who shall be appointed by the President, by and with the advice and consent of the Senate. (R.S. § 438; Mar. 3, 1885, ch. 360, 23 Stat. 497; Mar. 3, 1917, ch. 163, § 1, 39 Stat. 1102; Feb. 29, 1944, ch. 72, 58 Stat. 107.)

DERIVATION

Act Mar. 14, 1862, ch. 41, § 6, 12 Stat. 369; act Mar 8, 1873, ch. 226, § 1, 17 Stat. 486.

AMENDMENTS

1944—Act Feb. 29, 1944, provided that the Assistant Secretaries shall be without numerical distinction of rank.

ADMINISTRATIVE ASSISTANT SECRETARY

An Administrative Assistant Secretary of the Interior, to be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, to perform such duties as the Secretary of the Interior shall prescribe, and to receive compensation at the rate of $14,800 per annum, was provided for by 1950 Reorg. Plan No. 3, § 4, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

ADDITIONAL ASSISTANT SECRETARY

An additional Assistant Secretary of the Interior, to be appointed by the President, by and with the advice and consent of the Senate, to perform such duties as the Secretary of the Interior shall prescribe, and to receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments, was provided for by 1950 Reorg. Plan No. 3, § 3, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

TEMPORARY ADDITIONAL ASSISTANT SECRETARY

The office of a temporary additional Assistant Secretary of the Interior, which was provided for by act Feb. 29, 1944, ch. 72, 58 Stat. 107, ceased to exist by the terms of such act at the expiration of six months following the cessation of hostilities in World War II, which was proclaimed by the President at 12 o'clock noon of December 31, 1946, in Proc. No. 2714, 12 F.R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1454. Duties of Assistant Secretary and Assistant to the Secretary.

The Assistant Secretary of the Interior shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary, or may be required by law. The assistant to the Secretary of the Interior is authorized to sign such official papers and documents as the Secretary may direct. (R.S. § 493; Mar. 28, 1918, ch. 29, 40 Stat. 499.)

DERIVATION

Act Mar. 14, 1862, ch. 41, § 6, 12 Stat. 369.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1455. Solicitor; appointment; duties.

The legal work of the Department of the Interior shall be performed under the supervision and direction of the Solicitor of the Department of the Interior, who shall be appointed by the President with the advice and consent of the Senate. (June 26, 1946, ch. 494, 60 Stat. 312.)

CODIFICATION

Provisions of this section which prescribed the compensation of the Solicitor were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5311 et seq. of Title 5, Government Organization and Employees.

§ 1456. Chief clerk.

The chief clerk of the Department of the Interior shall be the chief executive officer of the department and may be designated by the Secretary to sign official papers and documents, including the authorization of expenditures from the contingent and other appropriations for the department, its bureaus and offices, section 675 of Title 31 to the contrary notwithstanding. (May 24, 1922, ch. 199, 42 Stat. 552; Jan. 24, 1923, ch. 42, 42 Stat. 1174; June 5, 1924, ch. 264, 43 Stat. 391; Mar. 3, 1925, ch. 462, 43 Stat. 1142; July 3, 1926, ch. 771, § 1, 44 Stat. 854.)

REFERENCES IN TEXT

Section 675 of Title 31, referred to in the text, was repealed by act Sept. 12, 1950, ch. 946, title III, § 301 (76), 64 Stat. 843.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

DIVISION OF ADMINISTRATIVE SERVICES

Interior Department Order No. 2546, dated Dec. 7, 1949 and amended Jan. 20, 1950, set up the Office of Administrative Management with an executive officer in charge, and the Chief Clerk of the Department was placed in charge of a Division of Administrative Services under that office. A further amendment to Department Order No. 2546, dated Aug. 15, 1950, placed the Division of Administrative Services, with the Chief Clerk in charge, under the Administrative Assistant Secretary of the Interior Department.

§ 1457. Duties of Secretary.

The Secretary of the Interior is charged with the supervision of public business relating to the following subjects and agencies:

1. Alaska Railroad.
2. Alaska Road Commission.
3. Bounty-lands.
4. Bureau of Land Management.
5. Bureau of Mines.
6. Bureau of Reclamation.
7. Division of Territories and Island Possessions.
8. Fish and Wildlife Service.
9. Geological Survey.
10. Indians.
11. National Park Service.
12. Petroleum conservation.
13. Public lands, including mines.

(R.S. § 441; Mar 3, 1879, ch. 182, 20 Stat. 394; Jan. 12, 1895, ch. 23, 28 Stat. 601; June 17, 1902, ch. 1093, 32 Stat. 388; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; Mar. 4, 1911, ch. 285, § 1, 36, Stat. 1422; July 1, 1916, ch. 209, § 1, 39 Stat. 309; Aug. 25, 1916, ch. 408, 39 Stat. 535; Ex. Ord. No. 3861, June 8, 1923; Ex. Ord. No. 4175, Mar. 17, 1925; Ex. Ord. No. 5398, July 21, 1930; June 30, 1932, ch. 320, § 1, 47, Stat. 446; Ex. Ord. No. 6611, Feb. 22, 1934; Ex. Ord. No. 6726, May 29, 1934; June 28, 1934, ch. 865, 48 Stat. 1269; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1939 Reorg. Plan No. II, § 4(e)(f), eff. July 1, 1939, 4 F.R. 2731, 52 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108 54 Stat. 1232; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1236; 1946 Reorg. Plan No. 3, § 403(a), eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; June 17, 1957, Pub. L. 85–56, title XXII, § 2201(1), 71 Stat. 157.)

DERIVATION

Act Mar. 3, 1849, ch. 108, §§ 3, 5—9, 9 Stat. 395; act Feb. 5, 1859, ch. 22, § 1, 11 Stat. 379; act July 20, 1868, ch. 176, § 1, 15 Stat. 92, 106; act July 8, 1870, ch. 230, § 1, 16 Stat. 198.

AMENDMENTS

1957—Pub. L. 85–56 substituted "Bounty-lands" for "Pensions and bounty-lands" in par. 3.

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of section by Pub. L. 85–56 effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3 §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

The functions of the General Land Office and of the Grazing Service were consolidated into a new agency

known as the Bureau of Land Management by 1946 Reorg. Plan No. 3, § 403(a), eff. July 16, 1946. Said Reorg. Plan is set out in the Appendix to Title 5, Government Organization and Employees.

The following subjects of which the Secretary of the Interior was charged with supervision by R. S. § 441, were transferred in the manner indicated.

Census—was transferred to the Department of Commerce and Labor by act Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826.

Pensions—was transferred to the Veterans' Administration by Ex. Ord. No. 5398 of July 21, 1930, pursuant to act July 3, 1930, ch. 863, § 1, 46 Stat. 1016.

Patents—was transferred to the Department of Commerce by Ex. Ord. of Mar. 17, 1925, pursuant to act Feb. 14, 1903, ch. 552 § 12, 32 Stat. 830. (See section 602 of this title.)

Publications, custody and distribution—was transferred to the Public Printer and the superintendent of documents by act Jan. 12, 1895, ch. 23, 28 Stat. 601. (See Title 44, Public Printing and Documents.)

Education—was transferred to the Federal Security Agency by 1939 Reorg. Plan No. I, § 201, 4 F.R. 2728, 53 Stat. 1424. (Reorg. Plan No. I is set out in the Appendix to Title 5.) The Federal Security Agency was abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, and its functions were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1.

Government Hospital for the Insane—was designated St. Elizabeths Hospital by act July 1, 1916, ch. 209, § 1, 39 Stat. 309. It was transferred to the Federal Security Agency by 1940 Reorg. Plan. No. IV, § 11, 5 F.R. 2422, 54 Stat. 1236. (Reorg. Plan No. IV is set out in the Appendix to Title 5.) The Federal Security Agency was abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, and its functions were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1.

Columbia Asylum for the Deaf and Dumb—became the "Columbia Institution for the Deaf" by act Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1422. It was transferred to the Federal Security Agency by 1940 Reorg. Plan No. IV, § 11, 5 F.R. 2422, 54 Stat. 1236. The Federal Security Agency was abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, and its functions were transferred to the Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1.

The following subjects and agencies were placed under the supervision of the Secretary of the Interior by acts and executive orders cited thereto:

Alaska Railroad—Ex. Ord. of June 8, 1923, pursuant to act Mar. 12, 1914, ch. 37, 38 Stat. 305.

Alaska Road Commission—Act June 30, 1932, ch. 320, § 1, 47 Stat. 446.

Bureau of Mines—Transferred to Department of Commerce by Ex. Ord. No. 4239, of June 4, 1925; retransferred to Department of the Interior by Ex. Ord. No. 6611 of February 22, 1934.

Bureau of Reclamation—Act June 17, 1902, ch. 1093, 32 Stat. 388.

Division of Territories and Island Possessions—Ex. Ord. No. 6726, of May 29, 1934.

Fish and Wildlife Service—1939 Reorg. Plan No. II, § 4 (e) (f), 4 F. R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, 5 F. R. 2108, 54 Stat. 1232. (Reorganization Plans are set out in the Appendix to Title 5.)

Geological Survey—Act Mar. 3, 1879, ch. 182, 20 Stat. 394.

Grazing—Act June 28, 1934, ch. 865, 48 Stat. 1269.

National Park Service—Act Aug. 25, 1916, ch. 408, 39 Stat. 535.

Office of Consumers' Counsel of National Bituminous Coal Commission—Abolished and functions transferred to office of Solicitor of Department of Interior, by 1939 Reorg. Plan No. II, § 4 (c), eff. July 1, 1939, set out in the Appendix to Title 5. Its functions, records, property, and personnel were subsequently transferred from the said Solicitor to the Bituminous Coal Consumers' Counsel.

Petroleum conservation—Section 3 of Ex. Ord. No. 10752, Feb. 12, 1958, 23 F.R. 973, superseded Ex. Ord. No. 6979, Feb. 28, 1935, Ex. Ord. No. 7756, Dec. 1, 1937, 2 F.R. 2664, and Ex. Ord. No. 9732, June 3, 1946, 11 F.R. 5985, formerly classified as notes to this section.

STUDY OF HEALTH AND SAFETY CONDITIONS IN METAL AND NONMETALLIC MINES

Pub. L. 87-300, Sept. 26, 1961, 75 Stat. 649, provided:

"That the Secretary of the Interior is hereby authorized and directed to make or cause to be made a study covering—

"(1) the causes of injuries and health hazards in metal and nonmetallic mines (excluding coal and lignite mines);

"(2) the relative effectiveness of voluntary versus mandatory reporting of acident statistics;

"(3) the relative contribution to safety of inspection programs embodying—

"(A) right-of-entry only and

"(B) right-of-entry plus enforcement authority;

"(4) the effectiveness of health and safety education and training;

"(5) the magnitude of effort and costs of each of these possible phases of an effective safety program for metal and nonmetallic mines (excluding coal and lignite mines); and

"(6) the scope and adequacy of State mine-safety laws applicable to such mines and the enforcement of such laws.

"SEC. 2. (a) The Secretary of the Interior or any duly authorized representative shall be entitled to admission to, and to require reports from the operator of, any metal or nonmetallic mine which is in a State (excluding any coal or lignite mine), the products of which regularly enter commerce or the operations of which substantially affect commerce, for the purpose of gathering data and information necessary for the study authorized in the first section of this Act.

"(b) As used in this section—

"(1) the term 'State' includes the Commonwealth of Puerto Rico and any possession of the Unted States; and

"(2) the term 'commerce' means commerce between any State and any place outside thereof, or between points within the same State but through any place outside thereof.

"SEC. 3. The Secretary of the Interior shall submit a report of his findings, together with recommendations for an effective safety program for metal and nonmetallic mines (excluding coal and lignite mines) based upon such findings, to the Congress not more than two years after the date of enactment of this Act [Sept. 26, 1961]."

SURVEYS, INVESTIGATIONS AND RESEARCH; APPROPRIATIONS

Pub. L. 85-743, Aug. 23, 1958, 72 Stat. 837, provided:

"That the authority vested in the Secretary of the Interior, to perform surveys, investigations, and research in geology, biology, minerals and water resources, and mapping is hereby extended to include Antarctica and the Trust Territory of the Pacific Islands.

"SEC. 2. The Secretary of the Interior is authorized to compile maps of Antarctica from materials already available and from such additional material as may result from the several expeditions in support of the International Geophysical Year.

"SEC. 3. Nothing in this Act shall be construed to authorize the absorption or modification of, or change in any way, the responsibility of any other department or agency of the United States, including the performance of surveys, mapping, and compilation of maps.

"SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of the Interior, see Parts 1, 7, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

EXECUTIVE ORDER NO. 9633

Ex. Ord. 9633, Sept. 28, 1945, 10 F.R. 12305, which reserved and placed certain resources of the Continental

Shelf under the control and jurisdiction of the Secretary of the Interior, was revoked by Ex. Ord. 10426, Jan. 16, 1953, 18 F.R. 405.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Authority of Secretary of Interior to delegate powers and duties concerning Indian affairs, see section 1a of Title 25, Indians.

§ 1458. Secretary to exercise certain powers over the Territories.

The Secretary of the Interior shall exercise all the powers and perform all the duties in relation to the Territories of the United States that were, prior to March 1, 1873, by law or by custom exercised and performed by the Secretary of State. (R.S. § 442).

DERIVATION

Act Mar. 1, 1873, ch. 217, 17 Stat. 484.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

EX. ORD. NO. 10967. ADMINISTRATION OF PALMYRA ISLAND

Ex. Ord. No. 10967, Oct. 10, 1961, 26 F.R. 9667, provided:

By virtue of the authority vested in me by section 48 of the Hawaii Omnibus Act (approved July 12, 1960; 74 Stat. 424; P.L. 86-624) [set out as a note preceding section 491 of Title 48, Territories and Insular Possessions] and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of the Interior shall be responsible for the civil administration of Palmyra Island and all executive and legislative authority necessary for that administration, and all judicial authority respecting Palmyra Island other than the authority contained in the Act of June 15, 1950 (64 Stat. 217), as amended (48 U.S.C. 644a), shall be vested in the Secretary of the Interior.

SEC. 2. The executive, legislative, and judicial authority provided for in section 1 of this order (1) may be exercised through such agency or agencies of the Department of the Interior, or through such officers or employees under the jurdistiction of the Secretary of the Interior, as the Secretary may direct or authorize, (2) may be exercised through such agency or agencies, other than or not in the Department of the Interior, or through such officers or employees of the United States not under the administrative supervision of the Secretary, for such time and under such conditions as may be agreed upon between the Secretary and such agency, agencies, officers or employees of the United States, and (3) shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

SEC. 3. The Secretary of the Interior may confer upon the United States District Court for the District of Hawaii such jurisdiction, in addition to that contained in the Act of June 15, 1950 [section 644a of Title 48], and such judicial functions and duties, as he may deem appropriate for the civil administration of Palmyra Island.

SEC. 4. The foregoing provisions of this order shall continue in force until the Congress shall provide for the civil administration of Palmyra Island or until such earlier time as the President may specify.

SEC. 5. As used herein, the term "Palmyra Island" means the place of that name, consisting of a group of islets located in the Pacific Ocean approximately at Latitude 5°52′ North and Longitude 162°06′ West, and includes the territorial waters of that place and includes also the reefs surrounding that place or any part thereof.

SEC. 6. To the extent that any prior Executive order or proclamation is inconsistent with the provisions of this order, this order shall control.

SEC. 7. Nothing in this order shall be deemed to reduce, limit, or otherwise modify the authority or responsibility of the Attorney General to represent the legal interests of the United States in civil or criminal cases arising under the provisions of the Act of June 15, 1950 [section 644a of Title 48], or under the provisions of section 3 of this order.

JOHN F. KENNEDY

§ 1459. Expenditures of Department.

The Secretary of the Interior shall sign all requisitions for the advance or payment of money, out of the Treasury, upon estimates or accounts for expenditures upon business assigned by law to his department; subject, however, to adjustment and control by the proper accounting officers of the General Accounting Office. (R.S. § 444; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

DERIVATION

Act Mar. 3, 1849, ch. 108, § 2, 9 Stat. 395.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1460. Copies of records, documents, etc.; charges; disposition of receipts.

The Secretary of the Interior, or any of the officers of that Department may, when not prejudicial to the interests of the Government, furnish authenticated or unauthenticated copies of any official books, records, papers, documents, maps, plats, or diagrams within his custody and may charge therefore a sum equal to the cost of production thereof, plus the cost of administrative services involved in handling the records for such purpose, as these costs may be determined by the Secretary of the Interior or such subordinate officials or employees as he may designate, and in addition the sum of 25 cents for each certificate of verification and the seal attached to authenticated copies. There shall be no charge for the making or verification of copies required for official use by the officers of any branch of the Government. Only a charge of 25 cents shall be made for furnishing authenticated copies of any rules, regulations, or instructions printed by the government for gratuitous distribution. The money received for copies under this section shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of furnishing copies as herein authorized. (Aug. 24, 1912, ch. 370, § 1, 37 Stat. 497; July 30, 1947, ch. 354, § 1, 61 Stat. 521, Aug. 3, 1950, ch. 526, 64 Stat. 402.)

AMENDMENTS

1950—Act Aug. 3, 1950, included within the price of copies of records furnished by the Department the cost of the administrative expenses involved as well as the cost of production.

1947—Act July 30, 1947, omitted specific charges for copies of books, records, etc., inserted provision that charge for copies would amount to cost of production as determined by the Secretary of the Interior or his designee, and added provision relating to deposit of receipts.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

CROSS REFERENCES

Admissibility in evidence of copies of records, etc., see section 1733 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1373, 1461, 1462, 1463 of this title.

§ 1461. Same; inspection and copying.

Nothing in sections 1460 to 1463 of this title shall be construed to limit or restrict in any manner the authority of the Secretary of the Interior to prescribe such rules and regulations as he may deem proper governing the inspection of the records of said department and its various bureaus by the general public, and any person having any particular interest in any of such records may be permitted to take copies of such records under such rules and regulations as may be prescribed by the Secretary of the Interior. (Aug. 24, 1912, ch. 370, § 2, 37 Stat. 498.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1462. Attestation of copies by official seal.

All officers who furnish authenticated copies under section 1460 of this title shall attest their authentication by the use of an official seal, which is authorized for that purpose. (Aug. 24, 1912, ch. 370, § 4, 37 Stat. 498.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1461 of this title.

§ 1463. Disposition of receipts.

All sums received under the provisions of section 1460 of this title shall be deposited in the Treasury to the credit of miscellaneous receipts. (Aug. 24, 1912, ch. 370, § 6, 37 Stat. 498.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1461 of this title.

§ 1464. Agents or attorneys representing claimants before department.

The Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud in any manner, deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or by advertisement. (July 4, 1884, ch. 181, § 5, 23 Stat. 101.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1465. Annual reports of department and its bureaus.

The annual reports of the department and of all its bureaus and establishments, including the Bureau of Reclamation, shall not exceed a total of one thousand two hundred and fifty pages. (May 24, 1922, ch. 199, 42 Stat. 554; Jan. 24, 1923, ch. 42, 42 Stat. 1176; June 5, 1924, ch. 264, 43 Stat. 392; Mar. 3, 1925, ch. 462, 43 Stat. 1143.)

§ 1466. Administration of oaths, affirmations, etc., by employees of Division of Investigations; force and effect.

Special agents and such other employees of the Division of Investigations, Department of the Interior of the United States, as are designated by the Secretary of the Interior for that purpose, are authorized and empowered to administer to or take from any person an oath, affirmation, affidavit, or deposition whenever necessary in the performance of their official duties. Any such oath, affirmation, affidavit, or deposition administered or taken by or before a special agent or such other employee of the Division of Investigations, Department of the Interior, designated by the Secretary of the Interior, when certified under his hand, shall have like force and effect as if administered or taken before an officer having a seal. (Oct. 14, 1940, ch. 878, 54 Stat. 1175.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

§ 1467. Working capital fund; establishment; uses reimbursement.

There is established a working capital fund of $300,000, to be available without fiscal year limitation, for expenses necessary for the maintenance

and operation of (1) a central reproduction service; (2) communication services; (3) a central supply service for stationery, supplies, equipment, blank forms, and miscellaneous materials, for which adequate stocks may be maintained to meet in whole or in part requirements of the bureaus and offices of the Department in the city of Washington and elsewhere; (4) a central library service; (5) health services; and (6) such other similar service functions as the Secretary determines may be performed more advantageously on a reimbursable basis. Said fund shall be reimbursed from available funds of bureaus, offices, and agencies for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment. (Sept. 6, 1950, ch. 896, ch. VII, title I, § 101, 64 Stat. 680.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1468 of this title.

§ 1468. Same; availability for uniforms or allowances therefor.

The working capital fund, established by section 1467 of this title, shall on and after June 13, 1956 be available for uniforms or allowances therefor, as authorized by section 5901 of title 5. (June 13, 1956, ch. 380, title I, § 101, 70 Stat. 266.)

Chapter 32.—COLORADO RIVER BASIN PROJECT

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SUBCHAPTER I.—OBJECTIVES

§ 1501. Congressional declaration of purpose and policy.

(a) It is the object of this Act to provide a program for the further comprehensive development of the water resources of the Colorado River Basin and for the provision of additional and adequate water supplies for use in the upper as well as in the lower Colorado River Basin. This program is declared to be for the purposes, among others, of regulating the flow of the Colorado River; controlling floods; improving navigation; providing for the storage and delivery of the waters of the Colorado River for reclamation of lands, including supplemental water supplies, and for municipal, industrial, and other beneficial purposes; improving water quality; providing for basic public outdoor recreation facilities;

improving conditions for fish and wildlife, and the generation and sale of electrical power as an incident of the foregoing purposes.

(b) It is the policy of the Congress that the Secretary of the Interior (hereinafter referred to the "Secretary") shall continue to develop, after consultation with affected States and appropriate Federal agencies, a regional water plan, consistent with the provisions of this Act and with future authorizations, to serve as the framework under which projects in the Colorado River Basin may be coordinated and constructed with proper timing to the end that an adequate supply of water may be made available for such projects, whether heretofore, herein, or hereafter authorized. (Pub. L. 90–537, title I, § 102, Sept. 30, 1968, 82 Stat. 886.)

REFERENCES IN TEXT

"This Act", referred to in text, is The Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. For classification of that Act, see Short Title note under this section.

SHORT TITLE

Section 101 of Pub. L. 90–537 provided: "That this Act [enacting this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amending sections 616hh, 620, and 620a of this title, and enacting provisions set out as notes under this section and sections 620 and 620k of this title] may be cited as the 'Colorado River Basin Project Act'."

CROSS REFERENCE

Compliance with Colorado law in diversion and storage of water for projects constructed under authority of this chapter if located within and intended for benefit of Colorado only, see section 620c–1 of this title.

SUBCHAPTER II.—INVESTIGATIONS AND PLANNING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1541 of this title.

§ 1511. Reconnaissance investigations by Secretary of Interior; reports; 10-year moratorium on water importation studies.

Pursuant to the authority set out in the Reclamation Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, and the provisions of the Water Resources Planning Act of July 22, 1965, as amended, with respect to the coordination of studies, investigations and assessments, the Secretary of the Interior shall conduct full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the Western United States. Such investigations shall include the long-range water supply available and the long-range water requirements in each water resource region of the Western United States. Progress reports in connection with these investigations shall be submitted to the President, the National Water Commission (while it is in existence), the Water Resources Council, and to the Congress every two years. The first of such reports shall be submitted on or before June 30, 1971, and a final reconnaissance report shall be submitted not later than June 30, 1977: *Provided*, That for a period of ten years from September 30, 1968, the Secretary shall not undertake reconnaissance studies of any plan for the importation of water into the Colorado River Basin from any other natural river drainage basin lying outside the States of Arizona, California, Colorado, New Mexico, and those portions of Nevada, Utah, and Wyoming which are in the natural drainage basin of the Colorado River. (Pub. L. 90–537, title II, § 201, Sept. 30, 1968, 82 Stat. 886.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which, together with Acts amendatory thereof or supplementary thereto, is classified to this title. See Tables volume.

The Water Resources Planning Act of July 22, 1965, referred to in text, is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, which is classified to section 1962 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1512, 1513, 1543 of this title.

§ 1511a. Cooperation and participation by Secretary of Army with Federal, State, and local agencies.

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate and participate with concerned Federal, State, and local agencies in preparing the general plan for the development of the water resources of the western United States authorized by the Colorado River Basin Project Act. (Pub. L. 91–611, title II, § 203, Dec. 31, 1970, 84 Stat. 1828.)

REFERENCES IN TEXT

The Colorado River Basin Project Act, referred to in the text, is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Colorado River Basin Project Act which comprises this chapter.

§ 1512. Mexican Water Treaty.

The Congress declares that the satisfaction of the requirements of the Mexican Water Treaty from the Colorado River constitutes a national obligation which shall be the first obligation of any water augmentation project planned pursuant to section 1511 of this title and authorized by the Congress. Accordingly, the States of the Upper Division (Colorado, New Mexico, Utah, and Wyoming) and the States of the Lower Division (Arizona, California, and Nevada) shall be relieved from all obligations which may have been imposed upon them by article III(c) of the Colorado River Compact so long as the Secretary shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to satisfy the requirements of the Mexican Water Treaty together with any losses of water associated with the performance of that treaty: *Provided*, That the satisfaction of the requirements of the Mexican Water Treaty (Treaty Series 994, 59 Stat. 1219), shall be from the waters of the Colorado River pursuant to the treaties, laws, and compacts presently relating thereto, until such time as a feasibility plan showing the most economical means of augmenting the water supply available in the Colorado River below Lee Ferry by two and one-half million acre-feet shall be authorized by the Congress and is in operation as provided in this Act. (Pub. L. 90–537, title II, § 202, Sept. 30, 1968, 82 Stat. 887.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 1513. Importation of water; protection of exporting areas.

(a) In the event that the Secretary shall, pursuant to section 1511 of this title, plan works to import water into the Colorado River system from sources outside the natural drainage areas of the system, he shall make provision for adequate and equitable protection of the interests of the States and areas of origin, including assistance from funds specified in this Act, to the end that water supplies may be available for use in such States and areas of origin adequate to satisfy their ultimate requirements at prices to users not adversely affected by the exportation of water to the Colorado River system.

(b) All requirements, present or future, for water within any State lying wholly or in part within the drainage area of any river basin from which water is exported by works planned pursuant to this Act shall have a priority of right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of the water delivered by means of such exportation works, unless otherwise provided by interstate agreement. (Pub. L. 90–537, title II, § 203, Sept. 30, 1968, 82 Stat. 887.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

§ 1514. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as are required to carry out the purposes of this subchapter. (Pub. L. 90–537, title II, § 204, Sept. 30, 1968, 82 Stat. 887.)

SUBCHAPTER III.—AUTHORIZED UNITS; PROTECTION OF EXISTING USES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1543 of this title.

§ 1521. Central Arizona Project.

(a) Construction and operation; Granite Reef aqueduct and pumping plants; Orme Dam and Reservoir; Buttes Dam and Reservoir; Hooker Dam and Reservoir; Charleston Dam and Reservoir; Tucson aqueducts and pumping plants; Salt-Gila aqueducts; related and appurtenant works.

For the purposes of furnishing irrigation water and municipal water supplies to the water-deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary shall construct, operate, and maintain the Central Arizona Project, consisting of the following principal works: (1) a system of main conducts and canals, including a main canal and pumping plants (Granite Reef aqueduct and pumping plants), for diverting and carrying water from Lake Havasu to Orme Dam or suitable alternative, which system may have a capacity of 3,000 cubic feet per second or whatever lesser capacity is found to be feasible: *Provided,* That any capacity in the Granite Reef aqueduct in excess of 2,500 cubic feet per second shall be utilized for the conveyance of Colorado River water only when Lake Powell is full or releases of water are made from Lake Powell to prevent the reservoir from exceeding elevation 3,700 feet above mean sea level or when releases are made pursuant to the proviso in section 1552(a)(3) of this title: *Provided further,* That the costs of providing any capacity in excess of 2,500 cubic feet per second shall be repaid by those funds available to Arizona pursuant to the provision of section 1543(f) of this title, or by funds from sources other than the development fund; (2) Orme Dam and Reservoir and power-pumping plant or suitable alternative; (3) Buttes Dam and Reservoir, which shall be so operated as not to prejudice the rights of any user in and to the waters of the Gila River as those rights are set forth in the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59); (4) Hooker Dam and Reservoir or suitable alternative, which shall be constructed in such a manner as to give effect to the provisions of subsection (f) of section 1524 of this title; (5) Charleston Dam and Reservoir; (6) Tucson aqueducts and pumping plants; (7) Salt-Gila aqueducts; (8) related canals, regulating facilities, hydroelectric powerplants, and electric transmission facilities required for the operation of said principal works; (9) related water distribution and drainage works; and (10) appurtenant works.

(b) Limitation on water diversions in years of insufficient main stream Colorado River water.

Article II(B)(3) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340) shall be so administered that in any year in which, as determined by the Secretary, there is insufficient main stream Colorado River water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada, diversions from the main stream for the Central Arizona Project shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use by holders of present perfected rights, by other users in the State of California served under existing contracts with the United States by diversion works heretofore constructed, and by other existing Federal reservations in that State, of four million four hundred thousand acre-feet of mainstream water, and by users of the same character in Arizona and Nevada. Water users in the State of Nevada shall not be required to bear shortages in any proportion greater than would have been imposed in the absence of this subsection. This subsection shall not affect the relative priorities, among

themselves, of water users in Arizona, Nevada, and California which are senior to diversions for the Central Arizona Project, or amend any provisions of said decree.

(c) Augmentation of water supply of the Colorado River system.

The limitation stated in subsection (b) of this section shall not apply so long as the Secretary shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to make sufficient mainstream water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada. (Pub. L. 90–537, title III, § 301, Sept. 30, 1968, 82 Stat. 887.)

§ 1522. Orme Dam and Reservoir.

(a) Acquisition of lands of the Salt River Pima-Maricopa Indian Community and the Fort McDowell-Apache Indian Community; relocation; eminent domain.

The Secretary shall designate the lands of the Salt River Pima-Maricopa Indian Community, Arizona, and the Fort McDowell-Apache Indian Community, Arizona, or interests therein, and any allotted lands or interests therein within said communities which he determines are necessary for use and occupancy by the United States for the construction, operation, and maintenance of Orme Dam and Reservoir, or alternative. The Secretary shall offer to pay the fair market value of the lands and interests designated, inclusive of improvements. In addition, the Secretary shall offer to pay toward the cost of relocating or replacing such improvements not to exceed $500,000 in the aggregate, and the amount offered for the actual relocation or replacement of a residence shall not exceed the difference between the fair market value of the residence and $8,000. Each community and each affected allottee shall have six months in which to accept or reject the Secretary's offer. If the Secretary's offer is rejected, the United States may proceed to acquire the property interests involved through eminent domain proceedings in the United States District Court for the District of Arizona under sections 257 and 258a of Title 40. Upon acceptance in writing of the Secretary's offer, or upon the filing of a declaration of taking in eminent domain proceedings, title to the lands or interests involved, and the right to possession thereof, shall vest in the United States. Upon a determination by the Secretary that all or any part of such lands or interests are no longer necessary for the purpose for which acquired, title to such lands or interests shall be restored to the appropriate community upon repayment to the Federal Government of the amounts paid by it for such lands.

(b) Rights of former owners to use or lease land.

Title to any land or easement acquired pursuant to this section shall be subject to the right of the former owner to use or lease the land for purposes not inconsistent with the construction, operation, and maintenance of the project, as determined by, and under terms and conditions prescribed by, the Secretary. Such right shall include the right to extract and dispose of minerals. The determination of fair market value under subsection (a) of this section shall reflect the right to extract and dispose of minerals and all other uses permitted by this section.

(c) Addition of land to Fort McDowell Indian Reservation.

In view of the fact that a substantial portion of the lands of the Fort McDowell Mohave-Apache Indian Community will be required for Orme Dam and Reservoir, or alternative, the Secretary shall, in addition to the compensation provided for in subsection (a) of this section, designate and add to the Fort McDowell Indian Reservation twenty-five hundred acres of suitable lands in the vicinity of the reservation that are under the jurisdiction of the Department of the Interior in township 4 north, range 7 east; township 5 north, range 7 east; and township 3 north, range 7 east, Gila and Salt River base meridian, Arizona. Title to lands so added to the reservation shall be held by the United States in trust for the Fort McDowell Mohave-Apache Indian Community.

(d) Recreational facilities developed and operated by Indian communities along Orme Reservoir shoreline.

Each community shall have a right, in accordance with plans approved by the Secretary, to develop and operate recreational facilities along the part of the shoreline of the Orme Reservoir located on or adjacent to its reservation, including land added to the Fort McDowell Reservation as provided in subsection (b) of this section, subject to rules and regulations prescribed by the Secretary governing the recreation development of the reservoir. Recreation development of the entire reservoir and federally owned lands under the jurisdiction of the Secretary adjacent thereto shall be in accordance with a master recreation plan approved by the Secretary. The members of each community shall have nonexclusive personal rights to hunt and fish on or in the reservoir without charge to the same extent they are now authorized to hunt and fish, but no community shall have the right to exclude others from the reservoir except by control of access through its reservation or any right to require payment by members of the public except for the use of community lands or facilities.

(e) Exemption of funds from State and Federal income taxes.

All funds paid pursuant to this section, and any per capita distribution thereof, shall be exempt from all forms of State and Federal income taxes. (Pub. L. 90–537, title III, § 302, Sept. 30, 1968, 82 Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1527 of this title.

§ 1523. Power requirements of Central Arizona Project and augmentation of Lower Colorado River Basin Development Fund.

(a) Engineering and economic studies.

The Secretary is authorized and directed to continue to a conclusion appropriate engineering and economic studies and to recommend the most feasible plan for the construction and operation of hydroelectric generating and transmission facilities, the

purchase of electrical energy, the purchase of entitlement to electrical plant capacity, or any combination thereof, including participation, operation, or construction by non-Federal entities, for the purpose of supplying the power requirements of the Central Arizona Project and augmenting the Lower Colorado River Basin Development Fund: *Provided*, That nothing in this section or in this Act contained shall be construed to authorize the study or construction of any dams on the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam.

(b) Construction of thermal generating powerplants; agreements for acquisition by United States of portions of plant capacity.

If included as a part of the recommended plan, the Secretary may enter into agreements with non-Federal interests proposing to construct thermal generating powerplants whereby the United States shall acquire the right to such portions of their capacity, including delivery of power and energy over appurtenant transmission facilities to mutually agreed upon delivery points, as he determines is required in connection with the operation of the Central Arizona Project. When not required for the Central Arizona Project, the power and energy acquired by such agreements may be disposed of intermittently by the Secretary for other purposes at such prices as he may determine, including its marketing in conjunction with the sale of power and energy from Federal powerplants in the Colorado River system so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. The agreement shall provide among other things, that—

(1) the United States shall pay not more than that portion of the total construction cost, exclusive of interest during construction, of the powerplants, and of any switchyards and transmission facilities serving the United States, as is represented by the ratios of the respective capacities to be provided for the United States therein to the total capacities of such facilities. The Secretary shall make the Federal portion of such costs available to the non-Federal interests during the construction period, including the period of preparation of designs and specifications, in such installments as will facilitate a timely construction schedule, but no funds other than for preconstruction activities shall be made available by the Secretary until he determines that adequate contractual arrangements have been entered into between all the affected parties covering land, water, fuel supplies, power (its availability and use), rights-of-way, transmission facilities and all other necessary matters for the thermal generating powerplants;

(2) annual operation and maintenance costs shall be apportioned between the United States and the non-Federal interests on an equitable basis taking into account the ratios determined in accordance with the foregoing clause (1): *Provided, however*, That the United States shall share on the foregoing basis in the depreciation component of such costs only to the extent of provision for depreciation on replacements financed by the non-Federal interests;

(3) the United States shall be given appropriate credit for any interests in Federal lands administered by the Department of the Interior that are made available for the powerplants and appurtenances;

(4) costs to be borne by the United States under clauses (1) and (2) shall not include (a) interest and interest during construction, (b) financing charges, (c) franchise fees, and (d) such other costs as shall be specified in the agreement.

(c) Recommended plan; submission to Congress.

No later than one year from September 30, 1968, the Secretary shall submit his recommended plan to the Congress. Except as authorized by subsection (b) of this section, such plan shall not become effective until approved by the Congress.

(d) Apportionment of water for Arizona plants diverted above Lee Ferry.

If any thermal generating plant referred to in subsection (b) of this section is located in Arizona, and if it is served by water diverted from the drainage area of the Colorado River system above Lee Ferry, other provisions of existing law to the contrary notwithstanding, such consumptive use of water shall be a part of the fifty thousand acre-feet per annum apportioned to the State of Arizona by article III(a) of the Upper Colorado River Basin Compact (63 Stat. 31). (Pub. L. 90–537, title III, § 303, Sept. 30, 1968, 82 Stat. 889.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

§ 1524. Water furnished from Central Arizona Project.

(a) Restriction on use of water for irrigation.

Unless and until otherwise provided by Congress, water from the Central Arizona Project shall not be made available directly or indirectly for the irrigation of lands not having a recent irrigation history as determined by the Secretary, except in the case of Indian lands, national wildlife refuges, and, with the approval of the Secretary, State-administered wildlife management areas.

(b) Contracts with municipal and industrial users.

(1) Irrigation and municipal and industrial water supply under the Central Arizona Project within the State of Arizona may, in the event the Secretary determines that it is necessary to effect repayment, be pursuant to master contracts with organizations which have power to levy assessments against all taxable real property within their boundaries. The terms and conditions of contracts or other arrangements whereby each such organization makes water from the Central Arizona Project available to users within its boundaries shall be subject to the Secretary's approval, and the United States shall, if the Secretary determines such action is desirable to facilitate carrying out the provisions of this Act, have the right to require that it be a party to such contracts or that contracts subsidiary to the master contracts be entered into between the United States and

any user. The provisions of this clause (1) shall not apply to the supplying of water to an Indian tribe for use within the boundaries of an Indian reservation.

(2) Any obligation assumed pursuant to section 485h(d) of this title with respect to any project contract unit or irrigation block shall be repaid over a basic period of not more than fifty years; any water service provided pursuant to section 485h(e) of this title may be on the basis of delivery of water for a period of fifty years and for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits and from such other points of delivery as the Secretary may designate; and long-term contracts relating to irrigation water supply shall provide that water made available thereunder may be made available by the Secretary for municipal or industrial purposes if and to the extent that such water is not required by the contractor for irrigation purposes.

(3) Contracts relating to municipal and industrial water supply under the Central Arizona Project may be made without regard to the limitations of the last sentence of section 485h(c) of this title; may provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits; and may provide for repayment over a period of fifty years if made pursuant to clause (1) of said section and for the delivery of water over a period of fifty years if made pursuant to clause (2) thereof.

(c) Water conservation.

Each contract under which water is provided under the Central Arizona Project shall require that (1) there be in effect measures, adequate in the judgment of the Secretary, to control expansion of irrigation from aquifers affected by the irrigation in the contract service area; (2) the canals and distribution systems through which water is conveyed after its delivery by the United States to the contractors shall be provided and maintained with linings adequate in his judgment to prevent excessive conveyance losses; and (3) neither the contractor nor the Secretary shall pump or permit others to pump ground water from within the exterior boundaries of the service area of a contractor receiving water from the Central Arizona Project for any use outside said contractor's service area unless the Secretary and such contractor shall agree, or shall have previously agreed, that a surplus of ground water exists and that drainage is or was required. Such contracts shall be subordinate at all times to the satisfaction of all existing contracts between the Secretary and users in Arizona heretofore made pursuant to the Boulder Canyon Project Act.

(d) Water exchanges.

The Secretary may require in any contract under which water is provided from the Central Arizona Project that the contractor agree to accept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream. The Secretary shall so require in the case of users in Arizona who also use water from the Gila River system to the extent necessary to make available to users of water from the Gila River system in New Mexico additional quantities of water as provided in and under the conditions specified in subsection (f) of this section: *Provided,* That such exchanges and replacements shall be accomplished without economic injury or cost to such Arizona contractors.

(e) Water shortage priorities.

In times of shortage or reduction of main stream Colorado River water for the Central Arizona Project, as determined by the Secretary, users which have yielded water from other sources in exchange for main stream water supplied by that project shall have a first priority to receive main stream water, as against other users supplied by that project which have not so yielded water from other sources, but only in quantities adequate to replace the water so yielded.

(f) New Mexico users; water exchange contracts.

(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in New Mexico for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of eighteen thousand acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340). Such increased consumptive uses shall not begin until, and shall continue only so long as, delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this Act, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.

(2) The Secretary shall further offer to contract with water users in New Mexico for water from the Gila River, its tributaries, and underground water sources in amounts that will permit consumptive uses of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of an additional thirty thousand acre-feet, including reservoir evaporation. Such further increases in consumptive use shall not begin until, and shall continue only so long as, works capable of augmenting the water supply of the Colorado River system have been completed and water sufficiently in excess of two million eight hundred thousand acre-feet per annum is available from the main stream of the Colorado River for consumptive use in Arizona to provide water for the exchanges herein authorized and provided. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.

(3) All additional consumptive uses provided for in clauses (1) and (2) of this subsection shall be subject to all rights in New Mexico and Arizona as established by the decree entered by the United States District Court for the District of Arizona on

June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59) and to all other rights existing on September 30, 1968, in New Mexico and Arizona to water from the Gila River, its tributaries, and underground water sources, and shall be junior thereto and shall be made only to the extent possible without economic injury or cost to the holders of such rights.

(g) Restriction on use of water for production of basic agricultural commodities on newly irrigated lands.

For a period of ten years from September 30, 1968, no water from the projects authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (Pub. L. 90–537, title III, § 304, Sept. 30, 1968, 82 Stat. 891.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, which is classified to section 617 et seq. of this title.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 83 Stat. 1051, which is classified principally to section 1421 et seq. of Title 7, Agriculture. See Short Title note under section 1421 of Title 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1521, 1543 of this title.

§ 1525. Cost of main stream water of the Colorado River.

To the extent that the flow of the main stream of the Colorado River is augmented in order to make sufficient water available for release, as determined by the Secretary pursuant to article II(b)(1) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340), to satisfy annual consumptive use of two million eight hundred thousand acre-feet in Arizona, four million four hundred thousand acre-feet in California, and three hundred thousand acre-feet in Nevada, respectively, the Secretary shall make such water available to users of main stream water in those States at the same costs (to the extent that such costs can be made comparable through the nonreimbursable allocation to the replenishment of the deficiencies occasioned by satisfaction of the Mexican Treaty burden as herein provided and financial assistance from the development fund established by section 1543 of this title) and on the same terms as would be applicable if main stream water were available for release in the quantities required to supply such consumptive use. (Pub. L. 90–537, title III, § 305, Sept. 30, 1968, 82 Stat. 893.)

§ 1526. Water salvage programs.

The Secretary shall undertake programs for water salvage and ground water recovery along and adjacent to the main stream of the Colorado River. Such programs shall be consistent with maintenance of a reasonable degree of undisturbed habitat for fish and wildlife in the area, as determined by the Secretary. (Pub. L. 90–537, title III, § 306, Sept. 30, 1968, 82 Stat. 893.)

§ 1527. Fish and wildlife conservation and development.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the project works authorized pursuant to this subchapter shall be in accordance with the provisions of the Federal Water Project Recreation Act, except as provided in section 1522 of this title. (Pub. L. 90–537, title III, § 308, Sept. 30, 1968, 82 Stat. 893.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, which is classified to sections 460*l*–5(a), 460*l*–12 to 460*l*–21, and 662(d) of Title 16, Conservation.

§ 1528. Authorization of appropriations.

(a) There is hereby authorized to be appropriated for construction of the Central Arizona Project, including prepayment for power generation and transmission faclities but exclusive of distribution and drainage facilities for non-Indian lands, $832,180,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, such sums as may be required for operation and maintenance of the project.

(b) There is also authorized to be appropriated $100,000,000 for construction of distribution and drainage facilities for non-Indian lands. Notwithstanding the provisions of section 1543 of this title, neither appropriations made pursuant to the authorization contained in this subsection nor revenues collected in connection with the operation of such facilities shall be credited to the Lower Colorado River Basin Development Fund and payments shall not be made from that fund to the general fund of the Treasury to return any part of the costs of construction, operation, and maintenance of such facilities. (Pub. L. 90–537, title III, § 309, Sept. 30, 1968, 82 Stat. 893.)

SUBCHAPTER IV.—LOWER COLORADO RIVER BASIN DEVELOPMENT FUND

§ 1541. Allocation of costs; repayment.

Upon completion of each lower basin unit of the project herein or hereafter authorized, or separate feature thereof, the Secretary shall allocate the total costs of constructing said unit or features to (1) commercial power, (2) irrigation, (3) municipal and industrial water supply, (4) flood control, (5) navigation, (6) water quality control, (7) recreation, (8) fish and wildlife, (9) the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by performance of the

Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), and (10) any other purposes authorized under the Federal reclamation laws. Costs of construction, operation, and maintenance allocated to the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by compliance with the Mexican Water Treaty (including losses in transit, evaporation from regulatory reservoirs, and regulatory losses at the Mexican boundary, incurred in the transportation, storage, and delivery of water in discharge of the obligations of that treaty) shall be nonreimbursable: *Provided,* That the nonreimbursable allocation shall be made on a pro rata basis to be determined by the ratio between the amount of water required to comply with the Mexican Water Treaty and the total amount of water by which the Colorado River is augmented pursuant to the investigations authorized subchapter II of this chapter and any future Congressional authorization. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act: *Provided,* That all of the separable and joint costs alocated to recreation and fish and wildlife enhancement as a part of the Dixie project, Utah, shall be nonreimbursable. Costs allocated to nonreimbursable purposes shall be nonreturnable under the provisions of this Act. (Pub. L. 90–537, title IV, § 401, Sept. 30, 1968, 82 Stat. 894.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

The Federal reclamation laws, referred to in text, are classified principally to this title.

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, which is classified to sections 460*l*–5(a), 460*l*–12 to 460*l*–21, and 662(d) of Title 16, Conservation.

§ 1542. Repayment capability of Indian lands.

The Secretary shall determine the repayment capability of Indian lands within, under, or served by any unit of the project. Construction costs allocated to irrigation of Indian lands (including provision of water for incidental domestic and stock water uses) and within the repayment capability of such lands shall be subject to section 386a of Title 25, and such costs that are beyond repayment capability of such lands shall be nonreimbursable. (Pub. L. 90–537, title IV, § 402, Sept. 30, 1968, 82 Stat. 894.)

§ 1543. Lower Colorado River Basin Development Fund.

(a) Establishment.

There is hereby established a separate fund in the Treasury of the United States to be known as the Lower Colorado River Basin Development Fund (hereafter called the "development fund"), which shall remain available until expended as hereafter provided.

(b) Appropriations.

All appropriations made for the purpose of carrying out the provisions of subchapter III of this chapter shall be credited to the development fund as advances from the general fund of the Treasury, and shall be available for such purpose.

(c) Revenues credited to fund.

There shall also be credited to the development fund—

(1) all revenues collected in connection with the operation of facilities authorized in subchapter III of this chapter in furtherance of the purposes of this Act (except entrance, admission, and other recreation fees or charges and proceeds received from recreation concessionaires), including revenues which, after completion of payout of the Central Arizona Project as required herein are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said project;

(2) any Federal revenues from the Boulder Canyon and Parker-Davis projects which, after completion of repayment requirements of the said Boulder Canyon and Parker-Davis projects, are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of those projects: *Provided, however,* That the Secretary is authorized and directed to continue the in-lieu-of-tax payments to the States of Arizona and Nevada provided for in section 618 a(c) of this title so long as revenues accrue from the operation of the Boulder Canyon project; and

(3) any Federal revenues from that portion of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona which, after completion of repayment requirements of the said part of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona, are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said portion of the Pacific Northwest-Pacific Southwest intertie and related facilities.

(d) Use of revenue funds.

All moneys collected and credited to the development fund pursuant to subsection (b) and clauses (1) and (3) of subsection (c) of this section and the portion of revenues derived from the sale of power and energy for use in Arizona pursuant to clause (2) of subsection (c) of this section shall be available, without further appropriation, for—

(1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the projects, within such separate limitations as may be included in annual appropriation Acts; and

(2) payments to reimburse water users in the State of Arizona for losses sustained as a result of diminution of the production of hydroelectric power at Coolidge Dam, Arizona, resulting from exchanges of water between users in the States of Arizona and New Mexico as set forth in section 1524(f) of this title.

(e) Appropriation by Congress required for construction of works.

Revenues credited to the development fund shall not be available for construction of the works comprised within any unit of the project herein or

hereafter authorized except upon appropriation by the Congress.

(f) Return of costs and interest.

Moneys credited to the development fund pursuant to subsection (b) and clauses (1) and (3) of subsection (c) of this section and the portion of revenues derived from the sale of power and energy for use in Arizona pursuant to clause (2) of subsection (c) of this section in excess of the amount necessary to meet the requirements of clauses (1) and (2) of subsection (d) of this section shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit of the projects or separable feature thereof authorized pursuant to subchapter III of this chapter which are allocated to irrigation, commercial power, or municipal and industrial water supply, pursuant to this Act within a period not exceeding fifty years from the date of completion of each such unit or separable feature, exclusive of any development period authorized by law: *Provided,* That return of the cost, if any, required by section 616aa-1 of this title shall not be made until after the payout period of the Central Arizona Project as authorized herein: and

(2) interest (including interest during construction) on the unamortized balance of the investment in the commercial power and municipal and industrial water supply features of the project at a rate determined by the Secretary of the Treasury in accordance with the provisions of subsection (h) of this section, and interest due shall be a first charge.

(g) Repayment of costs of units required to augment water supplies below Lee Ferry.

All revenues credited to the development fund in accordance with clause (c)(2) of this section (excluding only those revenues derived from the sale of power and energy for use in Arizona during the payout period of the Central Arizona Project as authorized herein) and such other revenues as remain in the development fund after making the payments required by subsections (d) and (f) of this section shall be available (1) to make payments, if any, as required by sections 616aa-1 and 620d-1 of this title, and (2) upon appropriation by the Congress, to assist in the repayment of reimbursable costs incurred in connection with units hereafter constructed to provide for the augmentation of the water supplies of the Colorado River for use below Lee Ferry as may be authorized as a result of the investigations and recommendations made pursuant to sections 1511 and 1513(a) of this title.

(h) Interest rate.

The interest rate applicable to those portions of the reimbursable costs of each unit of the project which are properly allocated to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the first advance is made for initiating construction of such unit, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issue.

(i) Annual budgets; submission to Congress.

Business-type budgets shall be submitted to the Congress annually for all operations financed by the development fund. (Pub. L. 90-537, title IV, § 403, Sept. 30, 1968, 82 Stat. 894.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90-537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

DIXIE PROJECT

Integration of Dixie Project, Utah, into the repayment arrangement of the Lower Colorado River Basin Development Fund, and participation in the Fund, see section 616aa-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 620d-1, 1521, 1525, 1528 of this title.

§ 1544. Annual report to Congress.

On January 1 of each year the Secretary shall report to the Congress, beginning with the fiscal year ending June 30, 1969, upon the status of the revenues from and the cost of constructing, operating, and maintaining each lower basin unit of the project for the preceding fiscal year. The report of the Secretary shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment. (Pub. L. 90-537, title IV, § 404, Sept. 30, 1968, 82 Stat. 896.)

SUBCHAPTER V.—GENERAL PROVISIONS

§ 1551. Construction of Colorado River Basin Project Act; reports to Congress; compliance of Federal officers and agencies.

(a) Nothing in this Act shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California and others (376 U.S. 340), or, except as otherwise provided herein, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, or the Colorado River Storage Project Act.

(b) The Secretary is directed to—

(1) make reports as to the annual consumptive uses and losses of water from the Colorado River system after each successive five-year period, beginning with the five-year period starting on October 1, 1970. Such reports shall include a detailed breakdown of the beneficial consumptive use of water on a State-by-State basis. Specific figures on quantities consumptively used from the major tributary streams flowing into the Colorado River shall also be included on a State-by-State basis. Such reports shall be prepared in consultation with the States of the lower basin individually and with the Upper Colorado River Commission, and

shall be transmitted to the President, the Congress, and to the Governors of each State signatory to the Colorado River Compact; and

(2) condition all contracts for the delivery of water originating in the drainage basin of the Colorado River system upon the availability of water under the Colorado River Compact.

(c) All Federal officers and agencies are directed to comply with the applicable provisions of this Act, and of the laws, treaty, compacts, and decree referred to in subsection (a) of this section, in the storage and release of water from all reservoirs and in the operation and maintenance of all facilities in the Colorado River system under the jurisdiction and supervision of the Secretary, and in the operation and maintenance of all works which may be authorized hereafter for the augmentation of the water supply of the Colorado River system. In the event of failure of any such officer or agency to so comply, any affected State may maintain an action to enforce the provisions of this section in the Supreme Court of the United States and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise. (Pub. L. 90–537, title VI, § 601, Sept. 30, 1968, 82 Stat. 899.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, which is classified to section 617 et seq. of this title.

The Boulder Canyon Project Adjustment Act, referred to in text, is act July 19, 1940, ch. 643, 54 Stat. 774, which is classified to section 618 et seq. of this title.

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 107, which is classified to section 620 et seq. of this title.

§ 1552. Criteria for long-range operation of reservoirs; promulgation by Secretary; order of priorities; submittal of criteria for review and comment; publication; report to Congress.

(a) In order to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act. To effect in part the purposes expressed in this paragraph, the criteria shall make provision for the storage of water in storage units of the Colorado River storage project and releases of water form Lake Powell in the following listed order of priority:

(1) releases to supply one-half the deficiency described in article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division, but in any event such releases, if any, shall not be required in any year that the Secretary makes the determination and issues the proclamation specified in section 1512 of this title;

(2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and

(3) storage of water not required for the releases specified in clauses (1) and (2) of this subsection to the extent that the Secretary, after consultation with the Upper Colorado River Commission and representatives of the three Lower Division States and taking into consideration all relevant factors (including, but not limited to, historic stream-flows, the most critical period of record, and probabilities of water supply), shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2) without impairment of annual consumptive uses in the upper basin pursuant to the Colorado River Compact: *Provided,* That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and (iii) to avoid anticipated spills from Lake Powell.

(b) Not later than January 1, 1970, the criteria proposed in accordance with the foregoing subsection (a) of this section shall be submitted to the Governors of the seven Colorado River Basin States and to such other parties and agencies as the Secretary may deem appropriate for their review and comment. After receipt of comments on the proposed criteria, but not later than July 1, 1970, the Secretary shall adopt appropriate criteria in accordance with this section and publish the same in the Federal Register. Beginning January 1, 1972, and yearly thereafter, the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report describing the actual operation under the adopted criteria for the preceding compact water year and the projected operation for the current year. As a result of actual operating experience or unforeseen circumstances, the Secretary may thereafter modify the criteria to better achieve the purposes specified in subsection (a) of this section, but only after correspondence with the Governors of the seven Colorado River Basin States and appropriate consultation with such State representatives as each Governor may designate.

(c) Section 620f of this title shall be administered in accordance with the foregoing criteria. (Pub. L. 90–537, title VI, § 602, Sept. 30, 1968, 82 Stat. 900.)

REFERENCES IN TEXT

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 107, which is classified to section 620 et seq. of this title.

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, which is classified to section 617 et seq. of this title.

The Boulder Canyon Project Adjustment Act, referred to in text is act July 19, 1940, ch. 643, 54 Stat. 774, which is classified to section 618 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1521, 1527 of this title.

§ 1553. Upper Colorado River Basin; rights to consumptive uses not to be reduced or prejudiced; duties and powers of Commission not impaired.

(a) Rights of the upper basin to the consumptive use of water available to that basin from the Colorado River system under the Colorado River Compact shall not be reduced or prejudiced by any use of such water in the lower basin.

(b) Nothing in this Act shall be construed so as to impair, conflict with, or otherwise change the duties and powers of the Upper Colorado River Commission. (Pub. L. 90–537, title VI, § 603, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

§ 1554. Federal reclamation laws.

Except as otherwise provided in this Act, in constructing, operating, and maintaining the units of the projects herein and hereafter authorized, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) to which laws this Act shall be deemed a supplement. (Pub. L. 90–537, title VI, § 604, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

The Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in text, are classified generally to this title. See Tables Volume for distribution.

§ 1555. Federal Power Act inapplicable to Colorado River between Hoover Dam and Glen Canyon Dam.

Part I of the Federal Power Act shall not be applicable to the reaches of the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam until and unless otherwise provided by Congress. (Pub. L. 90–537, title VI, § 605, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

Part I of the Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified to section 792 et seq. of Title 16, Conservation.

§ 1556. Definitions.

As used in this Act, (a) all terms which are defined in the Colorado River Compact shall have the meanings therein defined;

(b) "Main stream" means the main stream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon;

(c) "User" or "water user" in relation to main stream water in the lower basin means the United States or any person or legal entity entitled under the decree of the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), to use main stream water when available thereunder;

(d) "Active storage" means that amount of water in reservoir storage, exclusive of bank storage, which can be released through the existing reservoir outlet works;

(e) "Colorado River Basin States" means the States of Arizona, California, Colorado Nevada, New Mexico, Utah, and Wyoming;

(f) "Western United States" means those States lying wholly or in part west of the Continental Divide; and

(g) "Augment" or "augmentation", when used herein with reference to water, means to increase the supply of the Colorado River or its tributaries by the introduction of water into the Colorado River system, which is in addition to the natural supply of the system. (Pub. L. 90–537, title VI, § 606, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

This Act, referred to in text, is the Colorado River Basin Project Act, Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, which is classified principally to this chapter. See Short Title note under section 1501 of this title for classification of sections of the Act outside this chapter.

TITLE 44.—PUBLIC PRINTING AND DOCUMENTS

This title was enacted by Pub. L. 90-620, § 1, Oct. 22, 1968, 82 Stat. 1238

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ENACTING CLAUSE

Section 1 of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1238, provided in part: "That the general and permanent laws relating to public printing and documents are revised, codified, and enacted as title 44, United States Code, 'Public Printing and Documents', and may be cited as '44 U.S.C. § ——' ".

LEGISLATIVE PURPOSE; INCONSISTENT PROVISIONS

Section 2(a) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305, provided that: "The legislative purpose in enacting section 1 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after January 14, 1968, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency."

CROSS REFERENCES

Section 2(b) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305, provided that: "A reference to a law replaced by section 1 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act."

OUTSTANDING ORDERS, RULES AND REGULATIONS

Section 2(c) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305, provided that: "An order, rule, or regulation in effect under a law replaced by section 1 of this Act shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded."

SAVINGS PROVISION

Section 2(d) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305, provided that: "An action taken or an offense committed under a law replaced by section 1 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act."

LEGISLATIVE CONSTRUCTION

Section 2(e) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1306, provided that: "An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of its caption or catchline."

SEPARABILITY OF PROVISIONS

Section 2(f) of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1306, provided that: "If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications."

REPEALS

Section 3 of Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1306, repealed the sections or parts thereof of the Revised Statutes or Statutes at Large codified in this title, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before October 22, 1968, and except as provided by section 2 of Pub. L. 90–620.

CROSS REFERENCES

Acts and resolutions: formalities of enactment, repeals, and sealing of instruments, see section 101 et seq. of Title 1, General Provisions.

Administrative procedure, public information: agency rules, opinions, orders, records, and proceedings, see section 552 of Title 5, Government Organization and Employees.

American Printing House for the Blind, see section 101 et seq. of Title 20, Education.

Cataloging and standardization, coordination of Administrator of General Services and Secretary of Defense, see section 2456 of Title 10, Armed Forces.

Code of Laws of United States and Supplements, District of Columbia Code and Supplements, see section 201 et seq. of Title 1, General Provisions.

Collections of Government Printing Office accessible to investigators and students, see section 91 of Title 20, Education.

Congressional provisions: elections, organization, compensation, officers and employees, Library of Congress, and procedures, see generally Title 2, The Congress.

Corporation for Public Broadcasting journals, see section 396 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Crimes: printing contracts, see section 442 of Title 18, Crimes and Criminal Procedure; printing obligations, securities, and postage stamps of United States and foreign countries, authorization notwithstanding counterfeiting and forgery prohibitions, see section 504 of Title 18; public officers and employees, see section 1901 et seq. of Title 18; records and reports, see section 2071 et seq. of Title 18.

Employees: employment, retention and performance, see Title 5, Government Organization and Employees.

Executive provisions generally, see Title 3, The President.

Executive reorganization, general provisions and effective date and publication of reorganization plans, see chapter 9 of Title 5, Government Organization and Employees.

Food stamp program, printing of coupons for, see section 2015 of Title 7, Agriculture.

General Services Administration, see section 751 et seq. of Title 40, Public Buildings, Property, and Works.

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Leave: annual, sick, and other paid leave, see chapter 63 of Title 5, Government Organization and Employees.

Library of Congress, see section 131 et seq. of Title 2, The Congress.

Management and disposal of Government property, see chapter 10 of Title 40, Public Buildings, Property, and Works.

Official territorial papers, see section 141 et seq. of Title 4, Flag and Seal, Seat of Government, and the States.

Patent Office library, see section 8 of Title 35, Patents.

Prints defined under Foreign Agents Registration Act, see section 611 of Title 22, Foreign Relations and Intercourse.

Standard reference data program, see section 200 et seq. of Title 15, Commerce and Trade.

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Chapter 1.—JOINT COMMITTEE ON PRINTING

Sec.
101. Joint Committee on Printing: membership.
102. Joint Committee on Printing: succession; powers during recess.
103. Joint Committee on Printing: remedial powers.

§ 101. Joint Committee on Printing: membership.

The Joint Committee on Printing shall consist of the chairman and two members of the Committee on Rules and Administration of the Senate and the chairman and two members of the Committee on House Administration of the House of Representatives. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 1 (Jan. 12, 1895, ch. 23, § 1, 28 Stat. 601; Aug. 2, 1946, ch. 753, title II, § 222, 60 Stat. 838).

POWERS OF THE COMMITTEE

Last seven words in the statute, "who shall have the powers hereinafter stated", are omitted as unnecessary since the powers of the Committee are stated in other sections.

§ 102. Joint Committee on Printing: succession; powers during recess.

The members of the Joint Committee on Printing who are reelected to the succeeding Congress shall continue as members of the committee until their successors are chosen. The President of the Senate and the Speaker of the House of Representatives shall, on the last day of a Congress, appoint members of their respective Houses who have been elected to the succeeding Congress to fill vacancies which may then be about to occur on the Committee, and the appointees and members of the Committee who have been reelected shall continue until their successors are chosen.

When Congress is not in session, the Joint Committee may exercise all its powers and duties as when Congress is in session. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 2 (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 962; Mar. 3, 1917, ch. 163, § 6, 39 Stat. 1121).

Changes are made in phraseology.

§ 103. Joint Committee on Printing: remedial powers.

The Joint Committee on Printing may use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 4 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1012; Mar. 1, 1919, ch. 86, § 11, 40 Stat. 1270).

Only that portion of section 11 of the 1919 Act that precedes the proviso is included in this section. The balance is incorporated in section 501 of this revision.

Changes are made in phraseology.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1914 of this title.

Chapter 3.—GOVERNMENT PRINTING OFFICE

Sec.
301. Public Printer: appointment; bond.
302. Deputy Public Printer: appointment; duties.
303. Public Printer and Deputy Public Printer: compensation.
304. Public Printer: vacancy in office.
305. Public Printer: employees; pay.
306. Public Printer: employment of skilled workmen; trial of skill.
307. Public Printer: night work.
308. Disbursing officer: continuation and settlement of accounts during vacancy in office; responsibility for accounts; disbursements for Superintendent of Documents.
309. Revolving fund for operation and maintenance of Government Printing Office: capitalization; reimbursements and credits; accounting and budgeting; reports.
310. Payments for printing, binding, blank paper, and supplies.
311. Purchases exempt from the Federal Property and Administrative Services Act.
312. Machinery, material, equipment, or supplies from other Government agencies.
313. Examining boards: paper; bindery materials; machinery.
314. Inks, glues, and other supplies furnished to other Government agencies: payment.
315. Branches of Government Printing Office; limitations.
316. Detail of employees of Government Printing Office to other Government establishments.
317. Special policemen.

AMENDMENTS

1970—Pub. L. 91–359, § 1(b), July 31, 1970, 84 Stat. 668, added item 317.

§ 301. Public Printer: appointment; bond.

The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to take charge of and manage the Government Printing Office. His title shall be Public Printer. He shall give bond approved by the Secretary of the Treasury in the sum of $25,000 for the faithful performance of the duties of his office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 31 (Jan. 12 1895, ch. 23, § 17, 28 Stat. 603; June 12, 1917, ch. 27, 31, 40 Stat. 173; Feb. 20, 1923, ch. 98, 42 Stat. 1278; Mar. 4, 1925, ch. 549, § 1, 43 Stat. 1299; May 29, 1928, ch. 909, 45 Stat. 1006).

Changes are made in phraseology.

§ 302. Deputy Public Printer: appointment; duties.

The Public Printer shall appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to be the Deputy Public Printer. He shall perform the duties formerly required of the chief clerk, supervise the buildings occupied by the Government Printing Office, and perform any other

duties required of him by the Public Printer. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 39 (May 27, 1908, ch. 200, § 1, 35 Stat. 382).

Phraseology is changed to conform with section 301 of this revision.

§ 303. Public Printer and Deputy Public Printer: compensation.

The compensation of the Public Printer is at the rate of $28,750 per annum, and the compensation of the Deputy Public Printer is at the rate of $27,500 per annum. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 39a (Pub. L. 88–426, title II, § 203 (c), (d), Aug. 14, 1964, 78 Stat. 415).

1969 INCREASES IN SALARIES

Salaries of the Public Printer and Deputy Public Printer increased respectively from $28,750 and $27,500 to $38,000 and $36,000 per annum, commencing on the first day of the pay period which begins after February 14, 1969, upon recommendation of the President of the United States, pursuant to Pub. L. 90–206, title II, § 225(h), Dec. 16, 1967, 81 Stat. 644.

§ 304. Public Printer: vacancy in office.

In case of the death, resignation, absence, or sickness of the Public Printer, the Deputy Public Printer shall perform the duties of the Public Printer until a successor is appointed or his absence or sickness ceases; but the President may direct any other officer of the Government, whose appointment is vested in the President by and with the advice and consent of the Senate, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the Public Printer ceases. A vacancy occasioned by death or resignation may not be filled temporarily under this section for longer than ten days, and a temporary appointment, designation, or assignment of another officer may not be made except to fill a vacancy happening during a recess of the Senate. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 32 (Jan. 12, 1895, ch. 23, § 36, 28 Stat. 606; May 27, 1908, ch. 200, § 1, 35 Stat. 382.)

§ 305. Public Printer: employees; pay.

(a) The Public Printer may employ journeymen, apprentices, laborers, and other persons necessary for the work of the Government Printing Office at rates of wages and salaries, including compensation for night and overtime work, he considers for the interest of the Government and just to the persons employed, except as otherwise provided by this section. He may not employ more persons than the necessities of the public work require nor more than four hundred apprentices at one time. The minimum pay of journeymen printers, pressmen, and bookbinders employed in the Government Printing Office shall be at the rate of 90 cents an hour for the time actually employed. Except as provided by the preceding part of this section the rate of wages, including compensation for night and overtime work, for more than ten employees of the same occupation shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing. When the Public Printer and the committee representing the trade fail to agree as to wages, salaries, and compensation, either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final. The wages, salaries, and compensation so determined are not subject to change oftener than once a year.

(b) The Public Printer may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1240; Pub. L. 91–167, Dec. 26, 1969, 83 Stat. 453; Pub. L. 91–369, May 21, 1970, 84 Stat. 693.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 40 (Jan. 12, 1895, ch. 23, §§ 39, 49, 50, 28 Stat. 607, 608; June 6, 1900, ch. 791, § 1, 31 Stat. 643; Mar 4, 1909, ch. 299, § 1, 35 Stat. 1021, 1024; Aug. 24, 1912, ch. 355, § 1, 37 Stat. 482; July 8, 1918, ch. 139, § 1, 40 Stat. 836; Aug. 2, 1919, ch. 30, 41 Stat. 272; Feb. 20, 1923, ch. 98, 42 Stat. 1278; June 7, 1924, ch. 354, § 1, 43 Stat. 658).

Last sentence of this section was deleted as executed.

AMENDMENTS

1970—Pub. L. 91–369 designated existing provisions as subsec. (a) and added subsec. (b).

1969—Pub. L. 91–167 substituted "four hundred" for "two hundred" as the number of apprentices which the Public Printer may employ at one time.

CROSS REFERENCES

Classification of government employees and pay rates and systems, including General Schedule, see chapters 51 and 53 and section 5332 of Title 5, Government Organization and Employees.

Classification of positions, provisions inapplicable to employees of Government Printing Office with pay fixed hereunder, see section 5102 of Title 5, Government Organization and Employees.

Fair Labor Standards Act minimum wage and maximum hours provisions, see sections 206 and 207 of Title 29, Labor.

Performance rating of employees of Government Printing Office, see chapter 43 of Title 5, Government Organization and Employees.

Superintendent of Documents, additional pay of employees for night, Sunday, holiday, and overtime work as determined hereunder, see section 1704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1704 of this title; title 5 section 5102.

§ 306. Public Printer: employment of skilled workmen; trial of skill.

The Public Printer shall employ workmen who are thoroughly skilled in their respective branches of industry, as shown by trial of their skill under his direction. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 41 (Jan. 12, 1895, ch. 23, § 45, 28 Stat. 607).

§ 307. Public Printer: night work.

The Public Printer shall cause the public printing in the Government Printing Office to be done at night as well as through the day, when the exigencies of the public service require it. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 42 (Jan. 12, 1895, ch. 23, § 47, 28 Stat. 607).

§ 308. Disbursing officer; continuation and settlement of accounts during vacancy in office; responsibility for accounts; disbursements for Superintendent of Documents.

(a) Upon the death, resignation, or separation from office of the disbursing officer of the Government Printing Office, his accounts may be continued, and payments and collections may be made in his name, by the deputy disbursing officer or officers designated by the Public Printer, for a period of time not to extend beyond the last day of the second month following the month in which his death, resignation, or separation occurred. Accounts and payments shall be allowed, audited, and settled, and checks signed in the name of the former disbursing officer by a deputy disbursing officer shall be honored in the same manner as if the former disbursing officer had continued in office.

(b) A former disbursing officer of the Government Printing Office, his estate, or the surety on his official bond, may not be subject to any legal liability or penalty for the official accounts or defaults of a deputy disbursing officer acting in the name or in the place of the former disbursing officer. Each deputy disbursing officer is responsible for accounts entrusted to him under subsection (a) of this section, and the deputy disbursing officer and the sureties upon his bond are liable for any default occurring during his service under subsection (a) of this section.

(c) Disbursements on account of salaries or other expenses of the office of the Superintendent of Documents shall be made by the disbursing officer of the Government Printing Office, and a statement included in the Public Printer's annual report for each fiscal year. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 52a, 63, 73 (part) (June 25, 1910, ch. 384, § 1, 36 Stat. 770; Feb. 20, 1923, ch. 98, 42 Stat. 1278; Pub. L. 86–31, May 26, 1959, 73 Stat. 60).

The last paragraph of this section is from former section 73; the remainder of that section will be found in section 1702 of the revision.

Paragraph (a) deleted as executed.

§ 309. Revolving fund for operation and maintenance of Government Printing Office: capitalization; reimbursements and credits; accounting and budgeting; reports.

(a) The revolving fund of $1,000,000 established July 1, 1953, is available without fiscal year limitation, for—

the operation and maintenance of the Government Printing Office, except the Office of Superintendent of Documents, including rental of buildings;

attendance at meetings not to exceed $3,000 in any fiscal year;

maintenance and operation of the emergency room;

uniforms, or allowances therefor, as authorized by section 5901 of Title 5;

boots, coats, and gloves;

repairs and minor alterations to buildings; and

expenses authorized in writing by the Joint Committee on Printing for inspection of Government printing activities.

In addition, the Public Printer shall provide capital for the fund by capitalizing, at fair and reasonable values as jointly determined by him and the Comptroller General, the current inventories, plant, and building appurtenances, except building structures and land, equipment, and other assets of the Government Printing Office.

(b) The fund shall be:

(1) reimbursed for the cost of all services and supplies furnished, including those furnished other appropriations of the Government Printing Office, at rates which include charges for overhead and related expenses, depreciation of plant and building appurtenances, except building structures and land, and equipment, and accrued leave;

(2) credited with all receipts including sales of Government publications, waste, condemned, and surplus property and with payments received for losses or damage to property; and

(3) charged with payment into miscellaneous receipts of the Treasury of that part of the receipts from the sales of Government publications required by law.

(c) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of the accounts. The Public Printer shall prepare and submit an annual business-type budget program for the operations under this fund. The General Accounting Office shall audit the activities of the Government Printing Office and furnish an audit report annually to the Congress and the Public Printer. For these purposes the Comptroller General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as he considers necessary.

(d) Commencing with the fiscal year 1969, the annual business-type budget for the fund shall be considered and enacted as prescribed by section 849 of title 31. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1241.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 63, 63a (Aug. 1, 1953, ch. 304, title I, § 101, 67 Stat. 330; Aug. 5, 1955, ch. 568, § 101, 69 Stat. 519; June 27, 1956, ch. 453, § 101, 70 Stat. 369); § 63a (July 28, 1967, Pub. L. 90–57, § 101 (part), 81 Stat. 141).

Parentheses were restored to make clear that exceptions include only building structures and land. The use of commas instead of parentheses enlarges the exceptions.

The legislative provision enacted July 28, 1967, concerning the GPO revolving fund was added to this section.

The last sentence in paragraph (a) was deleted as being a temporary provision which has been executed.

CROSS REFERENCES

Accounting and auditing, see section 65 et seq. of Title 31, Money and Finance.

Annual report of Public Printer, printing and distribution, see section 1340 of this title.

Audit and settlement of accounts, see section 71 et seq. of Title 31, Money and Finance.

National budget and audit system, see section 1 et seq. of Title 31, Money and Finance.

Receipts from sales, disposition: Documents see section 1702 of this title; Federal Register, see section 1509 of this title; Government publications, additional copies, see section 1708 of this title.

§ 310. Payments for printing, binding, blank paper, and supplies.

An executive department or independent establishment of the Government ordering printing and binding or blank paper and supplies from the Government Printing Office shall pay promptly by check to the Public Printer upon his written request, either in advance or upon completion of the work, all or part of the estimated or actual cost, as the case may be, and bills rendered by the Public Printer are not subject to audit or certification in advance of payment. Adjustments on the basis of the actual cost of delivered work paid for in advance shall be made monthly or quarterly and as may be agreed by the Public Printer and the department or establishment concerned. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1241.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 230 (Aug. 1, 1953, ch. 304, title I, § 101, 67 Stat. 331).

§ 311. Purchases exempt from the Federal Property and Administrative Services Act.

Purchases may be made from appropriations under the "Government Printing Office" without reference to the Federal Property and Administrative Services Act, approved June 30, 1949, as amended, concerning purchases for the Federal Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 64 (Aug. 1, 1953, ch. 304, title I, § 102, 67 Stat. 332).

Reference to Printing Act of 1895 deleted as superseded by section 309.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act, as amended, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 378. Title I–IV and VI thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and, chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former Title V is now covered by chapters 21, 25, 27, 29, and 31 of this title.

§ 312. Machinery, material, equipment, or supplies from other Government agencies.

An officer of the Government having machinery, material, equipment, or supplies for printing, binding, and blank-book work, including lithography, photolithography, and other processes of reproduction, no longer required or authorized for his service, shall submit a detailed report of them to the Public Printer. The Public Printer, with the approval of the Joint Committee on Printing, may requisition such articles as are serviceable in the Government Printing Office, and they shall be promptly delivered to that office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 59 (July 19, 1919, ch. 24, § 3, 41 Stat. 233).

§ 313. Examining boards: paper; bindery materials; machinery.

The Deputy Public Printer, the superintendent of printing, and a person designated by the Joint Committee on Printing, shall constitute a board to examine and report in writing on paper delivered under contract, or by purchase or otherwise, at the Government Printing Office.

The Deputy Public Printer, the superintendent of binding, and a person designated by the Joint Committee on Printing shall constitute a board to examine and report in writing on material, except paper, for the use of the bindery.

The Deputy Public Printer, the superintendent of printing, and a person designated by the Joint Committee on Printing shall constitute a board of condemnation, who, upon the call of the Public Printer, shall determine the condition of presses and other machinery and material used in the Government Printing Office, with a view to condemnation. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on U.S. Code, 1964 ed., § 49 (Jan. 12, 1895, ch. 23, § 20, 28 Stat. 603; May 27, 1908, ch. 200, § 1, 35 Stat. 382; June 7, 1924, ch. 303, § 1, 43 Stat. 509).

CROSS REFERENCES

Comparison of paper and envelopes with standard quality, see section 513 of this title.

Joint Committee on Printing determination of quality of paper, see section 514 of this title.

§ 314. Inks, glues, and other supplies furnished to other Government agencies: payment.

Inks, glues, and other supplies manufactured by the Government Printing Office in connection with its work may be furnished to departments and other establishments of the Government upon requisition, and payment made from appropriations available. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S.C. Code, 1964 ed., § 62 (June 30, 1932, ch. 314; pt. I, § 1, 47 Stat. 397).

§ 315. Branches of Government Printing Office; limitations.

Money appropriated by any Act may not be used for maintaining more than one branch of the Government Printing Office in any one building occupied by an executive department of the Government, and a branch of the Government Printing Office may not be established unless specifically authorized by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 61 (Aug. 1, 1914, ch. 223, § 1, 38 Stat. 673).

§ 316. Detail of employees of Government Printing Office to other Government establishments.

An employee of the Government Printing Office may not be detailed to duties not pertaining to the work of public printing and binding in an executive department or other Government establishment unless expressly authorized by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1242.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 47 (June 25, 1910, ch. 384, § 1, 36 Stat. 770).

§ 317. Special policemen

The Public Printer or his delegate may designate employees of the Government Printing Office to serve as special policemen to protect persons and property

in premises and adjacent areas occupied by or under the control of the Government Printing Office. Under regulations to be prescribed by the Public Printer, employees designated as special policemen are authorized to bear and use arms in the performance of their duties; make arrest for violations of laws of the United States, the several States, and the District of Columbia; and enforce the regulations of the Public Printer, including the removal from Government Printing Office premises of individuals who violate such regulations. The jurisdiction of special policemen in premises occupied by or under the control of the Government Printing Office and adjacent areas shall be concurrent with the jurisdiction of the respective law enforcement agencies where the premises are located. (Added Pub. L. 91–359, § 1(a), July 31, 1970, 84 Stat. 668.)

Chapter 5.—PRODUCTION AND PROCUREMENT OF PRINTING AND BINDING

Sec.
501. Government printing, binding, and blank-book work to be done at Government Printing Office.
502. Procurement of printing, binding, and blank-book work by Public Printer.
503. Printing in veterans' hospitals.
504. Direct purchase of printing, binding, and blank-book work by Government agencies.
505. Sale of duplicate plates; copyright.
506. Time for printing documents or reports which include illustrations or maps.
507. Orders for printing to be acted upon within one year.
508. Annual estimates of quantity of paper required for public printing and binding.
509. Standards of paper; advertisements for proposals; samples.
510. Specifications in advertisements for paper.
511. Opening bids; bonds.
512. Approval of paper contracts; time for performance; bonds.
513. Comparison of paper and envelopes with standard quality.
514. Determination of quality of paper.
515. Default of contractor; new contracts and purchase in open market.
516. Liability of defaulting contractor.
517. Purchase of paper in open market.

§ 501. Government printing, binding, and blank-book work to be done at Government Printing Office.

All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

(1) classes of work the Joint Committee on Printing considers to be urgent or necessary to have done elsewhere; and

(2) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Joint Committee on Printing.

Printing or binding may be done at the Government Printing Office only when authorized by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1243.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 111 and 116 (part) (Jan. 12, 1895, ch. 23, §§ 86, 87, 28 Stat. 662; Mar. 1, 1919, ch. 86, § 11, 40 Stat. 1270; July 5, 1949, ch. 296, 63 Stat. 405).

This section incorporates only the first sentence of former section 116. The balance will be found in section 1123 of the revision.

CROSS REFERENCES

American Battle Monuments Commission, printing authority, see section 138b of Title 36, Patriotic Societies and Observances.

Appropriations, expenditures or contract obligations in excess of funds prohibited, see section 665 of Title 31, Money and Finance.

Bureau of Engraving and Printing: bonds, notes, and checks; printing on presses and power presses by Secretary of Treasury, see section 177 of Title 31.

Federal Communications Commission, printing for, see section 154 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Federal Power Commission, expenditures for printing and binding, see section 793 of Title 16, Conservation.

Foreign assistance, use of funds for printing and binding without regard to the provisions of any other law, see section 2396 of Title 22, Foreign Relations and Intercourse.

Form and style of work for departments, see section 1105 of this title.

Joint Committee on Internal Revenue Taxation, printing and binding, see section 8021 of Title 26, Internal Revenue Code.

National Capital Transportation Agency, appropriations for expenditures at seat of government and elsewhere for printing and binding, see section 665 of Title 40, Public Buildings, Property, and Works.

National Science Foundation, publication of scientific and technical information without regard to the provisions of this section, see section 1870(g) of Title 42, The Public Health and Welfare.

Notes, bonds, and other securities, engraving and printing at the Treasury Department, see section 415 of Title 31, Money and Finance.

Office of Economic Opportunity, Director of; expenditures for printing and binding in accordance with applicable law and regulation, see section 2942 of Title 42, The Public Health and Welfare.

Patent Office, limitations and conditions concerning printing and lithographing, see section 1338 of this title.

Peace Corps, use of funds for printing and binding without regard to the provisions of any other law, see section 2514 of Title 22, Foreign Relations and Intercourse.

Printing and binding outside continental United States, Secretary of State to provide when funds appropriated, see section 2669 of Title 22.

Selective Service System, printing for, see section 460 of Appendix to Title 50, War and National Defense.

Senate library, cost limitation on binding for, see section 737 of this title.

Supreme Court, printing and binding, see section 676 of Title 28, Judiciary and Judicial Procedure.

Tax Court reports, publication at Government Printing Office, see section 7462 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title; title 2 section 145; title 21 section 114d–3; title 26 section 2126.

§ 502. Procurement of printing, binding, and blank-book work by Public Printer.

Printing, binding, and blank-book work authorized by law, which the Public Printer is not able or equipped to do at the Government Printing Office, may be produced elsewhere under contracts made by him with the approval of the Joint Committee on Printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1243.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 111a (Feb. 28, 1929, ch. 367, § 1, 45 Stat. 1400).

§ 503. Printing in veterans' hospitals.

Notwithstanding section 501 of this title, the Administrator of Veterans' Affairs may utilize the printing and binding equipment that the various hospitals and homes of the Veterans' Administration use for occupational therapy, for printing and binding which he finds advisable for the use of the Veterans' Administration. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1243.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 111b (June 16, 1933, ch. 101, § 1, 48 Stat. 302; Feb. 2, 1935, ch. 3, § 1, 49 Stat. 18; Mar. 19, 1936, ch. 156, § 1, 49 Stat. 1182).

§ 504. Direct purchase of printing, binding, and blank-book work by Government agencies.

The Joint Committee on Printing may permit the Public Printer to authorize an executive department, independent office, or establishment of the Government to purchase direct for its use such printing, binding, and blank-book work, otherwise authorized by law, as the Government Printing Office is not able or suitably equipped to execute or as may be more economically or in the better interest of the Government executed elsewhere. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1243.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 14 (Jan. 12, 1895, ch. 23, § 12, 28 Stat. 602; July 8, 1935, ch. 374, § 1, 49 Stat. 475; Oct. 31, 1951, ch. 654, § 3(10), 65 Stat. 708).

§ 505. Sale of duplicate plates; copyright.

The Public Printer shall sell, under regulations of the Joint Committee on Printing, to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 percent, and the full amount of the price shall be paid when the order is filed. A publication reprinted from these plates and other Government publications may not be copyrighted. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 58 (Jan. 12, 1895, ch. 23, § 52, 28 Stat. 608).

§ 506. Time for printing documents or reports which include illustrations or maps.

A document or report to be illustrated or accompanied by maps may not be printed by the Public Printer until the illustrations or maps designed for it are ready for publication. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 115 (part) (Jan. 12, 1895, ch. 23, § 80, 28 Stat. 621).

This section incorporates only the first clause of former section 115. The balance will be found in section 507 of the revision.

§ 507. Orders for printing to be acted upon within one year.

An order for public printing may not be acted upon by the Public Printer after the expiration of one year unless the entire copy and illustrations for the work have been furnished within that period. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 115 (part) (Jan. 12, 1895, ch. 23, § 80, 28 Stat. 621).

This section incorporates only the second clause of former section 115. The balance will be found in section 506 of the revision.

§ 508. Annual estimates of quantity of paper required for public printing and binding.

At the beginning of each session of Congress, the Public Printer shall submit to the Joint Committee on Printing estimates of the quantity of paper of all descriptions required for the public printing and binding during the ensuing year. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 36 (Jan. 12, 1895, ch. 23, § 26, 28 Stat. 604).

§ 509. Standards of paper; advertisements for proposals; samples.

The Joint Committee on Printing shall fix upon standards of paper for the different descriptions of public printing and binding, and the Public Printer, under their direction, shall advertise in six newspapers or trade journals, published in different cities, for sealed proposals to furnish the Government with paper, as specified in the schedule to be furnished applicants by the Public Printer, setting forth in detail the quality and quantities required for the public printing. The Public Printer shall furnish samples of the standard of papers fixed upon to applicants who desire to bid. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 5 (Jan. 12, 1895, ch. 23, § 3, 28 Stat. 601; Mar. 3, 1925, ch. 421, § 1, 43 Stat. 1105).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 510. Specifications in advertisements for paper.

The advertisements for proposals shall specify the minimum portion of each quality of paper required for either three months, six months, or one year, as the Joint Committee on Printing determines; but when the minimum portion so specified exceeds, in any case, one thousand reams, it shall state that proposals will be received for one thousand reams or more. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1954 ed., § 6 (Jan. 12, 1895, ch. 23, § 4, 28 Stat. 601).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 511. Opening bids; bonds.

The sealed proposals to furnish paper and envelopes shall be opened in the presence of the Joint Committee on Printing who shall award the contracts to the lowest and best bidder for the interest of the Government. The committee may not consider a proposal that is not accompanied by a bond with secruity or certified check in the amount of $5,000, guaranteeing that the bidder if his proposal is accepted, will enter into a formal contract with the United States to furnish the paper or envelopes

specified. The Committee may not consider a proposal from a person unknown to it unless accompanied by satisfactory evidence that he is a manufacturer of or dealer in the description of paper or envelopes proposed to be furnished. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 7 (Jan. 12, 1895, ch. 23, § 5, 28 Stat. 602; June 16, 1938, ch. 477, § 3, 52 Stat. 761).

§ 512. Approval of paper contracts; time for performance; bonds.

A contract for furnishing paper is not valid until approved by the Joint Committee on Printing. The award of a contract for furnishing paper shall designate a reasonable time for its performance. The contractor shall give bond in an amount fixed and approved by the Committee. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 8 (Jan. 12, 1895, ch. 23, § 6, 28 Stat. 602; Mar. 3, 1917, ch. 163, § 6, 39 Stat. 1121).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 513. Comparison of paper and envelopes with standard quality.

The Public Printer shall compare every lot of paper and envelopes delivered by a contractor with the standard of quality fixed upon by the Joint Committee on Printing, and may not accept paper or envelopes which do not conform to it in every particular. A lot of delivered paper or envelopes which does not conform to the standard of quality may be accepted by the Committee at a discount that in its opinion is sufficient to protect the interests of the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 9 (Jan. 12, 1895, ch. 23, § 7, 28 Stat. 602; June 20, 1936, ch. 630, title VIII, § 13, 49 Stat. 1553).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 514. Determination of quality of paper.

The Joint Committee on Printing shall determine differences of opinion between the Public Printer and a contractor for paper respecting the paper's quality; and the decision of the Committee is final as to the United States. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 10 (Jan. 12, 1895, ch. 23, § 8, 28 Stat. 602; Mar. 3, 1917, ch. 163, § 6, 39 Stat. 1121).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 515. Default of contractor; new contracts and purchase in open market.

If a contractor fails to comply with his contract, the Public Printer shall report the default to the Joint Committee on Printing, and under its direction, enter into a new contract with the lowest, best, and most responsible bidder for the interest of the Government among those whose proposals were rejected at the last opening of bids, or he shall advertise for new proposals, under the regulations provided by sections 509—517 of this title. During the interval that may thus occur he may, under the direction of the Joint Committee on Printing, purchase in open market, at the lowest market price, paper necessary for the public printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 11 (Jan. 12, 1895, ch. 23, § 9, 28 Stat. 602; Mar. 3, 1917, ch. 163, § 6, 39 Stat. 1121).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1121 of this title.

§ 516. Liability of defaulting contractor.

Upon failure to furnish paper, a contractor and his sureties shall be responsible for any increase of cost to the Government in procuring a supply of the paper consequent upon his default. The Public Printer shall report every default, with a full statement of all the facts in the case, to the General Counsel for the Department of the Treasury, who shall prosecute the defaulting contractor and his sureties upon their bond in the district court of the United States in the district in which the defaulting contractor resides. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 12 (Jan. 12, 1895, ch. 23, § 10, 28 Stat. 602; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1121 of this title.

§ 517. Purchase of paper in open market.

The Joint Committee on Printing may authorize the Public Printer to purchase paper in open market when they consider the quantity required so small or the want so immediate as not to justify advertisement for proposals. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 13 (Jan. 12, 1895, ch. 23, § 11, 28 Stat. 602; Mar. 3, 1917, ch. 163, § 6, 39 Stat. 1121).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515 of this title.

Chapter 7.—CONGRESSIONAL PRINTING AND BINDING

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§ 701. "Usual number" of documents and reports; distribution of House and Senate documents and reports; binding; reports on private bills; number of copies printed; distribution.

(a) The order by either House of Congress to print a document or report shall signify the "usual number" of copies for binding and distribution among those entitled to receive them. A greater number may not be printed unless ordered by either House, or as provided by this section. When a special number of a document or report is ordered printed, the usual number shall also be printed, unless already ordered.

(b) The "usual number" of documents and reports shall be one thousand six hundred and eighty-two copies, which shall be printed at one time and distributed as follows:

Of the House documents and reports, unbound—to the Senate document room, one hundred and fifty copies; to the office of the Secretary of the Senate, ten copies; to the House document room, not to exceed five hundred copies; to the office of the Clerk of the House of Representatives, twenty copies; to the Library of Congress, ten copies, as provided by section 1718 of this title.

Of the Senate documents and reports, unbound—to the Senate document room, two hundred and twenty copies; office of the Secretary of the Senate, ten copies; to the House document room, not to exceed five hundred copies; to the Clerk's office of the House of Representatives, ten copies; to the Library of Congress, ten copies, as provided by section 1718 of this title.

(c) Of the number printed, the Public Printer shall bind a sufficient number of copies for distribution as follows:

Of the House documents and reports, bound—to the Senate library, fifteen copies; to the Library of Congress, not to exceed one hundred and fifty copies, as provided by section 1718 of this title; to the House of Representatives library, fifteen copies; to the Superintendent of Documents, as many copies as are required for distribution to the State libraries and designated depositories.

Of the Senate documents and reports, bound—to the Senate library, fifteen copies; to the Library of Congress, copies as provided by sections 1718 and 1719 of this title; to the House of Representatives library, fifteen copies; to the Superintendent of Documents, as many copies as may be required for distribution to State libraries and designated depositories. In binding documents the Public Printer shall give precedence to those that are to be distributed to libraries and to designated depositories. But a State that may prefer to have its documents in unbound form, may do so by notifying the Superintendent of Documents to that effect prior to the convening of each Congress.

(d) The usual number of reports on private bills, concurrent or simple resolutions, may not be printed. Instead there shall be printed of each Senate report on a private bill, simple or concurrent resolution, in addition to those required to be furnished the Library of Congress, three hundred and forty-five copies, which shall be distributed as follows: to the Senate document room, two hundred and twenty copies; to the Secretary of the Senate, fifteen copies; to the House document room, one hundred copies; to the Superintendent of Documents, ten copies; and of each House report on a private bill, simple or concurrent resolution, in addition to those for the Library of Congress, two hundred and sixty copies, which shall be distributed as follows: to the Senate document room, one hundred and thirty-five copies; to the Secretary of the Senate, fifteen copies; to the House document room, one hundred copies; to the Superintendent of Documents, ten copies.

This section does not prevent the binding of all Senate and House reports in the reserve volumes bound for and delivered to the Senate and House libraries, nor abridge the right of the Vice President, Senators, Representatives, Resident Commissioner, Secretary of the Senate, and Clerk of the House to have bound in half morocco, or material not more expensive, one copy of every public document to which he may be entitled. At least twelve copies of each report on bills for the payment or adjudication of claims against the Government shall be kept on file in the Senate document room. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1246.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 131 (Jan. 12, 1895 ch. 23, § 54, 28 Stat. 608; Mar. 2, 1901, No. 16, §§ 1, 2, 31 Stat. 1464; Jan. 20, 1905, ch. 50, § 1, 33 Stat. 610; Mar. 1,

1907, ch. 2284, § 4, 34 Stat. 1014; Jan. 15, 1908, No. 3, § 2, 35 Stat. 566; Mar. 4, 1909, ch. 317, 35 Stat. 1067; June 25, 1910, ch. 439, 36 Stat. 868; Mar. 3, 1925, ch. 421, §§ 6, 7, 43 Stat. 1106; June 20, 1936, ch. 630, title IV, § 6, 49 Stat. 1550; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352).

§ 702. Extra copies of documents and reports.

Copies in addition to the "usual number" of documents and reports shall be printed promptly when ready for publication, and may be bound in paper or cloth as the Joint Committee on Printing directs. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1247.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 132, 134 (Jan. 12 1895, ch. 23, §§ 2, 73, 28 Stat. 601, 612, Mar. 1, 1907, ch 2284, § 1, 34 Stat. 1013).

§ 703. Printing extra copies.

Orders for printing copies in addition to the "usual number", otherwise than provided for by this section, shall be by simple, concurrent, or joint resolution. Either House may print extra copies to the amount of $1,200 by simple resolution; if the cost exceeds that sum, the printing shall be ordered by concurrent resolution, unless the resolution is self-appropriating, when it shall be by joint resolution. Resolutions, when presented to either House, shall be referred to the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, who, in making their report, shall give the probable cost of the proposed printing upon the estimate of the Public Printer; and extra copies may not be printed before the committee has reported. The printing of additional copies may be performed upon orders of the Joint Committee on Printing within a limit of $700 in cost in any one instance. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1247.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 133 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1013; Apr. 19, 1949, ch. 72, 63 Stat. 48).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 726 of this title.

§ 704. Reprinting bills, laws, and reports from committees not exceeding fifty pages.

When the supply is exhausted, the Secretary of the Senate and the Clerk of the House of Representatives may order the reprinting of not more than one thousand copies of a pending bill, resolution, or public law, not exceeding fifty pages, or a report from a committee or congressional commission on pending legislation not accompanied by testimony or exhibits or other appendices and not exceeding fifty pages. The Public Printer shall require each requisition for reprinting to cite the specific authority of law for its execution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1248.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 137 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1012).

§ 705. Duplicate orders to print.

The Public Printer shall examine the orders of the Senate and House of Representatives for printing, and in case of duplication shall print under the first order received. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1248.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 135 (Jan. 12, 1895, ch. 23, § 53, 28 Stat. 608).

§ 706. Bills and resolutions: number and distribution.

There shall be printed of each Senate and House public bill and joint resolution six hundred and twenty-five copies, which shall be distributed as follows:

to the Senate document room, two hundred and twenty-five copies;

to the office of Secretary of Senate, fifteen copies;

to the House document room, three hundred and eighty-five copies.

There shall be printed of each Senate private bill, when introduced, when reported, and when passed, three hundred copies, which shall be distributed as follows:

to the Senate document room, one hundred and seventy copies;

to the Secretary of the Senate, fifteen copies;

to the House document room, one hundred copies;

to the Superintendent of Documents, ten copies.

There shall be printed of each House private bill, when introduced, when reported, and when passed, two hundred and sixty copies, which shall be distributed as follows:

to the Senate document room, one hundred and thirty-five copies;

to the Secretary of the Senate, fifteen copies;

to the House document room, one hundred copies;

to the Superintendent of Documents, ten copies.

Bills and resolutions shall be printed in bill form, and, unless specially ordered by either House shall be printed only when referred to a committee, when favorably reported back, and after their passage by either House.

Of concurrent and simple resolutions, when reported, and after their passage by either House, only two hundred and sixty copies shall be printed, except by special order, and shall be distributed as follows:

to the Senate document room, one hundred and thirty-five copies;

to the Secretary of the Senate, fifteen copies;

to the House document room, one hundred copies;

to the Superintendent of Documents, ten copies. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1248.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 189 (Jan. 12, 1895, ch. 23, § 55, 28 Stat. 609; Jan. 20, 1905, ch. 50, § 2, 22 Stat. 611).

§ 707. Bills and resolutions: style and form.

Subject to sections 205 and 206 of Title 1, the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee may also curtail the number of copies of

bills or resolutions, including the slip form of a public Act or public resolution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1248.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 189a (June 13, 1934, ch. 483, § 3, 48 Stat. 948).

§ 708. Bills and resolutions: binding sets for Congress.

The Public Printer shall bind four sets of Senate and House of Representatives bills, joint and concurrent resolutions of each Congress, two for the Senate and two for the House, to be furnished him from the files of the Senate and House document room, the volumes when bound to be kept there for reference. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 190 (Jan. 12, 1895, ch. 23, § 82, 28 Stat. 622).

§ 709. Public and private laws, postal conventions, and treaties.

The Public Printer shall print in slip form copies of public and private laws, postal conventions, and treaties, to be charged to the congressional allotment for printing and binding. The Joint Committee on Printing shall control the number and distribution of copies. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 191 (Jan. 12, 1895, ch. 23, § 56, 28 Stat. 609; July 10, 1952, ch. 632, § 7, 66 Stat. 541).

CROSS REFERENCES

Distribution of Government publications to the Library of Congress, see section 1718 of this title.

Postal conventions, number of copies to be printed, see section 712 of this title.

Private bills, number and distribution, see section 706 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 711, 712 of this title.

§ 710. Copies of Acts furnished to Public Printer.

The Administrator of General Services shall furnish to the Public Printer a copy of every Act and joint resolution, as soon as possible after its approval by the President, or after it has become a law under the Constitution without his approval. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 191a (R.S. § 210; June 20, 1874, ch. 328, 18 Stat. 88; 1950 Reorg. Plan No. 20, § 1, eff. May 24, 1950; 15 F.R. 3178, 64 Stat. 1272).

§ 711. Printing Acts, joint resolutions, and treaties.

The Public Printer, on receiving from the Administrator of General Services a copy of an Act or joint resolution, or from the Secretary of State, a copy of a treaty, shall print an accurate copy and transmit it in duplicate to the Administrator of General Services or to the Secretary of State, as the case may be, for revision. On the return of one of the revised duplicates, he shall make the marked corrections and print the number specified by section 709 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 192 (R.S. § 3805; Jan. 12, 1895, ch. 23, § 56, 28 Stat. 609; 1950 Reorg. Plan No. 20, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272).

§ 712. Printing of postal conventions.

The Public Printer, on receiving from the Postmaster General a copy of a postal convention between the Postmaster General, on the part of the United States, and an equivalent officer of a foreign government, shall print an accurate copy and transmit it in duplicate to the Postmaster General. On the return of one of the revised duplicates, he shall make the marked corrections and print the number specified by section 709 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 193 (R.S. § 3806; June 20, 1874, ch. 328, § 1, 18 Stat. 88; Jan. 12, 1895, ch. 23, § 56, 28 Stat. 609).

§ 713. Journals of Houses of Congress.

There shall be printed of the Journals of the Senate and House of Representatives eight hundred and twenty-two copies, which shall be distributed as follows:

to the Senate document room, ninety copies for distribution to Senators, and twenty-five additional copies;

to the Senate library, ten copies;

to the House document room, three hundred and sixty copies for distribution to Members, and twenty-five additional copies;

to the Department of State, four copies;

to the Superintendent of Documents, one hundred and forty-four copies to be distributed to three libraries in each of the States to be designated by the Superintendent of Documents;

to th Court of Claims, two copies; and

to the library of the House of Representatives, ten copies.

The remaining number of the Journals of the Senate and House of Representatives, consisting of twenty-five copies, shall be furnished to the Secretary of the Senate and the Clerk of the House of Representatives, respectively, as the necessities of their respective offices require, as rapidly as signatures are completed for distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1249.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 147 (Jan. 12, 1895, ch. 23, § 57, 28 Stat. 609; Mar. 2, 1901, No. 16, §§ 1, 2, 31 Stat. 1464).

§ 714. Printing documents for Congress in two or more editions; printing of full number and allotment of full quota.

The Joint Committee on Printing shall establish rules to be observed by the Public Printer, by which public documents and reports printed for Congress, or either House, may be printed in two or more editions, to meet the public requirements. The aggregate of the editions may not exceed the number of copies otherwise authorized. This section does not prevent the printing of the full number of a document or report, or the allotment of the full quota to Senators and Representatives, as otherwise authorized, when a legitimate demand for the full complement is known to exist. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 136 (Mar. 30, 1906, No. 14, 34 Stat. 826).

§ 715. Senate and House documents and reports for Department of State.

The Public Printer shall print, in addition to the usual number, and furnish the Department of State twenty copies of each Senate and House of Representatives document and report. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 138 (Feb. 7, 1896, No. 14, 29 Stat. 463).

§ 716. Printing of documents not provided for by law.

Either House may order the printing of a document not already provided for by law, when accompanied by an estimate from the Public Printer as to the probable cost. An executive department, bureau, board, or independent office of the Government submitting reports or documents in response to inquiries from Congress shall include an estimate of the probable cost of printing to the usual number. This section does not apply to reports or documents not exceeding fifty pages. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 140 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1013).

§ 717. Appropriation chargeable for printing of document or report by order of Congress.

The cost of the printing of a document or report printed by order of Congress which, under section 1107 of this title, cannot be properly charged to another appropriation or allotment of appropriation already made, upon order of the Joint Committee on Printing, shall be charged to the allotment of appropriation for printing and binding for Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 144 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1013).

§ 718. Lapse of authority to print.

The authority to print a document or report, or a publication authorized by law to be printed, for distribution by Congress, shall lapse when the whole number of copies has not been ordered within two years from the date of the original order, except orders for subsequent editions, approved by the Joint Committee on Printing, in which case the whole number may not exceed that originally authorized by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 141 (Mar. 1, 1907, ch. 2284, § 5, 34 Stat. 1014).

§ 719. Classification and numbering of publications ordered printed by Congress; designation of publications of departments; printing of committee hearings.

Publications ordered printed by Congress, or either House, shall be in four series, namely:

one series of reports made by the committees of the Senate, to be known as Senate reports;

one series of reports made by the committees of the House of Representatives, to be known as House reports;

one series of documents other than reports of committees, the orders for printing which originate in the Senate, to be known as Senate documents; and

one series of documents other than committee reports, the orders for printing which originate in the House of Representatives, to be known as House documents.

The publications in each series shall be consecutively numbered, the numbers in each series continuing in unbroken sequence throughout the entire term of a Congress, but these provisions do not apply to the documents printed for the use of the Senate in executive session. Of the "usual number", the copies which are intended for distribution to State libraries and other designated depositories of annual or serial publications originating in or prepared by an executive department, bureau, office, commission, or board may not be numbered in the document or report series of either House of Congress, but shall be designated by title and bound as provided by section 738 of this title; and the departmental edition, if any, shall be printed concurrently with the "usual number." Hearings of committees may be printed as congressional documents only when specifically ordered by Congress or either House. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1250.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 142 (Jan. 15, 1908, No. 3, § 1, 35 Stat. 565).

§ 720. Senate and House Manuals.

Each House may order printed as many copies as it desires, of the Senate Manual and of the Rules and Manual of the House of Representatives, even though the cost exceed $500. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 148 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 617).

§ 721. Congressional Directory.

There shall be prepared under the direction of the Joint Committee on Printing a Congressional Directory, of which there shall be three editions during each first session and two editions during each second regular session of Congress. The first edition shall be distributed to Senators, Representatives, the principal officers of Congress, and heads of departments on the first day of the session, and shall be ready for distribution to others within one week thereafter. The Joint Committee shall control the number and distribution of the directory. Copies delivered to Senators and Representatives for distribution shall be bound in cloth. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 149 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 617; July 1, 1902, ch. 1351, 32 Stat. 583).

§ 722. Congressional Directory: sale.

The Public Printer, under the direction of the Joint Committee on Printing, may print the current Congressional Directory for sale at a price sufficient to reimburse the expense of printing. The money derived from sales shall be paid into the Treasury and

accounted for in his annual report to Congress, and sales may not be made on credit. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 150 (Jan. 12, 1895 ch. 23, § 40, 28 Stat. 607).

§ 723. Memorial addresses: preparation; distribution.

After the final adjournment of each session of Congress, there shall be compiled, prepared, printed with illustrations, and bound in cloth in one volume, in the style, form, and manner directed by the Joint Committee on Printing, without extra compensation to any employee, the legislative proceedings of Congress and the exercises at the general memorial services held in the House of Representatives during each session relative to the death of a Member of Congress, together with all relevant memorial addresses and eulogies published in the Congressional Record during the same session of Congress, and any other matter the Joint Committee considers relevant; and there shall be printed as many copies as needed to supply the total quantity provided for by this section, of which fifty copies, bound in full morocco, with gilt edges, suitably lettered as may be requested, shall be delivered to the family of the deceased, and the remaining copies shall be distributed as follows:

of all eulogies on deceased Members of Congress to the Vice President and each Senator, Representative, and Resident Commissioner in Congress, one copy;

of the eulogies on deceased Senators there shall be furnished two hundred and fifty copies for each Senator of the State represented by the deceased and twenty copies for each Representative from that State;

of the eulogies on a deceased Representative and Resident Commissioner two hundred and fifty copies for his successor in office; twenty copies for each of the other Representatives, or Resident Commissioner of the State, or insular possession represented by the deceased; and twenty copies for each Senator from that State.

The "usual number" of memorial addresses may not be printed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 151 (Aug. 23, 1894, ch. 307, 28 Stat. 447; Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616; June 20, 1936, ch. 630, title I, § 1, 49 Stat. 1545).

§ 724. Memorial addresses: illustrations.

The illustrations to accompany bound copies of memorial addresses delivered in Congress shall be made at the Bureau of Engraving and Printing and paid for out of the appropriation for that bureau, or, in the discretion of the Joint Committee on Printing, shall be obtained elsewhere by the Public Printer and charged to the allotment for printing and binding for Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 152 (Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1431).

§ 725. Statement of appropriations; "usual number".

Of the statements of appropriations required to be prepared by section 105 of title 2, there shall be printed, after the close of each regular session of Congress, the usual number of copies. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 153 (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 958).

§ 726. Printing for committees of Congress.

A committee of Congress may not procure the printing of more than one thousand copies of a hearing, or other document germane thereto, for its use except by simple, concurrent, or joint resolution, as provided by section 703 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 154 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1012).

§ 727. Committee reports: indexing and binding.

The Secretary of the Senate and the Clerk of the House of Representatives shall procure and file for the use of their respective House copies of all reports made by committees, and at the close of each session of Congress shall have the reports indexed and bound, one copy to be deposited in the library of each House and one copy in the committee from which the report emanates. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 155 (Jan. 12, 1895, ch. 23, § 83, 28 Stat. 622).

§ 728. United States Statutes at Large: distribution.

The Public Printer, after the final adjournment of each regular session of Congress, shall print and bind copies of the United States Statutes at Large, to be charged to the congressional allotment for printing and binding. The Joint Committee on Printing shall control the number and distribution of the copies.

The Public Printer shall print and, after the end of each calendar year, bind and deliver to the Superintendent of Documents a number of copies of the United States Treaties and Other International Agreements not exceeding the number of copies of the United States Statutes at Large required for distribution in the manner provided by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 196a (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 615; June 20, 1936, ch. 630, title VI, § 9, 49 Stat. 1551; June 16, 1938, ch. 477, § 2, 52 Stat. 761; Sept. 23, 1950, ch. 1001, § 4, 64 Stat. 980; July 10, 1952, ch. 632, § 2, 66 Stat. 540).

§ 729. United States Statutes at Large: references in margins.

The Administrator of General Services shall include in the references in margins of the United States Statutes at Large the number of the bill or joint resolution (designating S. for Senate bill, H.R. for House bill, S.J. Res. for Senate joint resolution and H.J. Res. for House joint resolutions, as the case may be) under which each Act was approved and became a law, the reference in the margins to be

placed within brackets immediately under the date of the approval of the Act at the beginning of each Act as printed beginning with Volume 32 of the United States Statutes at Large. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1252.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S Code, 1964 ed., § 197 (Apr. 12, 1904, No. 20, 33 Stat. 589; 1950 Reorg. Plan No. 20, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272).

§ 730. Distribution of documents to Members of Congress.

When, in the division among Senators, and Representatives, of documents printed for the use of Congress there is an apportionment to each or either House in round numbers, the Public Printer may not deliver the full number so accredited at the Senate Service Department and House of Representatives Publications Distribution Service, but only the largest multiple of the number constituting the full membership of that House, including the Secretary and Sergeant at Arms of the Senate and Clerk, Sergeant at Arms, and Doorkeeper of the House, which is contained in the round numbers thus accredited to that House, so that the number delivered divides evenly and without remainder among the Members of the House to which they are delivered; and the remainder of the documents thus resulting shall be turned over to the Superintendent of Documents, to be distributed by him, first, to public and school libraries for the purpose of completing broken sets; second, to public and school libraries that have not been supplied with any portions of the sets, and, lastly, by sale to other persons; the libraries to be named to him by Senators and Representatives; and in this distribution the Superintendent of Documents, as far as practicable, shall make an equal allowance to each Senator and Representative. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1253.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 157 (Jan. 12, 1895, ch. 23, § 68, 28 Stat. 612; Apr. 6, 1904, ch. 862, 33 Stat. 159; July 2, 1954, ch. 455, title I, § 101, 68 Stat. 397).

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

§ 731. Allotments of public documents printed after expiration of terms of Members of Congress; rights of retiring Members to documents.

The Congressional allotment of public documents, other than the Congressional Record, printed after the expiration of the term of office of the Vice President of the United States, or Senator, Representative, or Resident Commissioner, shall be delivered to his successor in office.

Unless the Vice President of the United States, a Senator, Representative, or Resident Commissioner, having public documents to his credit at the expiration of his term of office takes them prior to the 30th day of June next following the date of expiration, he shall forfeit them to his successor in office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1253.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 158 (Jan. 12, 1895, ch. 23, § 72, 28 Stat. 612; Mar. 18, 1924, ch. 60, 43 Stat. 24; June 18, 1934, ch. 606, § 1, 48 Stat. 1017).

Words "or her" deleted by authority of Title 1, sec. 1—"words importing masculine gender may be applied to females".

§ 732. Time for distribution of documents by Members of Congress extended.

Reelected Members may distribute public documents to their credit, or the credit of their respective districts in the Interior or other Departments and bureaus, and in the Government Printing Office, during their successive terms and until their right to frank documents ends. (Pub. L. 90–620. Oct. 22, 1968, 82 Stat. 1253.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 159 (June 4, 1897, ch. 2, § 1, 30 Stat. 62).

§ 733. Documents and reports ordered by Members of Congress; franks and envelopes for Members of Congress.

The Public Printer on order of a Member of Congress, on prepayment of the cost, may reprint documents and reports of committees together with the evidence papers submitted, or any part ordered printed by the Congress.

He may also furnish without cost to Members and the Resident Commissioner from Puerto Rico, blank franks printed on sheets and perforated, or singly at their option, for public documents. Franks shall contain in the upper left-hand corner the following words: "Public document. Free. United States Senate" or "House of Representatives U.S." and in upper right-hand corner the letters "U. S. S." or "M. C." But he may not print any other words except where it is desirable to affix the official title of a document. Other words printed on franks shall be at the personal expense of the Member or Resident Commissioner ordering them.

At the request of a Member of Congress or Resident Commissioner the Public Printer may print upon franks or envelopes used for mailing public documents the facsimile signature of the Member or Resident Commissioner and a special request for return if not called for, and the name of the State or Commonwealth and county and city. The Member or Resident Commissioner shall deposit with his order the extra expense involved in printing these additional words.

The Public Printer may also, at the request of a Member or Resident Commissioner, print on envelopes authorized to be furnished, the name of the Member or Resident Commissioner, and State or Commonwealth, the date, and the topic or subject matter, not exceeding twelve words.

The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done. He shall account for them in his annual report to Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1253.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 162 (Jan. 12, 1895, ch. 23, § 37, 28 Stat. 606; Mar. 2, 1895, ch. 189, § 1, 28 Stat. 961; Jan. 30, 1904, ch. 39, 33 Stat. 9; Mar. 4, 1925, ch. 549, § 1, 43 Stat. 1300).

Section 893 of Title 48, U.S. Code, provides that: "The Resident Commissioner of Puerto Rico shall . . . be allowed the franking privilege granted Members of Congress."

By inference he should be included in section 733, since the franking privilege should include the means to use it.

Changes have been made in section 733 to include the Resident Commissioner as to printing of franks.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3201.

§ 734. Stationery and blank books for Congress.

Upon requisition of the Secretary of the Senate and the Clerk of the House of Representatives, respectively, the Public Printer shall furnish stationery, blank books, tables, forms, and other necessary papers preparatory to congressional legislation, required for the official use of the Senate and the House of Representatives, or their committees and officers. This does not prevent the purchase by the officers of the Senate and House of Representatives of stationery and blank books necessary for sale to Senators and Members in the stationery rooms of the two Houses as provided by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964, ed., § 146 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1013).

§ 735. Binding for Members of Congress.

Each Member of Congress is entitled to the binding in half morocco, or material not more expensive, of one copy of each public document to which he is entitled, an account of which shall be kept by the Secretary of the Senate and Clerk of the House of Representatives, respectively. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 160 (Jan. 12, 1895, ch. 23, § 2, 28 Stat. 601; Mar. 1, 1907, ch. 2284, § 1, 34 Stat. 1013).

§ 736. Binding at expense of Members of Congress.

The Public Printer may bind at the Government Printing Office books, maps, charts, or documents published by authority of Congress, upon application of a Member of Congress, and payment of the actual cost of binding. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 171 (Dec. 10, 1877, ch. 6, 20 Stat. 5).

§ 737. Binding for Senate library.

The Secretary of the Senate may make requisition upon the Public Printer for the binding for the Senate library of books he considers necessary, at a cost not to exceed $200 per year. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 168 (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 958).

§ 738. Binding of publications for distribution to libraries.

The Public Printer shall supply the Superintendent of Documents with sufficient copies of publications distributed in unbound form, to be bound and distributed to the State libraries and other designated depositories for their permanent files. Every publication of sufficient size on any one subject shall be bound separately and receive the title suggested by the subject of the volume, and the others shall be distributed in unbound form as soon as printed. The library edition, as well as all other bound sets of congressional numbered documents and reports, shall be arranged in volumes and bound in the manner directed by the Joint Committee on Printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 143 (Jan. 15, 1908, No. 3, § 2, 35 Stat. 566).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 719 of this title.

§ 739. Senate and House document rooms; superintendents.

There shall be one document room of the Senate and one of the House of Representatives, to be designated, respectively, the "Senate and House document room." Each shall be in charge of a superintendent, who shall be appointed by the Secretary of the Senate and the Doorkeeper of the House, respectively, together with the necessary assistants. The Senate document room shall be under the jurisdiction of the Secretary of the Senate. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 165 (Jan. 12, 1895, ch. 23, § 60, 28 Stat. 610; Mar. 3, 1901, ch. 830, § 1, 31 Stat. 962).

§ 740. Senate Service Department and House Publications Distribution Service; superintendents.

There shall be a Senate Service Department and a House of Representatives Publications Distribution Service in the charge of superintendents, appointed respectively by the Sergeant at Arms of the Senate and Doorkeeper of the House, together with the necessary assistants. Reports or documents to be distributed for the Senators and Representatives shall be folded and distributed from the Senate Service Department and House of Representatives Publications Distribution Service, unless otherwise ordered, and the respective superintendent shall notify each Senator and Representative in writing once every sixty days of the number and character of publications on hand and assigned to him for use and distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1255.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 166 (Jan. 12, 1895, ch. 23, § 71, 28 Stat. 612; July 2, 1954, ch. 455, title I, § 101, 68 Stat. 397).

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

§ 741. Disposition of documents stored at Capitol.

The Secretary and Sergeant at Arms of the Senate and the Clerk and Doorkeeper of the House of Representatives, at the convening in regular session of each successive Congress shall cause an invoice

to be made of public documents stored in and about the Capitol, other than those belonging to the quota of Members of Congress, to the Library of Congress and the Senate and House libraries and document rooms. The superintendents of the Senate Service Department and House of Representatives Publications Distribution Service shall put the documents to the credit of Senators and Representatives in quantities equal in the number of volumes and as nearly as possible in value, to each Member of Congress, and the documents shall be distributed upon the orders of Senators and Representatives, each of whom shall be supplied by the superintendents of the Senate Service Department and House of Representatives Publications Distribution Service with a list of the number and character of the publications thus put to his credit, but before apportionment is made copies of any of these documents desired for the use of a committee of either House shall be delivered to the chairman of the committee.

Four copies of leather-bound documents shall be reserved and carefully stored, to be used in supplying deficiencies in the Senate and House libraries caused by wear or loss. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1255.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 167 (Jan. 12, 1895, ch. 23, § 63, 28 Stat. 611; July 2, 1954, ch. 455, title I, § 101, 68 Stat. 397).

CODIFICATION

"Senate Service Department and House Folding Room" was substituted for "Senate and House folding rooms," and "superintendents of the Senate Service Department and House Folding Room" was substituted for "superintendents of the folding rooms" in view of act July 2, 1954, which redesignated the Senate Folding Room as the Senate Service Department.

CHANGE OF NAME

Act July 2, 1954, provided in part that "hereafter" the Senate Folding Room should be known as the Senate Service Department.

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

Chapter 9.—CONGRESSIONAL RECORD

Sec.
901. Congressional Record: arrangement, style, contents, and indexes.
902. Congressional Record: indexes.
903. Congressional Record: daily and permanent forms.
904. Congressional Record: maps; diagrams; illustrations.
905. Congressional Record: additional insertions.
906. Congressional Record: gratuitous copies; delivery; subscriptions.
907. Congressional Record: extracts for Members of Congress; mailing envelopes.
908. Congressional Record: payment for printing extracts or other documents.
909. Congressional Record: exchange for Parliamentary Hansard.
910. Congressional Record: sale of current numbers and bound sets.

§ 901. Congressional Record: arrangement, style, contents, and indexes.

The Joint Committee on Printing shall control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the Congressional Record semimonthly during and at the close of sessions of Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1255.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 181 (Jan. 12, 1895, ch. 23, § 13, 28 Stat. 603).

§ 902. Congressional Record: indexes.

The Joint Committee on Printing shall designate to the Public Printer competent persons to prepare the semimonthly and the session index to the Congressional Record and shall fix the compensation to be paid by the Public Printer for that work, and direct the form and manner of its publication and distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1256.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 182 (Jan. 12, 1895, ch. 23, § 14, 28 Stat. 603; June 20, 1936, ch. 630, title II, § 2, 49 Stat. 1546).

§ 903. Congressional Record: daily and permanent forms.

The public proceedings of each House of Congress as reported by the Official Reporters, shall be printed in the Congressional Record, which shall be issued in daily form during each session and shall be revised, printed, and bound promptly, as directed by the Joint Committee on Printing, in permanent form, for distribution during and after the close of each session of Congress. The daily and the permanent Record shall bear the same date, which shall be that of the actual day's proceedings reported. The "usual number" of the Congressional Record may not be printed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1256.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 182a (Jan. 12, 1895, ch. 23, § 14, as added June 20, 1936, ch. 630, title II, § 2, 49 Stat. 1546).

§ 904. Congressional Record: maps; diagrams; illustrations.

Maps, diagrams, or illustrations may not be inserted in the Record without the approval of the Joint Committee on Printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1256.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 182b (Jan. 12, 1895, ch. 23, § 14, as added June 20, 1936, ch. 630, title II, § 2, 49 Stat. 1546).

§ 905. Congressional Record: additional insertions.

The Joint Committee on Printing shall provide for printing in the daily Record the legislative program for the day together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter. It shall cause a brief résumé of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Represenatives, respectively. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1256.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 182c (Aug. 2, 1946, ch. 753, title II, § 221, 60 Stat. 837).

§ 906. Congressional Record: gratuitous copies; delivery; subscriptions.

The Public Printer shall furnish the Congressional Record only as follows:

of the bound edition—

to the Senate Service Department five copies for the Vice President and each Senator;

to the Secretary and Sergeant at Arms of the Senate, each, two copies;

to the Joint Committee on Printing not to exceed one hundred copies;

to the House of Representatives Publications Distribution Service, three copies for each Representative and Resident Commissioner in Congress; and

to the Clerk, Sergeant at Arms, and Doorkeeper of the House of Representatives, each, two copies;

of the daily edition—

to the Vice President and each Senator, one hundred copies;

to the Secretary and Sergeant at Arms of the Senate, each, twenty-five copies;

to the Secretary, for official use, not to exceed thirty-five copies; and

to the Sergeant at Arms for use on the floor of the Senate, not to exceed fifty copies;

to each Representative, and Resident Commissioner in Congress, sixty-eight copies;

to the Clerk, Sergeant at Arms, and Doorkeeper of the House of Representatives, each, twenty-five copies;

to the Clerk, for official use, not to exceed fifty copies, and to the Doorkeeper for use on the floor of the House of Representatives, not to exceed seventy-five copies;

to the Vice President and each Senator, Representative, and Resident Commissioner in Congress (and not transferable) three copies of which one shall be delivered at his residence, one at his office, and one at the Capitol.

In addition to the foregoing the Congressional Record shall also be furnished as follows:

In unstitched form, and held in reserve by the Public Printer, as many copies of the daily Record as may be required to supply a semimonthly edition, bound in paper cover together with each semimonthly index when it is issued, and then be delivered promptly as follows:

to each committee and commission of Congress, one daily and one semimonthly copy;

to each joint committee and joint commission in Congress, as may be designated by the Joint Committee on Printing, two copies of the daily, one semimonthly copy, and one bound copy;

to the Secretary and the Sergeant at Arms of the Senate, for office use, each, six semimonthly copies;

to the Clerk, Sergeant at Arms, and Doorkeeper of the House, for office use, each, six semimonthly copies;

to the Joint Committee on Printing, ten semimonthly copies;

to the Vice President and each Senator, Representative, and Resident Commissioner in Congress, one semimonthly copy;

to the President of the United States, for the use of the Executive Office, ten copies of the daily, two semimonthly copies, and one bound copy;

to the Chief Justice of the United States and each of the Associate Justices of the Supreme Court of the United States, one copy of the daily;

to the offices of the marshal and clerk of the Supreme Court of the United States, each, two copies of the daily and one semimonthly copy;

to each United States circuit and district judge, and to the chief judge and each associate judge of the United States Court of Claims, the United States Court of Customs and Patent Appeals, the United States Customs Court, the Tax Court of the United States, and the United States Court of Military Appeals, upon request to a member of Congress and notification by the Member to the Public Printer, one copy of the daily, in addition to those authorized to be furnished to Members of Congress under the preceding provisions of this section;

to the offices of the Vice President and the Speaker of the House of Representatives, each, six copies of the daily and one semimonthly copy;

to the Sergeant at Arms, the Chaplain, the Postmaster, the superintendent and the foreman of the Senate Service Department and of the House of Representatives Publications Distribution Service, respectively; to the Secretaries to the Majority and the Minority of the Senate, and to the Doorkeeper of the House of Representatives, each, one copy of the daily;

to the office of the Parliamentarian of the House of Representatives, six copies of the daily, one semimonthly copy, and two bound copies;

to the offices of the Official Reporters of Debates of the Senate and House of Representatives, respectively, each, fifteen copies of the daily, one semimonthly copy, and three bound copies;

to the office of the stenographers to committees of the House of Representatives, four copies of the daily and one semimonthly copy;

to the office of the Congressional Record Index, ten copies of the daily and two semimonthly copies;

to the offices of the superintendent of the Senate and House document rooms, each, three copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the superintendents of the Senate and House press galleries, each, two copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the Legislative Counsel of the Senate and House of Representatives, respectively, and the Architect of the Capitol, each, three copies of the daily, one semimonthly copy, and one bound copy;

to the Library of Congress for official use in Washington, District of Columbia, and for international exchange, as provided by section 1718 and 1719 of this title, not to exceed one hundred and forty-five copies of the daily, five semimonthly copies, and one hundred and fifty bound copies;

to the library of the Senate, three copies of the daily, two semimonthly copies, and not to exceed fifteen bound copies;

to the library of the House of Representatives, five copies of the daily, two semimonthly copies, and not to exceed twenty-eight bound copies, of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;

to the library of the Supreme Court of the United States, two copies of the daily, two semimonthly copies, and not to exceed five bound copies;

to the library of each United States Court of Appeals, each United States District Court, the United States Court of Claims, the United States Court of Customs and Patent Appeals, the United States Customs Court, the Tax Court of the United States, and the United States Court of Military Appeals, upon request to the Public Printer, one bound copy;

to the Public Printer for official use, not to exceed seventy-five copies of the daily, ten semimonthly copies, and two bound copies;

to the Director of the Botanic Garden, two copies of the daily and one semimonthly copy;

to the Archivist of the United States, five copies of the daily, two semimonthly copies, and two bound copies;

to the library of each executive department, independent office, and establishment of the Government in the District of Columbia, except those designated as depository libraries, and to the libraries of the municipal government of the District of Columbia, the Naval Observatory, and the Smithsonian Institution, each, two copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the Government of Puerto Rico, Guam and the Virgin Islands, each, five copies in in both daily and bound form;

to the office of the Governor of the Canal Zone, five copies in both daily and bound form;

to each ex-President and ex-Vice President of the United States, one copy of the daily;

to each former Senator, Representative, and Commissioner from Puerto Rico, upon request to the Public Printer, one copy of the daily;

to the governor of each State, one copy in both daily and bound form;

to the United States Soldiers' Home and to each of the National Homes for Disabled Volunteer Soldiers, and to each of the State soldiers' homes, one copy of the daily;

to the Superintendent of Documents, as many daily and bound copies as may be required for distribution to depository libraries;

to the Department of State, not to exceed one hundred and fifty copies of the daily, for distribution to each United States embassy and legation abroad, and to the principal consular offices in the discretion of the Secretary of State;

to each foreign legation in Washington whose government extends a like courtesy to our embassies and legations abroad, one copy of the daily, to be furnished upon requisition of and sent through the Secretary of State;

to each newspaper correspondent whose name appears in the Congressional Directory, and who makes application, for his personal use and that of the papers he represents, one copy of the daily and one copy of the bound, the same to be sent to the office address of the member of the press or elsewhere as he directs; not to exceed four copies in all may be furnished to members of the same press bureau.

Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered promptly on the day after the actual day's proceedings as originally published. Each order for the daily Record shall begin with the current issue, if previous issues of the same session are not available. The apportionment specified for daily copies may not be transferred for the bound form and an allotment of daily copies not used by a Member during a session shall lapse when the session ends.

The Public Printer may furnish the daily Record to subscribers at a price determined by the Public Printer based upon the cost of printing and distribution, such price to be payable in advance. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1256; Pub. L. 91–276, June 12, 1970, 84 Stat. 303.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 183 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 617; June 11, 1896, ch. 420, § 1, 29 Stat. 454; Mar. 19, 1896, No. 31, 29 Stat. 468; Feb. 17, 1897, No. 12, 29 Stat. 700; Mar. 26, 1900, No. 15, 31 Stat. 713; Mar. 2, 1901, No. 16, §§ 1, 2, 31 Stat. 1464; Jan. 30, 1903, ch. 338, 32 Stat. 786; Mar. 1, 1907, ch. 2284, § 4, 34 Stat. 1014; Mar. 4, 1909, ch. 317, 35 Stat. 1067; Mar. 4, 1909, No. 25, 35 Stat. 1169; Mar. 3, 1925, ch. 421, § 7, 43 Stat. 1106; June 20, 1936, ch. 630, title II, § 3, 49 Stat. 1547; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381; Sept. 26, 1950, ch. 1049, § 2(b), 64 Stat. 1038; July 2, 1954, ch. 455, title I, § 101, 68 Stat. 397; Aug. 1, 1956, ch. 852, § 20, 70 Stat. 911; June 25, 1959, Pub. L. 86–70, § 33, 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 32, 74 Stat. 421; Mar. 21, 1961, Pub. L. 87–2, 75 Stat. 5; July 11, 1961, Pub. L. 87–85, 75 State 202).

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

REFERENCES IN TEXT

Provisions respecting National Homes for Disabled Volunteer Soldiers, referred to in the text, were formerly classified to chapter 3 (section 71 et seq.) of Title 44, Hospitals, Asylums, and Cemeteries, and were repealed by Pub. L. 85–857, § 14, Sept. 2, 1958, 72 Stat. 1268–1272, and Pub. L. 85–56, title XXII, § 2202, June 17, 1957, 71 Stat. 162, 164, 166.

AMENDMENTS

1970—Pub. L. 91–276 substituted provision authorizing the Public Printer to furnish the daily Congressional Record to subscribers at a price based upon cost of printing and distribution for prior subscription price of $1.50 per month.

§ 907. Congressional Record: extracts for Members of Congress; mailing envelopes.

The Public Printer may print and deliver, upon the order of a Member of Congress and payment of the cost, extracts from the Congressional Record. The Public Printer may furnish without cost to Members and the Resident Commissioner, envelopes, ready for mailing the Congressional Record or any part of it, or speeches, or reports in it. Envelopes so furnished shall contain in the upper left-hand corner the following words: "United States Senate" or

"House of Representatives, U.S. Part of Congressional Record. Free", and in the upper right-hand corner the letters "U.S.S." or "M.C.", and the Public Printer may, at the request of a Member or Resident Commissioner, print in addition to the foregoing, his name and State or Commonwealth, the date, and the topic or subject matter, not exceeding twelve words. He may not print any other words on envelopes, except at the personal expense of the Member or Resident Commissioner ordering the envelopes, except to affix the official title of a document. The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done, and accounted for in his annual report to Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1259.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 185 (Jan. 12, 1895, ch. 23, § 37, 28 Stat. 606; Mar. 2, 1895, ch. 189, § 1, 28 Stat. 961; Jan. 30, 1904, ch. 39, 33 Stat. 9; Mar. 4, 1925, ch. 549, 43 Stat. 1300).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3201.

§ 908. Congressional Record: payment for printing extracts or other documents.

If a Member or Resident Commissioner fails to pay the cost of printing extracts from the Congressional Record or other documents ordered by him to be printed, the Public Printer shall certify the amount due to the Sergeant at Arms of the House or the financial clerk of the Senate, as the case may be, who shall deduct from any salary due the delinquent the amount, or as much of it as the salary due may cover, and pay the amount so obtained to the Public Printer, to be applied by him to the satisfaction of the indebtedness. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1260.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 163 (Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1446).

§ 909. Congressional Record: exchange for Parliamentary Hansard.

The Librarian of Congress may furnish a copy of the daily and bound Congressional Record to the Undersecretary of State for External Affairs of Canada in exchange for a copy of the Parliamentary Hansard, and the Public Printer shall honor the requisition of the Librarian of Congress for it. The Parliamentary Hansard so received shall be the property of the Department of State. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1260.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 187 (Apr. 10, 1912, No. 14, 37 Stat. 632).

§ 910. Congressional Record: sale of current numbers and bound sets.

The Public Printer, under the direction of the Joint Committee, may print for sale, at a price sufficient to reimburse the expense of printing, the current numbers and bound sets of the Congressional Record. The money from sales shall be paid into the Treasury and accounted for in his annual report to Congress, and sales may not be made on credit. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1260.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 188 (Jan. 12, 1895 ch. 23, § 40, 28 Stat. 607).

Chapter 11.—EXECUTIVE AND JUDICIARY PRINTING AND BINDING

Sec.
1101. Printing and binding for the President.
1102. Printing to be authorized by law and necessary to the public business, not in excess of appropriation, and on special requisition filed with the Public Printer.
1103. Certificate of necessity; estimate of cost.
1104. Restrictions on use of illustrations.
1105. Form and style of work for departments.
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1108. Bureau of Budget approval required for printing of periodicals; number printed; sale to public.
1109. Printing documents in two or more editions; full number and allotment of full quota.
1110. Daily examination of Congressional Record for immediate ordering of documents for official use; limit; bills and resolutions.
1111. Annual reports: time for furnishing manuscript and proofs to Public Printer.
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1113. Annual reports: exclusion of irrelevant matter.
1114. Annual reports: number of copies for Congress.
1115. Annual reports: time of delivery by Public Printer to Congress.
1116. Annual reports: limitation on number of copies printed; reports of bureau chiefs.
1117. Annual reports: discontinuance of printing of annual or special reports to keep within appropriations.
1118. Documents beyond scope of ordinary departmental business.
1119. Government publications as public property.
1120. Blanks and letterheads for judges and officers of courts.
1121. Paper and envelopes for Government agencies in the District of Columbia.
1122. Supplies for Government establishments.
1123. Binding materials; bookbinding for libraries.

§ 1101. Printing and binding for the President.

The Public Printer shall execute such printing and binding for the President as he may order and make requisition for. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 211 (Jan. 12, 1895, ch. 23, § 88, 28 Stat. 622).

CODIFICATION

Section constitutes part of section 88 of act Jan. 12, 1895. Remainder of section is classified to section 1713 of this title.

§ 1102. Printing to be authorized by law and necessary to the public business, not in excess of appropriation, and on special requisition filed with the Public Printer.

(a) A head of an executive department, or of an independent agency or establishment of the Government may not cause to be printed, and the Public Printer may not print, a document or matter unless it is authorized by law and necessary to the public business.

(b) Printing may not be done for an executive department, independent agency or establishment in a

fiscal year in excess of the amount of the appropriation.

(c) Printing may not be done without a special requisition signed by the chief of the department, independent agency or establishment and filed with the Public Printer. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 213, 219 (Jan. 12, 1895, ch. 23, § 89, 94, 28 Stat. 622).

This section incorporates the first paragraph of former section 213 and the first clause of former section 219. The balance of former section 213 will be found in sections 1116, 1302, 1308, 1309, 1310, 1336 of the revision; that of former section 219 in section 1113 of the revision.

§ 1103. Certificate of necessity; estimate of cost.

When a department, the Supreme Court, the Court of Claims, or the Library of Congress requires printing or binding to be done, it shall certify that it is necessary for the public service. The Public Printer shall then furnish an estimate of cost by principal items, after which requisitions may be made upon him for the printing or binding by the head of the department, the Clerk of the Supreme Court, chief judge of the Court of Claims, or the Librarian of Congress, respectively. The Public Printer shall place the cost to the debit of the department in its annual appropriation for printing and binding. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 117 (Jan. 12, 1895, ch. 23, § 93, 28 Stat. 623; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, sec. 127, 63 Stat. 107).

§ 1104. Restrictions on use of illustrations.

Appropriations made for printing and binding may not be used for an illustration, engraving, or photograph in a document or report ordered printed by Congress unless the order to print expressly authorizes it, nor in a document or report of an executive department, independent office or establishment of the Government until the head of the executive department or Government establishment certifies in a letter transmitting the report that the illustration, engraving, or photograph is necessary and relates entirely to the transaction of public business. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964, ed., § 118 (Mar. 3, 1905, ch. 1483, § 1, 33 Stat. 1213).

The term "executive department, independent office, or establishment of the Government" is substituted for "executive department or other Government establishment" for uniformity.

§ 1105. Form and style of work for departments.

The Public Printer shall determine the form and style in which the printing or binding ordered by a department is executed, and the material and the size of type used, having proper regard to economy, workmanship, and the purposes for which the work is needed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 216 (Jan. 12, 1895, ch. 23, § 51, 28 Stat. 608).

§ 1106. Inserting "compliments" forbidden.

A report, document, or publication distributed by or from an executive department or independent agency or establishment of the Government may not contain a notice that it is sent with "the compliments" of an officer of the Government, or with a special notice that it is so sent, except that notice that it has been sent, with a request for an acknowledgment of its receipt, may be given. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 218 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 620).

§ 1107. Appropriations chargeable for printing and binding of documents or reports.

The cost of printing and binding of documents or reports emanating from executive departments, independent agencies or establishments of the Government which, before March 30, 1906, was charged to appropriations for congressional printing and binding or to appropriations other than to executive departments, independent agencies or establishments, shall be charged as follows:

(1) the cost of illustrations, composition, stereotyping, and other work involved in the actual preparation for printing, apart from the creation of the manuscript, to the appropriation for printing and binding of the agency in which the document or report originates.

(2) the balance of cost, to congressional printing and binding appropriations or to appropriations for printing and binding of the executive departments, independent agencies or establishments in proportion to the number of copies delivered to each.

(3) the cost of copies distributed other than through Congress or executive agencies or independent offices, as otherwise provided.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1261.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 214 (Mar. 30, 1906, No. 13, 34 Stat. 825).

A proviso in the 1906 resolution, requiring annual estimates of probable costs for departmental printing is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 717 of this title.

§ 1108. Bureau of Budget approval required for printing of periodicals; number printed; sale to public.

The head of an executive department, independent agency or establishment of the Government, with the approval of the Director of the Bureau of the Budget, may use from the appropriations available for printing and binding such sums as are necessary for the printing of journals, magazines, periodicals, and similar publications he certifies in writing to be necessary in the transaction of the public business required by law of the department, office, or establishment. There may be printed, in addition to those necessary for the public business, not to exceed two thousand copies for free distribution by the issuing department, office, or establishment. The Public Printer, subject to regulation by the Joint Committee on Printing, shall print additional copies required

for sale to the public by the Superintendent of Documents; but the printing of these additional copies may not interfere with the prompt execution of printing for the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1262.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 220 (May 11, 1922, ch. 189, § 1, 42 Stat. 541; June 30, 1932, ch. 314, § 307, 47 Stat. 409).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 1109. Printing documents in two or more editions; full number and allotment of full quota.

The number of copies of a public document or report authorized to be printed for an executive department, independent agency, or establishment of the Government may be supplied in two or more editions, instead of one, upon a requisition on the Public Printer by the head of the department or independent office, but the aggregate of the editions may not exceed the number of copies otherwise authorized. This section does not preclude the printing of the full number of a document or report, or the allotment of the full quota to Senators and Representatives, as otherwise authorized, when a legitimate demand for the full complement is known to exist. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1262.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 224 (Mar. 30, 1906, No. 14, 34 Stat. 826).

§ 1110. Daily examination of Congressional Record for immediate ordering of documents for official use; limit; bills and resolutions.

The heads of executive departments, independent agencies and establishments, respectively, shall cause daily examination of the Congressional Record for the purpose of noting documents, reports, and other publications of interest to their departments, and shall cause an immediate order to be sent to the Public Printer for the number of copies of the publications required for official use, not to exceed, however, the number of bureaus in the department and divisions in the office of the head. The Public Printer shall send to each executive department, independent agency and establishment, as soon as printed, five copies of public bills and resolutions, except to the State Department, to which he shall send ten copies of bills and resolutions. When the head of a department, independent agency or establishment desires a greater number of a class of bills or resolutions for official use, the Public Printer shall furnish them on requisition promptly made. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1262.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 215 (Jan. 12, 1895, ch. 23, § 90, 28 Stat. 623; June 20, 1936, ch. 630, title IX, § 14, 49 Stat. 1553).

§ 1111. Annual reports: time for furnishing manuscript and proofs to Public Printer.

The appropriations made for printing and binding may not be used for an annual report or the accompanying documents unless the manuscript and proof is furnished to the Public Printer in the following manner:

manuscript of the documents accompanying annual reports on or before November 1, each year;

manuscript of the annual report on or before November 15, each year;

complete revised proofs of the accompanying documents on December 1, each year, and of the annual reports on December 10, each year.

Annual reports and accompanying documents shall be printed, made public, and available for distribution not later than within the first five days after the assembling of each regular session of Congress.

This section does not apply to the annual reports of the Smithsonian Institution, the Commissioner of Patents, the Comptroller of the Currency, or the Secretary of the Treasury. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 121 (July 1, 1916, ch. 209, § 3, 39 Stat. 336; June 20, 1936, ch. 630, § 8, 49 Stat. 1550).

§ 1112. Annual reports: type for reports of executive officers.

The annual reports of executive officers shall be printed in the same type and form as the report of the head of the department which it accompanies, unless otherwise ordered by the Joint Committee on Printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 222 (Jan. 12, 1895, ch. 23, § 91, 28 Stat. 623).

§ 1113. Annual reports: exclusion of irrelevant matter.

Executive officers, before transmitting their annual reports, shall carefully examine them and all accompanying documents, and exclude all matter, including engravings, maps, drawings, and illustrations, except such as they certify in their letters transmitting the reports are necessary and relate entirely to the transaction of the public business. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 219 (part) (Jan. 12, 1895, ch. 23, § 94, 28 Stat. 623).

This section incorporates only the second clause of former section 219. The balance will be found in section 1102 of the revision.

§ 1114. Annual reports: number of copies for Congress.

One thousand copies of the annual reports of the departments to Congress shall be printed for the Senate, and two thousand for the House of Representatives.

The usual number only of the reports of the Chief of Engineers of the Army, the Commissioner of Patents, the Commissioner of Internal Revenue, the report of the Chief Signal Officer of the Department of the Army, and the Chief of Ordnance shall be printed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 212 (part) (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 615).

This section incorporates only the second sentence of former section 212. The balance will be found in section 1115 of this revision.

§ 1115. Annual reports: time of delivery by Public Printer to Congress.

The annual reports of the Executive Departments and the accompanying documents shall be delivered by the Public Printer to the proper officer of each House of Congress at its first meeting. Other reports of the Executive Departments shall be so delivered on or before the third Wednesday next after the meeting of Congress or as soon after as may be practicable. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code 1964 ed., § 212 (part) (R.S. 3810).

This section incorporates only the first sentence of former section 212. The balance will be found in section 1114 of this revision.

§ 1116. Annual reports: limitation on number of copies printed; reports of bureau chiefs.

Not to exceed five thousand copies, bound in pamphlet form, of the annual reports without appendices of a head of a department may be printed in a fiscal year. Not to exceed two thousand five hundred copies, bound in pamphlet form, of the reports without appendices of a chief of bureau may be printed in a fiscal year.

A head of department shall direct whether reports made to him by a bureau chief and chief of division may be printed or not. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1263.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (part) (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622).

This section incorporates only the first sentence of the second paragraph of former section 213 and the last paragraph of that section. The balance will be found in sections 1102, 1302, 1308, 1309, 1310, 1336 of the revision.

§ 1117. Annual reports; discontinuance of printing of annual or special reports to keep within appropriations.

In order to keep expenditures for printing and binding within appropriations, heads of executive departments, independent offices and establishments of the Government may discontinue the printing of annual or special reports under their respective jurisdictions. When the printing of reports is discontinued the original copy shall be kept on file in the office of the heads of the respective departments, independent offices or establishments for public inspection. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213a (Aug. 1, 1953, ch. 304, title I, § 103, 67 Stat. 332).

The term "executive departments, independent offices, and establishments of the Government" is substituted for "executive departments, independent agencies, and establishments" for uniformity.

§ 1118. Documents beyond scope of ordinary departmental business.

A book or document not having to do with the ordinary business transactions of the executive departments may not be printed on the requisition of a department unless expressly authorized by Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 219a (Mar. 3, 1905, ch. 1484, § 1, 33 Stat. 1249).

§ 1119. Government publications as public property.

Government publications of a permanent nature furnished by authority of law to officers other than Members of Congress of the United States Government, for their official use, shall be stamped "Property of the United States Government," and shall be preserved by them and delivered to their successors in office as a part of the property of the office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 92 (part) (Jan. 12, 1895, ch. 23, § 74, 28 Stat. 620; June 20, 1936, ch. 630, title VII, § 11, 49 Stat. 1552; Aug. 9, 1962, Pub. L. 87–679, § 8, 76 Stat. 355).

This section incorporates only the first sentence of former section 92. The balance will be found in section 1911 of the revision.

§ 1120. Blanks and letterheads for judges and officers of courts.

Blanks and letterheads for use by judges and other officials of the United States courts, other than those required to be paid for by any of these officers out of the emoluments of their offices, shall be printed at the Government Printing Office upon forms prescribed by the Department of Justice, and shall be distributed by it upon requisition. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 119 (Jan. 12, 1895, ch. 23, § 97, 28 Stat. 624).

§ 1121. Paper and envelopes for Government agencies in the District of Columbia.

The Public Printer may procure, under direction of the Joint Committee on Printing, as provided by sections 509—516 of this title, and furnish on requisition, paper and envelopes (not including envelopes printed in the course of manufacture) in common use by two or more departments, establishments, or services of the Government in the District of Columbia, and reimbursement shall be made to the Public Printer from appropriations or funds available for the purpose. Paper and envelopes so furnished by the Public Printer may not be procured in any other manner. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 225 (June 7, 1924, ch. 303, § 1, 43 Stat. 592).

§ 1122. Supplies for Government establishments.

The Public Printer may procure and supply, on the requisition of the head of an executive department, independent office or establishment of the Government, complete manifold blanks, books, and forms required in duplicating processes, and complete patented devices with which to file money-order statements, or other uniform official papers, and charge them to the allotment for printing and binding of the department or Government establishment requiring them. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 227 (June 28, 1902, ch. 1301, § 1, 32 Stat. 481).

The term 'executive department, independent office, or establishment of the government" is substituted for "executive department or other government establishment" for uniformity.

§ 1123. Binding materials; bookbinding for libraries.

Binding for the departments of the Government shall be done in plain sheep or cloth, except that record and account books may be bound in Russian leather, sheep fleshers, and skivers, when authorized by the head of a department. The libraries of the several departments, the Library of Congress, the libraries of the Surgeon General's Office, the Patent Office, and the Naval Observatory may have books for the exclusive use of these libraries bound in half Turkey, or material no more expensive. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1264.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 116 (Jan. 12, 1895, ch. 23, § 86, 28 Stat. 622).

This section incorporates all but the first sentence of former section 116. The balance will be found in section 501 of the revision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 145.

Chapter 13.—PARTICULAR REPORTS AND DOCUMENTS

Sec.
1301. Agriculture, Department of: report of Secretary.
1302. Agriculture, Department of: monthly crop report and other publications.
1303. American Historical Association: report.
1304. Army and Navy registers.
1305. Attorney General: opinions.
1306. Civil Service Commission: report.
1307. Environmental Science Service Administration: charts; sale and distribution.
1308. Coast Guard: annual report of the Commandant.
1309. Coast Guard: notices to mariners and other special special publications.
1310. Commerce Department: navigation and weather information.
1311. Comptroller General: decisions.
1312. Director of Public Health of District of Columbia: report.
1313. Education, Commissioner of: report.
1314. Ephemeris and Nautical Almanac.
1315. Fish and Wildlife Service: bulletins.
1316. Fish and Wildlife Service: report of the Director.
1317. Foreign Relations.
1318. Geological Survey: classes and sizes of publications; report of mineral resources; number of copies; reprints; distribution.
1319. Geological Survey: specific appropriations required for monographs and bulletins.
1320. Geological Survey: distribution of publications to public libraries.
1321. Hydrographic Surveys; foreign surveys.
1322. Immigration and Naturalization Service: report.
1323. Interstate Commerce Commission: report.
1324. Labor Statistics, Bureau of: bulletins.
1325. Labor Statistics, Bureau of: report of Commissioner.
1326. Librarian of Congress: reports.
1327. Mines, Bureau of: publications.
1328. Merchant vessels of the United States.
1329. Mint: reports of Director.
1330. Monthly Summary Statement of Imports and Exports.
1331. National Academy of Sciences: report.
1332. National encampments of Veterans' organizations; proceedings printed annually for Congress.
1333. National high school and college debate topics.
1334. Naval Intelligence Office: additional copies of publications.
1335. Naval Observatory Observations.
1336. Naval Oceanographic Office: special publications.
1337. Patent Office: publications authorized to be printed.
1338. Patent Office: limitations and conditions concerning printing and lithographing.
1339. Printing of the President's message.
1340. Public Printer: annual report.
1341. Smithsonian Institution: report.
1342. Soil area surveys: reports; congressional allotments.
1343. Statistical Abstract of the United States.
1344. Treasury Department: reports.

CROSS REFERENCES

Administrative conference of the United States, reports of, see section 574 of Title 5, Government Organization and Employees.

Admiralty suits: United States public vessels: damages, towage, or salvage; reports as to settlements, see section 790 of Title 46, Shipping. United States vessels or cargoes; reports as to awards and settlements, see section 752 of Title 46.

Atomic Energy Commission, reports to Congress, see section 2016 of Title 42, The Public Health and Welfare.

Board of Governors of Federal Reserve System, annual report, see section 247 of Title 12, Banks and Banking.

Census printing, bulletins, and reports; publication and distribution, see section 7 of Title 13, Census.

Censuses, see section 131 et seq. of Title 13.

Department of Housing and Urban Development, annual reports, see section 3536 of Title 42, The Public Health and Welfare.

Economic Indicators, monthly publication of Joint Economic Committee, see section 1025 of Title 15, Commerce and Trade.

Federal Communications Commission's reports, see section 154 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Federal Hospital Insurance Trust Fund, reports of Board of Trustees, see section 1395i of Title 42, The Public Health and Welfare.

Federal Supplementary Medical Insurance Trust Fund, reports of Board of Trustees, see section 1395t of Title 42.

Gorgas Memorial Institute, annual report, see sections 278a and 278b of Title 22, Foreign Relations and Intercourse.

Helium gas, annual reports by Secretary of Interior, see section 167n of Title 50, War and National Defense.

Housing renovation and modernization, statistical and economic surveys, see section 1715 of Title 12, Banks and Banking.

Indian affairs: printing and republication of Senate document on "Indian Affairs, Laws and Treaties", treaties on "Federal Indian Laws", and compilation of opinions of Solicitor of Department of Interior, see section 1341 of Title 25, Indians.

Interior Department, annual reports of department and its bureaus; page limitation, see section 1465 of Title 43, Public Lands.

Locomotive inspection, director of: Annual report, see section 31 of Title 45, Railroads.

Marine resources and engineering development, reports to Congress, see section 1106 of Title 33.

National Science Foundation, reports of, see section 1862 of Title 42, The Public Health and Welfare.

Official territorial papers, collection, etc., by Administrator of General Services, see section 141 et seq., of Title 4, Flag and Seal, Seat of Government, and the States.

Public Health Service: annual report, see section 229 of Title 42, The Public Health and Welfare; publication of health educational information, see section 247 of Title 42.

Rural electrification and telephone service, annual report, see section 910 of Title 7, Agriculture.

Saint Lawrence Seaway, annual and special reports, see section 989 of Title 33, Navigation and Navigable Waters.

Soldiers' Home: report of board of commissioners respecting receipts and disbursements, investments, admissions and discharges, and condition and management of Home, see section 59 of Title 24, Hospitals, Asylums, and Cemeteries; Report of president of board of commissioners

respecting financial and other affairs of Home, see section 42 of Title 24.

Technical, scientific, and engineering information; dissemination, see section 1151 et seq. of Title 15, Commerce and Trade.

Traffic and motor vehicle safety, annual report, see section 1408 of Title 15.

Training reports, see section 279 of Title 10, Armed Forces.

United Nations Organization, reports to Congress by President, see section 287b of Title 22, Foreign Relations and Intercourse.

§ 1301. Agriculture, Department of: report of Secretary.

The annual report of the Secretary of Agriculture shall be submitted and printed in two parts, as follows:

part 1, containing purely business and executive matter necessary for the Secretary to submit to the President and Congress;

part 2, reports from the different bureaus and divisions, and papers prepared by their special agents, accompanied by suitable illustrations as are, in the opinion of the Secretary, specially suited to interest and instruct the farmers of the country, and to include a general report of the operations of the department for their information.

In addition to the usual number, there shall be printed of part 1, one thousand copies for the Senate, two thousand copies for the House of Representatives, and three thousand copies for the Department of Agriculture; and of part 2, one hundred and ten thousand copies for the use of the Senate, three hundred and sixty thousand copies for the use of the House of Representatives, and thirty thousand copies for the use of the Department of Agriculture, the illustrations for part 2 to be subject to the approval of the Secretary of Agriculture, and executed under the supervision of the Public Printer, in accordance with directions of the Joint Committee on Printing, and the title of each of the parts shall show that each part is complete in itself. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1265.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 241 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 612).

CROSS REFERENCES

Annual and special reports of Secretary of Agriculture, see section 2207 of Title 7, Agriculture.

Annual report on work of agricultural experiment stations and of college extension work; publication and distribution, see section 418 of Title 7, Agriculture.

Soil area surveys: reports, congressional allotments, see section 1342 of this title.

§ 1302. Agriculture, Department of: monthly crop report and other publications.

The Secretary of Agriculture may cause to be printed the number of copies of the monthly crop report, and of other reports and bulletins of not more than one hundred octavo pages, he considers necessary. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (part) (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622).

This section incorporates only the first clause of the second sentence of the second paragraph of former section 213. The balance of section 213 will be found in sections 1102, 1116, 1308, 1309, 1310, 1336.

§ 1303. American Historical Association: report.

In addition to the usual number of the report of the American Historical Association, five thousand five hundred copies shall be printed: one thousand for the Senate, two thousand for the House of Representatives, one thousand five hundred for distribution by the Association and the Smithsonian Institution, and one thousand copies for the use of the Association. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 243 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616; May 25, 1900, No. 27, 31 Stat. 717).

§ 1304. Army and Navy registers.

In addition to the usual number of the registers of the Army and Navy, fifteen hundred copies of each shall be printed: five hundred for the Senate, and one thousand for the House of Representatives. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 245 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616).

§ 1305. Attorney General: opinions.

The Public Printer shall from time to time print an edition of one thousand copies of the opinions of the Attorney General, which shall be, as to size, quality of paper, printing, and binding, of uniform style and appearance, as nearly as practicable, with volume 8 of opinions, published in the year 1868. Each volume shall contain proper headnotes, a complete and full index, and such footnotes as the Attorney General approves. The volumes shall be distributed in the manner the Attorney General prescribes. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 296a (R.S. § 383).

§ 1306. Civil Service Commission: report.

In addition to the usual number of the report of the Civil Service Commission twenty-three thousand copies shall be printed: one thousand for the Senate, two thousand for the House of Representatives, and twenty thousand for distribution by the Civil Service Commission. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 248 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614).

§ 1307. Environmental Science Service Administration: charts; sale and distribution.

(a) The charts published by the Environmental Science Service Administration shall be sold at cost of paper and printing as nearly as practicable. The price to the public shall include all expenses incurred in actual reproduction of the charts after the original cartography, such as photography, opaquing, platemaking, press time and bindery operations; the full postage rates, according to the rates for postal services used; and any additional cost factors considered appropriate by the Secretary such as overhead and administrative expenses allocable to the production of the charts and related reference materials. The costs of basic surveys and geodetic work done may not be included in the price of the charts

and reference materials. The Secretary of Commerce shall publish the prices at which charts and reference materials are sold to the public at least once each calendar year.

(b) There may not be free distribution of charts except to the departments and officers of the United States requiring them for public use; and a number of copies of each sheet, not to exceed three hundred, to be presented to such foreign governments, libraries, and scientific associations, and institutions of learning as the Secretary of Commerce directs; but on the order of Senators and Representatives not to exceed one hundred copies to each may be distributed through the Environmental Science Service Administration. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1266.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 246 (Jan. 12, 1895, ch. 23, § 76, 28 Stat. 620; Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; July 1, 1916 ch. 209, § 1, 39 Stat. 320; June 5, 1920, ch. 235, § 1, 41 Stat. 929; Oct. 31, 1951, ch. 654, § 3(11), 65 Stat. 708; July 9, 1956, ch. 528, 70 Stat. 512; Aug. 14, 1964, Pub. L. 88–441, 78 Stat. 446).

The reference to the Environmental Science Service Administration is inserted on the authority of Reorganization Plan No. 2 of 1965.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

CROSS REFERENCES

Dissemination of data and other activities, see section 883b of Title 33, Navigation and Navigable Waters.

Geomagnetic data; collection, correlation, and dissemination, see section 883c of Title 33.

Surveys and other activities, see section 883a of Title 33.

§ 1308. Coast Guard: annual report of the Commandant.

The Secretary of the Department of Transportation may authorize the printing of the annual report of the Commandant of the Coast Guard in such editions as the interests of the Government and of the public require. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622; Mar. 13, 1896, No. 23, 29 Stat. 466; Feb. 14, 1903, ch. 552, § 4, 10, 32 Stat. 826, 829; Mar. 3, 1925, ch. 421, § 4, 43 Stat. 1106; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561; Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931).

This section incorporates only so much of the third sentence of the second paragraph of former section 213 as relates to the annual report of the Commandant of the Coast Guard. The balance will be found in sections 1102, 1116, 1302, 1309, 1310, 1336 of the revision.

§ 1309. Coast Guard: notices to mariners and other special publications.

The Secretary of the Department of Transportation may authorize the printing of notices to mariners and other special publications of the Coast Guard in such editions as the interests of the Government and of the public require. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (part) (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622; Mar. 13, 1896, No. 23, 29 Stat. 466; Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 3, 1925, ch. 421, § 4, 43 Stat. 1106; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561; Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931).

This section incorporates applicable parts of the third sentence of the second paragraph of former section 213. The balance will be found in sections 1102, 1116, 1302, 1308, 1310, 1336 of the revision.

§ 1310. Commerce Department: navigation and weather information.

The Secretary of Commerce may cause to be printed the number of copies of tide tables, coast pilots, and other special publications relating to the Coast and Geodetic Survey, Weather Bureau maps, charts, bulletins of not more than one hundred octavo pages, and minor reports of the Weather Bureau, he considers for the best interest of the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (part) (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622; Mar. 13, 1896, No. 23, 29 Stat. 466; Mar. 3, 1925, ch. 421, § 4, 43 Stat. 1106; 1940 Reorg. Plan No. IV, § 8, eff. June 30, 1940, 54 Stat. 1234; Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318).

This section incorporates only parts of former section 213 relating to Coast and Geodetic Survey and Weather Bureau. The balance will be found in sections 1102, 1116, 1302, 1308, 1309, 1336 of the revision.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

§ 1311. Comptroller General: decisions.

The Public Printer shall print not more than one volume each of the decisions and opinions of the Comptroller General, with such explanatory matter as he may furnish, and furnish ten copies for the use of each Member of Congress; two thousand copies to the Comptroller General; and for distribution in the manner provided by section 7 of the Act of June 20, 1874 (18 Stat. 113), providing for the publication of the statutes, one-half the number therein mentioned. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 297 (Aug. 3, 1882, No. 63, 22 Stat. 391; June 10, 1921, ch. 18, 42 Stat. 23–27).

REFERENCES IN TEXT

Section 7 of act June 20, 1874, ch. 332, 18 Stat. 114, referred to in text, provided for the distribution of bound volumes of the Statutes-at-Large by the Secretary of State, and was not classified to the Code.

§ 1312. Director of Public Health of District of Columbia: report.

In addition to the usual number of the report of the Director of Public Health of the District of Columbia, one thousand five hundred copies shall be printed: one hundred for the Senate, three hundred and sixty for the House of Representatives, and one thousand and forty for the Director of Public Health. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 263 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614; Aug. 1, 1950, ch. 513, § 1, 64 Stat. 393).

§ 1313. Education, Commissioner of: report.

In addition to the usual number of the report of the Commissioner of Education, thirty-five thousand copies shall be printed: five thousand for the Senate, ten thousand for the House of Representatives, and twenty thousand for distribution by the Commissioner of Education. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 253 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614).

§ 1314. Ephemeris and Nautical Almanac.

The "usual number" of copies of the American Ephemeris and Nautical Almanac may not be printed. Instead, there shall be printed and bound two thousand five hundred copies, uniform with the editions printed for the Department of the Navy, five hundred of which shall be for the use of the Senate, one thousand for the use of the House of Representatives, and one thousand for distribution or sale by the Department of the Navy. The Secretary of the Navy may cause to be published of the papers supplementary to the Ephemeris and Nautical Almanac, one thousand five hundred copies in addition to the usual number, one hundred copies for the Senate, four hundred for the House of Representatives, and one thousand for distribution or sale by the Department of the Navy. The Secretary of the Navy may cause additional copies of the Nautical Almanacs extracted from the Ephemeris, to be printed for the public service and for sale to navigators and others. Moneys received from sales of the Ephemeris and of the Nautical Almanacs shall be deposited in the Treasury and placed to the credit of the general fund for public printing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 254 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 613; May 13, 1902, No. 20, 32 Stat. 740; July 1, 1902, ch. 1368, 32 Stat. 678).

§ 1315. Fish and Wildlife Service: bulletins.

In addition to the usual number of the bulletins of the Fish and Wildlife Service, five thousand copies shall be printed: one thousand for the Senate, two thousand for the House of Representatives, and two thousand for distribution by the Service. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1268.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 258 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232).

§ 1316. Fish and Wildlife Service: report of the Director.

In addition to the usual number of the report of the Director of the Fish and Wildlife Service, eight thousand copies shall be printed: two thousand for the Senate, four thousand for the House of Representatives, and two thousand for distribution by the Service. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1268.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 259 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232).

§ 1317. Foreign Relations.

In addition to the usual number of Foreign Relations, three thousand copies of each shall be printed: one thousand for the Senate and two thousand for the House of Representatives. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1268.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 250 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 613).

§ 1318. Geological Survey: classes and sizes of publications; report of mineral resources; number of copies; reprints; distribution.

The publications of the Geological Survey shall consist of the annual report of the Director, which shall be confined to one volume of royal octavo size; monographs, of quarto size; professional papers, of quarto size; bulletins, of ordinary octavo size; water-supply and irrigation papers, of ordinary octavo size; and maps, folios, and atlases required by law.

In addition to the usual number of the report of the Geological Survey, ten thousand copies shall be printed: two thousand for the Senate, four thousand for the House of Representatives, four thousand for distribution by the Geological Survey.

The reports of the Geological Survey, except the annual report of the Director, shall be published in editions recommended in each case by the Director and approved by the Secretary of the Interior, but not to exceed ten thousand copies.

When the edition of a report of the Survey is exhausted, and the demand for it continues, there may be published, on the requisition of the Secretary of the Interior, as many additional copies of the report as the Director of the Survey states will, in his judgment, be necessary to meet the demand.

The report of the mineral resources of the United States shall be published in two octavo volumes and as a distinct publication, the number of copies, printing of separate chapters, and mode of distribution of which shall be the same as of the annual report.

Three thousand copies of the monographs and bulletins of the Geological Survey shall be published.

The bulletins and professional papers shall be distributed gratuitously and of the number published one thousand copies shall be delivered to the Senate

and two thousand copies to the House of Representatives, for distribution.

The Director of the Geological Survey shall transmit to the Library of Congress two copies of every report of the bureau as soon as the first delivery to the Survey is made, in addition to those received by the Library of Congress under any other law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1268.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 260 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614; Mar. 2, 1895, ch. 189, § 1, 28 Stat. 960; June 11, 1896, ch. 420, § 1, 29 Stat. 453; June 4, 1897, ch. 2, § 1, 30 Stat. 61; Mar. 2, 1901, No. 17, 31 Stat. 1465; May 16, 1902, No. 22, 32 Stat. 741; Mar. 4, 1909, ch. 299, § 1, 35 Stat. 988).

§ 1319. Geological Survey: specific appropriations required for monographs and bulletins.

The scientific reports known as the monographs and bulletins of the Geological Survey may not be published until specific and detailed estimates and specific appropriations based on these estimates are made for them. Engravings for the annual reports for monographs and bulletins, or of illustrations, sections, and maps, may not be made until specific estimates are submitted and specific appropriations made based on the estimates. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 261 (Jan. 12, 1895, ch. 23, § 79, 28 Stat. 621; June 7, 1924, ch. 303, 43 Stat. 592).

§ 1320. Geological Survey: distribution of publications to public libraries.

The Director of the Geological Survey shall distribute to public libraries that have not already received them copies of sale publications on hand at the expiration of five years after date of delivery to the Survey document room, excepting a reserve number not to exceed two hundred copies. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 262 (Mar. 3, 1903, ch. 1007, § 1, 32 Stat. 1146).

§ 1321. Hydrographic Surveys; foreign surveys.

Appropriations made for the preparation or publication of foreign hydrographic surveys may be applicable only upon approval by the Secretary of the Navy, after a report from three competent naval officers that the original data for proposed charts justify their publication. The Secretary of the Navy shall order a board of three naval officers to examine and report upon the data before he approves an application of moneys to the preparation or publication of charts or hydrographic surveys. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 265 (R.S. § 3686; Jan. 12, 1895, ch. 23, § 78, 28 Stat. 621).

§ 1322. Immigration and Naturalization Service: report.

The number of copies, not to exceed five thousand, to be printed of the annual reports of the Immigration and Naturalization Service of the Department of Justice shall be subject to the discretion of the Attorney General. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 266 (Mar. 3, 1905, No. 33, 33 Stat. 1287; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; Ex. Ord. No. 6166, § 14, June 10, 1933; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238).

§ 1323. Interstate Commerce Commission: report.

In addition to the usual number of the annual report of the Interstate Commerce Commission, three thousand copies shall be printed: one thousand for the Senate, two thousand for the House, and for the use of the Commission that number of the report and other documents incident to interstate commerce for distribution by it as it considers expedient. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 269 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614).

§ 1324. Labor Statistics, Bureau of: bulletins.

There shall be printed one edition of fifteen thousand copies of each issue of the bulletin of the Bureau of Labor Statistics authorized by section 5 of Title 29, and extra copies not to exceed twenty thousand of any single issue, when in the opinion of the Commissioner of Labor Statistics the demand for the bulletin makes an extra edition necessary. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 270 (Mar. 2, 1895, ch. 177, § 1, 28 Stat. 805; June 4, 1897, ch. 2, § 1, 30 Stat. 61; June 6, 1900, ch. 791, § 1, 31 Stat. 644; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737).

§ 1325. Labor Statistics, Bureau of: report of Commissioner.

In addition to the usual number of the report of the Commissioner of Labor Statistics, twenty-five thousand copies shall be printed: five thousand for the Senate, ten thousand for the House of Representatives, and ten thousand for distribution by the Commissioner. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1269.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 271 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 614; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737).

§ 1326. Librarian of Congress: reports.

Five thousand copies of the annual and special reports of the Librarian of Congress submitted to Congress, shall be printed and bound in cloth for the Library of Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 156 (Feb. 24, 1904, No. 8, 33 Stat. 583).

§ 1327. Mines, Bureau of: publications.

The publications of the Bureau of Mines shall be published in editions recommended by the Secretary of the Interior, but not to exceed ten thousand copies for the first edition. When the edition of a publication of the Bureau of Mines is exhausted and the demand for it continues, there may be published,

on the requisition of the Secretary of the Interior, as many additional copies as the Secretary of the Interior considers necessary to meet the demand. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 272 (June 25, 1910, No. 36 §§ 1, 2, 36 Stat. 883; Ex. Ord. No. 6611, Feb. 22, 1934).

§ 1328. Merchant vessels of the United States.

Five thousand copies of the annual list of merchant vessels of the United States may be printed for distribution by the Coast Guard. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 249 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097).

CODIFICATION

The first paragraph of former section 249, act Jan. 12, 1895, ch. 23, sec. 73, 28 Stat. 616, was omitted as obsolete. Paragraph related to report on Commerce and Navigation and on Internal Commerce. These reports were discontinued.

§ 1329. Mint: reports of Director.

There may be printed, in the discretion of the Secretary of the Treasury, for distribution by the Treasury Department, two thousand copies of the annual report of the Director of the Mint on the operations of the mint and assay offices with appendices, and of the annual report of the Director of the Mint on the production of precious metals. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 273 (Mar. 4, 1907, No. 24, 34 Stat. 1424).

§ 1330. Monthly Summary Statement of Imports and Exports.

There shall be printed monthly by the Public Printer thirty-five hundred copies of the Monthly Summary Statement of Imports and Exports and other statistical information prepared by the Secretary of Commerce, five hundred for the Senate, one thousand for the House of Representatives, and two thousand for the Department of Commerce. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 298 (Dec. 18, 1895, No. 1, 29 Stat. 459; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263).

§ 1331. National Academy of Sciences: report.

In addition to the usual number of the report of the National Academy of Sciences, two thousand copies shall be printed: five hundred for the Senate, one thousand for the House of Representatives, and five hundred for distribution by the National Academy of Sciences. (Pub. L. 90-620, Oct 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 275 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616).

§ 1332. National encampments of Veterans' organizations; proceedings printed annually for Congress.

The proceedings of the national encampments of the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, the American Legion, the Military Order of the Purple Heart, the Veterans of World War I of the United States of America, Incorporated, the Disabled American Veterans, and the AMVETS (American Veterans of World War II), respectively, shall be printed annually, with accompanying illustrations, as separate House documents of the session of the Congress to which they may be submitted. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 275b (Mar. 2, 1931, ch. 378, § 1, 46 Stat. 1481; Sept. 18, 1941, ch. 411, 55 Stat. 686; July 15, 1942, ch. 505, § 1, 56 Stat. 659; Aug. 27, 1963, Pub. L. 88-105, § 1, 77 Stat. 130; Dec. 21, 1963, Pub. L. 88-224, 77 Stat. 469).

§ 1333. National high school and college debate topics.

(a) The Librarian of Congress shall prepare compilations of pertinent excerpts, biliographical references, and other appropriate materials relating to:

(1) the subject selected annually by the National University Extension Association as the national high school debate topic and

(2) the subject selected annually by the American Speech Association as the national college debate topic.

In preparing the compilations the Librarian shall include materials which in his judgment are representative of, and give equal emphasis to, the opposing points of view on the respective topics.

(b) The compilations on the high school debate topics shall be printed as Senate documents and the compilations on the college debate topics shall be printed as House of Representatives documents, the cost of which shall be charged to the congressional allotment for printing and binding. Additional copies may be printed in the quantities and distributed in the manner the Joint Committee on Printing directs. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1270.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. III, § 170 (Dec. 30, 1963, Pub. L. 88-246, §§ 1, 2, 77 Stat. 802).

§ 1334. Naval Intelligence Office: additional copies of publications.

In addition to one thousand copies previously authorized, the Secretary of the Navy may print extra copies of the publications of the Office of Naval Intelligence necessary for distribution to the naval service and to meet other official demands. The edition of any one publication may not exceed two thousand copies. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1271.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 278 (Mar. 21, 1900, No. 14, 31 Stat. 713).

§ 1335. Naval Observatory Observations.

In addition to the usual number of the Observations of the Naval Observatory, one thousand eight hundred copies shall be printed: three hundred for the Senate, seven hundred for the House of Representatives, and eight hundred for distribution by the

Naval Observatory; and of the astronomical appendixes to the Observations, one thousand two hundred separate copies, and of the meteorological and magnetic observations one thousand separate copies, for distribution by the Naval Observatory. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1271.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 279 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 613).

§ 1336. Naval Oceanographic Office: special publications.

The Secretary of the Navy may authorize the printing of notices to mariners, light lists, sailing directions, bulletins, and other special publications of the United States Naval Oceanographic Office in editions the interests of the Government and of the public may require. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1271.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 213 (Jan. 12, 1895, ch. 23, § 89, 28 Stat. 622; Mar. 13, 1896, No. 23, 29 Stat. 466; Mar. 3, 1925, ch. 421, § 4, 43 Stat. 1106; July 10, 1962, Pub. L. 87–533, §§ 1, 2, 76 Stat. 154).

This section incorporates only part of the third sentence, second paragraph of former section 213. The balance will be found in sections 1102, 1116, 1302, 1308, 1309, 1310, of the revision.

§ 1337. Patent Office: publications authorized to be printed.

The Commissioner of Patents, upon the requisition of the Secretary of Commerce may cause to be printed:

1. Patents issued.

The patents for inventions and designs issued by the Patent Office, including grants, specifications, and drawings, together with copies of them, and of patents already issued, in the number needed for the business of the office.

2. Trade-marks and labels.

The certificates of trade-marks and labels registered in the Patent Office, including descriptions and drawings, together with copies of them, and of trade-marks and labels previously registered, in the numbers needed for the business of the office.

3. Official Gazette.

The Official Gazette of the United States Patent Office in numbers sufficient to supply all who subscribe for it at $5 a year; also for exchange for other scientific publications desirable for the use of the Patent Office; also to supply one copy to each Senator and Representative in Congress; with one hundred additional copies, together with weekly, monthly, and annual indexes. The "usual number" of the Official Gazette may not be printed.

4. Report of Commissioner of Patents.

The annual report of the Commissioner of Patents, not exceeding five hundred in number, for distribution by him; the annual report of the Commissioner of Patents to Congress, without the list of patents, not exceeding one thousand five hundred in number, for distribution by him; and the annual report of the Commissioner of Patents to Congress, with the list of patents, five hundred copies for sale by him, if needed, and in addition the "usual number" only shall be printed.

5. Rules of practice, laws, etc.

Pamphlet copies of the rules of practice, and of the patent laws, and pamphlet copies of the laws and rules relating to trade-marks and labels, and circulars relating to the business of the office, all in numbers as needed for the business of the office. The "usual number" may not be printed.

6. Decisions of Commissioner and Courts.

Annual volumes of the decisions of the Commissioner of Patents and of the United States courts in patent cases, not exceeding one thousand five hundred in number, of which the usual number shall be printed, and for this purpose a copy of each shall be transmitted to Congress promptly when prepared.

7. Indexes.

Indexes to patents relating to electricity, and indexes to foreign patents, in the numbers needed for the business of the office. The "usual number" may not be printed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1271.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 283 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 619, 620; Feb. 14, 1903, ch. 552, §§ 4, 12, 32 Stat. 826, 830; Aug. 24, 1912, ch. 355, § 1, 37 Stat. 481; Feb. 18, 1922, ch. 58, § 4, 42 Stat. 391; June 7, 1924, ch. 303, § 1, 43 Stat. 592).

CROSS REFERENCES

Commissioner of Patents, annual report to Congress, see section 14 of Title 35, Patents.

Copies of patents for public libraries, see section 13 of Title 35, Patents.

Copyright Office, see section 201 et seq. of Title 17, Copyrights.

Patent Office publications, see section 11 of Title 35, Patents.

§ 1338. Patent Office: limitations and conditions concerning printing and lithographing.

Printing for the Patent Office making use of lithography or photo-lithography, together with the plates, shall be contracted for and performed under the direction of the Commissioner of Patents, under limitations and conditions prescribed by the Joint Committee on Printing, and other printing for the Patent Office shall be done by the Public Printer under limitations and conditions prescribed by the Joint Committee on Printing. The entire work may be done at the Government Printing Office when in the judgment of the Joint Committee on Printing it is to the interest of the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 284 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 620).

CROSS REFERENCES

Executive and judiciary printing and binding, restrictions on use of illustrations, see section 1104 of this title.

Government printing, binding, and blank-book work to be done at Government Printing Office, see section 501 of this title.

§ 1339. Printing of the President's Message.

The message of the President without the accompanying documents and reports shall be printed

in pamphlet form, immediately upon its receipt by Congress. In addition to the usual number, fifteen thousand copies shall be printed, of which five thousand shall be for the Senate, and ten thousand for the House of Representatives.

In addition to the usual number of the President's message and accompanying documents, there shall be printed one thousand copies for the Senate and two thousand for the House of Representatives. The President's message shall be delivered by the printer to the appropriate officers of each House of Congress on or before the third Wednesday next after the meeting of Congress, or as soon after as may be practicable. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 285 (R.S. § 3810; Jan. 12, 1895, ch. 23, § 73, 28 Stat. 615).

§ 1340. Public Printer: annual report.

In addition to the usual number of the annual report of the Public Printer, one thousand copies shall be printed to be distributed under his direction. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 288 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 618).

§ 1341. Smithsonian Institution: report.

In addition to the usual number of the report of the Smithsonian Institution ten thousand copies shall be printed: one thousand for the Senate, two thousand for the House of Representatives, five thousand for distribution by the Smithsonian Institution, and two thousand for distribution by the National Museum. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 289 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616).

§ 1342. Soil area surveys: reports; congressional allotments.

As soon as the manuscript can be prepared with the necessary maps and illustrations to accompany it, a report on each soil area surveyed by the Secretary of Agriculture shall be printed in the form of advance sheets bound in paper covers, of which not more than two hundred and fifty copies shall be for the use of each Senator from the State and not more than one thousand copies for the use of each Representative for the congressional district or districts in which a survey is made, the actual number to be determined on inquiry by the Secretary of Agriculture made to the Senators and Representatives, and as many copies for the use of the Department of Agriculture as in the judgment of the Secretary of Agriculture are necesary. The Superintendent of Documents shall hold the total congressional and department edition for two years and distribute within these limitations according to the requests of the Senators, Representatives, or department, and at the expiration of the two-year period turn over to the Department of Agriculture the residue of the edition. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1272.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 290 (Feb. 23, 1901, No. 8, 31 Stat. 1462; June 3, 1902, ch. 985, 32 Stat. 303; Mar. 14, 1904, No. 9, 33 Stat. 583; July 7, 1932, ch. 443, § 1, 47 Stat. 612).

§ 1343. Statistical Abstract of the United States.

In addition to the usual number of the Statistical Abstract of the United States, twelve thousand copies shall be printed: three thousand for the Senate, six thousand for the House of Representatives, and three thousand for distribution by the Secretary of Commerce. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 291 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616; Aug. 23, 1912, ch. 350, § 1, 37 Stat. 407; 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263).

§ 1344. Treasury Department: reports.

In addition to the usual number of the finance report of the Secretary of the Treasury, one thousand copies for the Senate and two thousand for the House of Representatives shall be printed in addition to those published as part of the departmental report.

In addition to the usual number of the annual report of the Comptroller of the Currency, thirteen thousand copies shall be printed: one thousand for the Senate, two thousand for the House of Representatives, and ten thousand for distribution by the Comptroller of the Currency. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 295 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 616; Mar. 4, 1907, No. 25, 34 Stat. 1425).

Chapter 15.—FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

Sec.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 77sss.

§ 1501. Definitions.

As used in this chapter, unless the context otherwise requires—

"document" means a Presidential proclamation or Executive order and an order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency;

"Federal agency" or "agency" means the President of the United States, or an executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government;

"person" means an individual, partnership, association, or corporation.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 304 (July 26, 1935, ch. 417, § 4, 49 Stat. 501).

§ 1502. Custody and printing of Federal documents; appointment of Director.

The Administrator of General Services, acting through the Office of the Federal Register, is charged with the custody and, together with the Public Printer, with the prompt and uniform printing and distribution of the documents required or authorized to be published by section 1505 of this title. There shall be at the head of the Office a director, appointed by, and who shall act under the general direction of, the Administrator of General Services in carrying out this chapter and the regulations prescribed under it. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 301 (July 26, 1935, ch. 417, § 1, 49 Stat. 500; 1939 Reorg. Plan No. II, § 202, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1435; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

§ 1503. Filing documents with Office; notation of time; public inspection; transmission for printing.

The original and two duplicate originals or certified copies of a document required or authorized to be published by section 1505 of this title shall be filed with the Office of the Federal Register, which shall be open for that purpose during all hours of the working days when the National Archives Building is open for official business. The Administrator of General Services shall cause to be noted on the original and duplicate originals or certified copies of each document the day and hour of filing. When the original is issued, prescribed, or promulgated outside the District of Columbia, and certified copies are filed before the filing of the original, the notation shall be of the day and hour of filing of the certified copies. Upon filing, at least one copy shall be immediately available for public inspection in the Office. The original shall be retained in the archives of the National Archives of the United States and shall be available for inspection under regulations prescribed by the Administrator. The Office shall transmit immediately to the Government Printing Office for printing, as provided by this chapter, one duplicate original or certified copy of each document required or authorized to be published by section 1505 of this title. Every Federal agency shall cause to be transmitted for filing the original and the duplicate originals or certified copies of all such documents issued, prescribed, or promulgated by the agency. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 302 (July 26, 1935, ch. 417, § 2, 49 Stat. 500; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1504, 1506, 1507 of this title.

§ 1504. "Federal Register"; printing; contents; distribution; price.

Documents required or authorized to be published by section 1505 of this title shall be printed and distributed immediately by the Government Printing Office in a serial publication designated the "Federal Register." The Public Printer shall make available the facilities of the Government Printing Office for the prompt printing and distribution of the Federal Register in the manner and at the times required by this chapter and the regulations prescribed under it. The contents of the daily issues shall be indexed and shall comprise all documents, required or authorized to be published, filed with the Office of the Federal Register up to the time of the day immediately preceding the day of distribution fixed by regulations under this chapter. There shall be printed with each document a copy of the notation, required to be made by section 1503 of this title, of the day and hour when, upon filing with the Office, the document was made available for public inspection. Distribution shall be made by delivery or by deposit at a post office at a time in the morning of the day of distribution fixed by regulations prescribed under this chapter. The prices to be charged for the Federal Register may be fixed by the Administrative Committee of the Federal Register established by section 1506 of this title without reference to the restrictions placed upon and fixed for the sale of Government publications by sections 1705 and 1708 of this title. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 303 (July 26, 1935, ch. 417, § 3, 49 Stat. 500).

§ 1505. Documents to be published in Federal Register.

(a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress.

There shall be published in the Federal Register—

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

(b) Documents authorized to be published by regulations; comments and news items excluded.

In addition to the foregoing there shall also be published in the Federal Register other documents or classes of documents authorized to be published by regulations prescribed under this chapter with the approval of the President, but comments or news items of any character may not be published in the Federal Register.

(c) Suspension of requirements for filing of documents; alternate systems for promulgating, filing, or publishing documents; preservation of originals.

In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack—

(1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or

(2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents.

The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 305 (July 26, 1935, ch. 417, § 5, 49 Stat. 501; June 25, 1956, ch. 444, 70 Stat. 337).

EX. ORD. NO. 11030. PREPARATION, PRESENTATION, FILING, AND PUBLICATION OF EXECUTIVE ORDERS AND PROCLAMATIONS

Ex. Ord. No. 11030, June 19, 1962, 27 F.R. 5847, as amended by Ex. Ord. 11354, May 23, 1967, 32 F.R. 7695, provided:

By virtue of the authority vested in me by the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. 301 *et seq.*) [now this chapter], and as President of the United States, I hereby prescribe the following regulations governing the preparation, presentation, filing, and publication of Executve orders and proclamations:

SECTION 1. *Form.* Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

(a) The order or proclamation shall be given a suitable title.

(b) The order or proclamation shall contain a citation of the authority under which it is issued.

(c) Punctuation, capitalization, spelling, and other matters of style shall, in general, conform to the most recent edition of the Style Manual of the United States Government Printing Office.

(d) The spelling of geographic names shall conform to the decisions of the Board on Geographic Names, established by Section 2 of the Act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations," prepared by the Bureau of Land Management, Department of the Interior.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 13 inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced, except that quotations, tabulations, and descriptions of land may be single-spaced.

(g) Proclamations issued by the President shall conclude with the following described recitation—

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of_____, in the year of our lord _____, and of the Independence of the United States of America, the _____.

SEC. 2. *Routing and approval of drafts.* (a) A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Bureau of the Budget [now Office of Management and Budget], together with a letter, signed by the head or other properly authorized officer of the originating Federal agency, explaining the nature, purpose, background, and effect of the proposed Executive order or proclamation and its relationship, if any, to pertinent laws and other Executive orders or proclamations.

(b) If the Director of the Bureau of the Budget [now Office of Management and Budget] approves the proposed Executive order or proclamation, he shall transmit it to the Attorney General for his consideration as to both form and legality.

(c) If the Attorney General approves the proposed Executive order or proclamation, he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Service, General Services Administration: *Provided,* that in cases involving sufficient urgency the Attorney General may transmit it directly to the President; and *provided further,* that the authority vested in the Attorney General by this section may be delegated by him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.

(d) After determining that the proposed Executive order or proclamation conforms to the requirements of Section 1 of this order and is free from typographical or clerical errors, the Director of the Office of the Federal Register shall transmit it and three copies thereof to the President.

(e) If the proposed Executive order or proclamaton is disapproved by the Director of the Bureau of the Budget [now Office of Management and Budget] or by the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

SEC. 3. *Routing and certification of originals and copies.* (a) If the order or proclamation is signed by the President, the original and two copies thereof shall be forwarded to the Director of the Office of the Federal Register for publication in the FEDERAL REGISTER.

(b) The Office of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations forwarded as provided in subsection (a) of this section the following notation, to be signed by the Director or by some person authorized by him to sign such notation: "Certified to be a true copy of the original."

SEC. 4. *Proclamations calling for the observance of special days or events.* Except as may be otherwise provided by law, responsibility for the preparation and presentation of proposed proclamations calling for the observance of special days, or other periods of time, or events shall be assigned by the Director of the Bureau of the Budget [now Office of Management and Budget] to such agencies as he may consider approprate. Such proposed proclamations shall be submitted to the Director at least sixty days before the date of the specified observance.

SEC. 5. *Proclamations of treaties excluded.* Consonant with the provisions of section 12 of the Federal Register Act (49 Stat. 503; 44 U.S.C. 312) [now section 1511 of this title], nothing in this order shall be construed to apply

to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

SEC. 6. *Definition.* The term "Presidential proclamations and Executive orders," as used in Section 5(a) of the Federal Register Act (44 U.S.C. 305(a)) [now subsec. (a) of this section], shall, except as the President or his representative may hereafter otherwise direct, be deemed to include such attachments thereto as are referred to in the respective proclamations or orders.

SEC. 7. *Prior order.* Upon its publication in the FEDERAL REGISTER, this order shall supersede Executive Order No. 10006 of October 9, 1948.

The regulations prescribed by this order shall be codified under Title 1 of the Code of Federal Regulations.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502–1504, 1506, 1507 of this title.

§ 1506. Administrative Committee of the Federal Register; establishment and composition; powers and duties.

The Administrative Committee of the Federal Register shall consist of the Archivist of the United States or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer. The Director of the Federal Register shall act as secretary of the committee. The authority of the Administrator of General Services, under section 754 of title 40, to regroup, transfer, and distribute functions within the General Services Administration, does not extend to the Committee or its functions. The committee shall prescribe, with the approval of the President, regulations for carrying out this chapter. The regulations shall provide, among other things—

(1) the manner of certification of copies required to be certified under section 1503 of this title, which certification may be permitted to be based upon confirmed communications from outside the District of Columbia;

(2) the documents which shall be authorized under section 1505(b) of this title to be published in the Federal Register;

(3) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound, and distributed;

(4) the number of copies of the Federal Register, which shall be printed, reprinted, and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or Federal agency, for official use, and the number which shall be available for distribution to the public; and

(5) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes of it.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 306, 391 (part) (July 26, 1935, ch. 417, § 6, 49 Stat. 501; June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381).

This section incorporates only the last sentence from former section 391(b). The remainder of that section will be found in sections 2102, 2301, 2501, and 2902 of the revision.

DELEGATION OF FUNCTIONS

For delegations of functions vested in the President by section 6 of the Federal Register Act [now this section], to the Attorney General and Administrator of General Services, see section 6(b) of Ex. Ord. No. 10530, May 11, 1954, 19 F.R. 2709, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1507. Filing document as constructive notice; publication in Federal Register as presumption of validity; judicial notice; citation.

A document required by section 1505(a) of this title to be published in the Federal Register is not valid as against a person who has not had actual knowledge of it until the duplicate originals or certified copies of the document have been filed with the Office of the Federal Register and a copy made available for public inspection as provided by section 1503 of this title. Unless otherwise specifically provided by statute, filing of a document, required or authorized to be published by section 1505 of this title, except in cases where notice by publication is insufficient in law, is sufficient to give notice of the contents of the document to a person subject to or affected by it. The publication in the Federal Register of a document creates a rebuttable presumption—

(1) that it was duly issued, prescribed, or promulgated;

(2) that it was filed with the Office of the Federal Register and made available for public inspection at the day and hour stated in the printed notation;

(3) that the copy contained in the Federal Register is a true copy of the original; and

(4) that all requirements of this chapter and the regulations prescribed under it relative to the document have been complied with.

The contents of the Federal Register shall be judicially noticed and without prejudice to any other mode of citation, may be cited by volume and page number. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 307 (July 26, 1935, ch. 417, § 7, 49 Stat. 502).

§ 1508. Publication in Federal Register as notice of hearing.

A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient in law, when the notice is published in the Federal Register at such a time that the period between the publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard is—

(1) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of Congress; or

(2) not less than fifteen days when time for publication is not specifically prescribed by the Act, without prejudice, however, to the effectiveness of a notice of less than fifteen days where the shorter period is reasonable.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 308 (July 26, 1935, ch. 417, § 8, 49 Stat. 502; June 25, 1959, Pub. L. 86–70, § 34, 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 33, 74 Stat. 421).

§ 1509. Cost of publication; appropriations authorized; penalty mail privilege.

Payments made for the Federal Register shall be covered into the Treasury as miscellaneous receipts. The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and other expenses incurred bythe Government Printing Office in carrying out the duties placed upon it by this chapter shall be borne by the appropriations to the Government Printing Office and the appropriations are made available, and are authorized to be increased by additional sums necessary for the purposes, the increases to be based upon estimates submitted by the Public Printer.

Copies of the Federal Register mailed by the Government are entitled to the free use of the United States mails in the same manner as the official mail of the executive departments of the Government. The cost of mailing the Federal Register to officers and employees of Federal agencies in foreign countries shall be borne by the respective agencies. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 309, (July 26, 1935, ch. 417, § 9, 49 Stat. 502).

A reference to section 10 of Act June 19, 1934 is deleted because of the repeal of that section by Act June 30, 1949.

§ 1510. Code of Federal Regulations.

(a) The Administrative Committee of the Federal Register, with the approval of the President, may require, from time to time as it considers necessary, the preparation and publication in special or supplemental editions of the Federal Register of complete codifications of the documents of each agency of the Government having general applicability and legal effect, issued or promulgated by the agency by publication in the Federal Register or by filing with the Administrative Committee, and are relied upon by the agency as authority for, or are invoked or used by it in the discharge of, its activities or functions, and are in effect as to facts arising on or after dates specified by the Administrative Committee.

(b) A codification published under subsection (a) of this section shall be printed and bound in permanent form and shall be designated as the "Code of Federal Regulations." The Administrative Committee shall regulate the binding of the printed codifications into separate books with a view to practical usefulness and economical manufacture. Each book shall contain an explanation of its coverage and other aids to users that the Administrative Committee may require. A general index to the entire Code of Federal Regulations shall be separately printed and bound.

(c) The Administrative Committee shall regulate the supplementation and the collation and republication of the printed codifications with a view to keeping the Code of Federal Regulations as current as practicable. Each book shall be either supplemented or collated and republished at least once each calendar year.

(d) The Office of the Federal Register shall prepare and publish the codifications, supplements, collations, and indexes authorized by this section.

(e) The codified documents of the several agencies published in the supplemental edition of the Federal Register under this section, as amended by documents subsequently filed with the Office and published in the daily issues of the Federal Register shall be prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of publication.

(f) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out this section.

(g) This section does not require codification of the text of Presidential documents published and periodically compiled in supplements to Title 3 of the Code of Federal Regulations. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 311 (July 26, 1935, ch. 417, § 11, 49 Stat. 503; June 19, 1937, ch. 369, 50 Stat. 304; 1939 Reorg. Plan No. II, § 202, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1435; Dec. 10, 1942, ch. 717, § 2, 56 Stat. 1045; June 30, 1949, ch. 288, title I, § 104 (b), 63 Stat. 381; Aug. 5, 1953, ch. 333, 67 Stat. 388; Dec. 2, 1963, Pub. L. 88–190, § 1, 77 Stat. 343).

RETROACTIVE AND PROSPECTIVE APPLICATION

Section 2 of Pub. L. 88–190, Dec. 2, 1963, 77 Stat. 344, provided that: "[Former] Section 11 of the Federal Register Act [(now) this section], as amended by the first section of this Act [amending former subsecs. (b)–(d), (g) of former section 11 (now subsecs. (b)–(d), (g) of this section)], shall apply to the Code of Federal Regulations previously authorized and published as well as to future publications made pursuant to that section as so amended."

DELEGATION OF FUNCTIONS

For delegation of functions vested in the President by section 11(a) and (f) of the Federal Register Act [now subsecs. (a) and (f) of this section], to the Attorney General and Administrator of General Services, see section 6(b) of Ex. Ord. No. 10530, May 11, 1954, 19 F.R. 2709, set out as a note under section 301 of Title 3, The President.

CODIFICATION OF EXECUTIVE AND ADMINISTRATIVE DOCUMENTS

Under authority of section 11(d) of the Federal Register Act [now subsec. (d) of this section] the Administrative Committee of the Federal Register issued regulations for the codification of executive and administrative documents, approved by the President Nov. 10, 1937, and set out in F.R. 2849 D.I., 2450 B. V.

EX. ORD. NO. 9930. PUBLICATION OF 1949 EDITION OF THE CODE OF FEDERAL REGULATIONS

Ex. Ord. No. 9930, Feb. 4, 1948, 13 F.R. 519, provided:

WHEREAS the act of December 10, 1942, 56 Stat. 1045, suspended the provision of section 11(a) of the Federal Register Act as amended by the act of June 19, 1937 (50 Stat. 304; 44 U.S.C.A. [former] 311(a) [now subsec. (a) of this section]), requiring the quinquennial preparation and the filing with the Administrative Committee of the Federal Register of the codification of certain classes of documents "until such time after the terminaton of the present war as the Administrative Committee of the Federal Register shall determine"; and

WHEREAS section 3 of Public Law 239, 80th Congress, 1st session, approved July 25, 1947 [Act July 25, 1947, ch. 327, § 3, 61 Stat. 451], provides that in the interpretation of the said act of December 10, 1942, the war shall be deemed to be terminated; and

WHEREAS on November 12, 1947, the suspension of the above-mentioned provision of [former] section 11(a) of the Federal Register Act as amended [now subsec. (a) of

this section] was formally terminated by the Administrative Committee of the Federal Register, effective December 31, 1948; and

WHEREAS the required codification of documents in force and effect on December 31, 1948, will, under present procedures, be on file with the Administrative Committee of the Federal Register on that date; and

WHEREAS [former] section 11(a) of the Federal Register Act as amended [now subsec. (a) of this section] provides that the President may, after report thereon to him by the Administrative Committee, authorize and direct the publication of the codification required by that section in special or supplemental editions of the Federal Register; and

WHEREAS the Administrative Committee of the Federal Register has made an appropriate report to me with the recommendation that I authorize and direct the publication of the said codification of documents in force and effect on December 31, 1948; and

WHEREAS it is in the public interest and in the interest of efficient government that such codification be published:

NOW, THEREFORE, by virtue of the authority vested in me by [former] section 11(a) of the Federal Register Act [now subsec. (a) of this section], and as President of the United States, and subject to the appropriation by the Congress of funds therefor, the publication of the said codification as it is in force and effect on December 31, 1948, is hereby authorized and directed to be made in a special edition of the Federal Register dated January 1, 1949, and designated "Code of Federal Regulations, 1949 Edition."

All Federal agencies coming within the purview of the Federal Register Act [this chapter] are requested to cooperate with the Division of the Federal Register, the National Archives, in carrying out the purposes of this order.

This order shall be published in the Federal Register.

HARRY S. TRUMAN

§ 1511. International agreements excluded from provisions of chapter.

This chapter does not apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 312 (July 26, 1935, ch. 417, § 12, 49 Stat. 503).

Chapter 17.—DISTRIBUTION AND SALE OF PUBLIC DOCUMENTS

Sec.
1701. Publications for public distribution to be distributed by the Public Printer; mailing lists.
1702. Superintendent of Documents; sale of documents.
1703. Superintendent of Documents: assistants, blanks, printing and binding.
1704. Superintendent of Documents: pay of employees for night, Sunday, holiday, and overtime work.
1705. Printing additional copies for sale to public; regulations.
1706. Printing and sale of extra copies of documents.
1707. Reprinting of documents required for sale.
1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents.
1709. Blank forms: printing and sale to public.
1710. Index of documents: number and distribution.
1711. Catalog of Government publications.
1712. Documents for use of the Public Printer.
1713. Documents to be delivered to the Executive Mansion.
1714. Publications for use of General Services Administration.
1715. Publications for department or officer or for congressional committees.
1716. Public documents for legations and consulates of United States.
1717. Documents and reports for foreign legations.
1718. Distribution of Government publications to the Library of Congress.
1719. International exchange of Government publications.
1720. Documents not needed by departments to be turned over to Superintendent of Documents.
1721. Exchange of documents by heads of departments.
1722. Departmental distribution of publications.

CROSS REFERENCES

Commerce Department, fees and charges for publications; disposition or receipts, see section 1520 of Title 15, Commerce and Trade.

Commercial reports and services, sale by Secretary of Commerce, see section 189 of Title 15.

Court of Customs and Patent Appeals opinions, publication by reporter of the Court, Secretary of Treasury (customs opinions), and Commissioner of Patents (patent and trade-mark opinions), see section 833 of Title 28, Judiciary and Judicial Procedure.

Customs Court decisions, publication by Secretary of Treasury, see section 255 of Title 28.

Distribution of reports and digests: Court of Claims decisions, see section 415 of Title 28; publications—distribution to courts, see section 413 of Title 28; sale of Supreme Court reports, see section 412 of Title 28; Supreme Court reports—printing, binding, and distribution, see section 411 of Title 28; transmittal of books to successors, see section 414 of Title 28.

Loan service of captioned films and educational media for handicapped, see section 2491 et seq. of Title 42, The Public Health and Welfare.

National Fisheries Center and Aquarium: catalogs, brochures, etc.; distribution and sale by Secretary of Interior, see section 1052 of Title 16, Conservation.

Secretary of Agriculture: loan, rental, or sale of films, see section 2246 of Title 7, Agriculture; manufacture and sale of copies of bibliographies, photographic reproductions of books, and library supplies, see section 2244 of Title 7; sale of photographic prints and maps, see section 2243 of Title 7; sale of prints and lantern slides, see section 2245 of Title 7; Tax Court reports, sale of, see section 7462 of Title 26, Internal Revenue Code.

§ 1701. Publications for public distribution to be distributed by the Public Printer; mailing lists.

Money appropriated by any Act may not be used for services in an executive department or other Government establishment at the District of Columbia, in the work of addressing, wrapping, mailing, or otherwise dispatching a publication for public distribution, except maps, weather reports, and weather cards issued by them or for the purchase of material or supplies to be used in this work. The Public Printer shall perform this work at the Government Printing Office. The head of an executive department, independent office, and establishment of the Government at the District of Columbia, shall furnish from time to time to the Public Printer mailing lists, in convenient form, and changes in them, or penalty mail slips, for use in the public distribution of publications issued by the department or establishment. The Public Printer may furnish copies of a publication only in accordance with law or the instruction of the head of the department or establishment issuing the publication.

This section does not apply to orders, instructions, directions, notices, or circulars of information printed for and issued by an executive department

or other Government establishment or to the distribution of public documents by Senators or Members of the House of Representatives or to the Senate Service Department, House of Representatives Publications Distribution Service, and document rooms of the Senate or House of Representatives. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 95 (Aug. 23, 1912, ch. 350, § 8, 37 Stat. 414; July 2, 1954, ch. 455, title I, § 101, 68 Stat. 397).

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

The term "executive department, independent office, and establishment of the Government" is substituted for "executive department and other Government establishment" for uniformity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1722 of this title.

§ 1702. Superintendent of Documents; sale of documents.

The Public Printer shall appoint a competent person to act as Superintendent of Documents who shall be under the control of the Public Printer.

When an officer of the Government having in his charge documents published for sale desires to be relieved of them, he may turn them over to the Superintendent of Documents, who shall receive and sell them under this section. Moneys received from the sale of documents shall be returned to the Public Printer on the first day of each month and be covered into the Treasury monthly.

The Superintendent of Documents shall also report monthly to the Public Printer the number of documents received by him and the disposition made of them. He shall have general supervision of the distribution of all public documents, and to his custody shall be committed all documents subject to distribution, excepting those printed for the special official use of the executive departments, which shall be delivered to the departments, and those printed for the use of the two Houses of Congress, which shall be delivered to the Senate Service Department and House of Representatives Publications Distribution Service and distributed or delivered ready for distribution to Members upon their order by the superintendents of the Senate Service Department and House Publications Distribution Service, respectively. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 71, 73 (part) (Jan. 12, 1895, ch. 23, § 61, 28 Stat. 610; June 25, 1910, ch. 384, § 1, 36 Stat. 770; Aug. 7, 1946, ch. 770, § 1 (62), 60 Stat. 871).

This section incorporates only part of former section 73. The balance will be found in section 308 of the revision.

"House of Representatives Publications Distribution Service" is substituted for "House Folding Room" because of the change of name under authority of Public Law 88–652.

CROSS REFERENCES

Copyrights, catalog of entries; distribution and sale, see section 211 of Title 17, Copyrights.

Disbursements for Superintendent of Documents, statement in annual report of Public Printer, see section 308 of this title.

Economic Indicators, distribution, see section 1025 of Title 15, Commerce and Trade.

Prices for sales copies of publication, cost basis plus 50 percent and discounts, see section 1708 of this title.

Printing of reentry permits and blank forms of manifest and crew lists; sale to public, see section 1352 of Title 8, Aliens and Nationality.

Reprinting of documents required for sale, see section 1707 of this title.

Senate Service Department and House Publications Distribution Service, see section 740 of this title.

United States Statutes at Large, distribution, see section 728 of this title.

§ 1703. Superintendent of Documents: assistants, blanks, printing and binding.

The Public Printer, upon the requisition of the Superintendent of Documents, shall appoint necessary assistants, furnish blanks, and do the printing and binding required by his office, the cost to be charged against the appropriation for printing and binding for Congress. The Public Printer shall provide convenient office, storage, and distributing rooms for the use of the Superintendent of Documents. (Pub L. 90–620, Oct. 22, 1968, 82 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 74 (Jan. 12, 1895, ch. 23, § 66, 28 Stat. 611).

§ 1704. Superintendent of Documents: pay of employees for night, Sunday, holiday, and overtime work.

Employees in the office of the Superintendent of Documents may be paid for night, Sunday, holiday, and overtime work at rates not in excess of the rates of additional pay for this work allowed other employees of the Government Printing Office under section 305 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 75 (Mar. 4, 1925, ch. 549, § 1, 43 Stat. 1300; May 13, 1926, ch. 294, § 1, 44 Stat. 552; Feb. 23, 1927, ch. 166, 44 Stat. 1160).

§ 1705. Printing additional copies for sale to public; regulations.

The Public Printer shall print additional copies of a Government publication, not confidential in character, required for sale to the public by the Superintendent of Documents, subject to regulation by the Joint Committee on Printing and without interference with the prompt execution of printing for the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 72 (May 11, 1922, ch. 189, § 1, 42 Stat. 541; June 30, 1932, ch. 314, § 307, 47 Stat. 409).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1706. Printing and sale of extra copies of documents.

The Public Printer shall furnish to applicants giving notice before the matter is put to press, not exceeding two hundred and fifty to any one applicant, copies of bills, reports, and documents. The applicants shall pay in advance the price of the printing. The printing of these copies for private parties may

not interfere with the printing for the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 114 (Jan. 12, 1895, ch. 23, § 42, 28 Stat. 607; June 30, 1932, ch. 314, § 307, 47 Stat. 409).

Words not "exceeding two hundred and fifty to any one applicant" were deleted as superseded by act May 11, 1922, ch. 189, § 1, 42 Stat. 541; June 30, 1932, ch. 314, § 307, 47 Stat. 409.

The 1895 limitation of 250 copies to any one applicant was removed by this relevant language of the 1922 act: ". . . the Public Priniter shall print such additional copies . . . of any . . . Government publication, not confidential in character, as may be required for sale to the public by the Superintendent of Documents . . . without limit as to the number of copies to any one applicant *who agrees not to resell or distribute the same for profit*".

The condition *underlined* above was removed by the 1932 act in this language: "The Superintendent of Documents shall prescribe the terms and conditions under which he may authorize the resale of Government publications by book dealers".

The 1932 act specifically stated that the selling price established by that act should apply to sections 72, 114, and 220 of Title 44. By inference sales under all three of these sections are to be by the Superintendent of Documents.

Section 72 was renumbered 1705.

Section 114 was renumbered 1706.

Section 220 was renumbered 1108.

§ 1707. Reprinting of documents required for sale.

The Superintendent of Documents may order reprinted, from time to time, public documents required for sale, subject to the approval of the Secretary or head of the department in which the public document originated. The appropriation for printing and binding shall be reimbursed for the cost of reprints from the moneys received by the Superintendent of Documents from the sale of public documents. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 79 (Mar. 28, 1904, No. 11, 33 Stat. 584).

§ 1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents.

The price at which additional copies of Government publications are offered for sale to the public by the Superintendent of Documents shall be based on the cost as determined by the Public Printer plus 50 percent. A discount of not to exceed 25 percent may be allowed to book dealers and quantity purchasers, but the printing may not interfere with prompt execution of work for the Government. Surplus receipts from sales shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

The Superintendent of Documents may prescribe terms and conditions under which he authorizes the resale of Government publications by book dealers, and he may designate any Government officer his agent for the sale of Government publications under regulations agreed upon by the Superintendent of Documents and the head of the respective department or establishment of the Government. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 72a (June 30, 1932, ch. 314, § 307, 47 Stat. 409).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1709. Blank forms: printing and sale to public.

The Public Printer may print for sale by the Superintendent of Documents to the public, upon prepayment, additional copies of approved Government blank forms. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 94 (June 7, 1924, ch. 303, § 1, 43 Stat. 592).

§ 1710. Index of documents: number and distribution.

The Superintendent of Documents, at the close of each regular session of Congress, shall prepare and publish a comprehensive index of public documents, upon a plan approved by the Joint Committee on Printing. The Public Printer shall, immediately upon its publication, deliver to him a copy of every document printed by the Government Printing Office. The head of each executive department, independent agency and establishment of the Government shall deliver to him a copy of every document issued or published by the department, bureau, or office not confidential in character. He shall also prepare and print in one volume a consolidated index of Congressional documents, and shall index single volumes of documents as the Joint Committee on Printing directs. Two thousand copies each of the comprehensive index and of the consolidated index shall be printed and bound in addition to the usual number, two hundred for the Senate, eight hundred for the House of Representatives and one thousand for distribution by the Superintendent of Documents. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 76 (Jan. 12, 1895, ch. 23, § 62, 28 Stat. 610).

§ 1711. Catalog of Government publications.

On the first day of each month the Superintendent of Documents shall prepare a catalog of Government publications which shall show the documents printed during the preceding month, where obtainable, and the price. Two thousand copies of the catalog shall be printed in pamphlet form for distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 77 (Jan. 12 1895, ch. 23, § 69, 28 Stat. 612).

§ 1712. Documents for use of the Public Printer.

The Public Printer may retain out of all documents, bills, and resolutions printed the number of copies absolutely needful for the official use of the Government Printing Office, not exceeding five of each. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 81 (Jan. 12, 1895, ch. 23, § 73, 28 Stat. 618).

§ 1713. Documents to be delivered to the Executive Mansion.

The Public Printer shall deliver to the Executive Mansion two copies of each document, bill, and resolution as soon as printed and ready for distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 80 (Jan. 12, 1895, ch. 23, § 88, 28 Stat. 622).

§ 1714. Publications for use of General Services Administration.

The Public Printer shall print and deliver to the General Services Administration for use by the Archivist of the United States, including use by the Presidential Library established for the President during whose term the documents were issued, which shall be chargeable to Congress three copies each of the following publications:

House documents and public reports, bound;

Senate documents and public reports, bound;

Senate and House journals, bound;

United States Code and Supplements, bound;

United States Statutes at Large, bound;

the United States Reports, bound;

all other documents bearing a congressional number, or printed upon order of a committee in either House of Congress, or of a department, independent agency or establishment, commission, or officer of the Government, except confidential matter, blank forms, and circular letters not of a public character; and

public bills and resolutions in Congress in each parliamentary stage.

The Superintendent of Documents shall furnish, without cost, copies of publications available for free distribution. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 215a (Jan. 12, 1895, ch. 23, § —, as added June 17, 1935, ch. 267, 49 Stat. 386, and amended June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

§ 1715. Publications for department or officer or for congressional committees.

When printing not bearing a congressional number, except confidential matter, blank forms, and circular letters not of a public character, is done for a department or officer of the Government, or not of a confidential character, is done for use of congressional committees, two copies shall be sent, unless withheld by order of the committee, by the Public Printer to the Senate and House of Representatives libraries, respectively, and one copy each to the document rooms of the Senate and House of Representatives, for reference; and these copies may not be removed. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 217 (part) (Jan. 12, 1895, ch. 23, § 58, 28 Stat. 610; Mar. 1, 1907, ch. 2284, § 4, 34 Stat. 1014).

The last clause of this section is eliminated, as superseded by former section 85, now found in section 1903 of the revision.

§ 1716. Public documents for legations and consulates of United States.

Only books published by the Government, and usually known by the name of "Public Documents," may be supplied to a legation or consulate of the United States as are first designated by the Secretary of State, by an order to be recorded in the State Department, as suitable for and required by the legation and consulate. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 91a (R.S. § 504).

§ 1717. Documents and reports for foreign legations.

Documents and reports may be furnished to foreign legations to the United States upon request stating those desired and requisition upon the Public Printer by the Secretary of State. Gratuitous distribution may only be made to legations whose Governments furnish to legations from the United States copies of their printed and legislative documents desired. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 91 (Jan. 12, 1895, ch. 23, § 75, 28 Stat. 620).

§ 1718. Distribution of Government publications to the Library of Congress.

There shall be printed and furnished to the Library of Congress for official use in the District of Columbia, and for international exchange as provided by section 1719 of this title, not to exceed one hundred and fifty copies of:

House documents and reports, bound;

Senate documents and reports, bound;

Senate and House journals, bound;

public bills and resolutions;

the United States Code and supplements, bound; and

all other publications and maps which are printed, or otherwise reproduced, under authority of law, upon the requisition of a Congressional committee, executive department, bureau, independent office, establishment, commission, or officer of the Government.

Confidential matter, blank forms, and circular letters not of a public character shall be excepted.

In addition, there shall be delivered as printed to the Library of Congress:

ten copies of each House document and report, unbound;

ten copies of each Senate document and report, unbound; and

ten copies of each private bill and resolution and fifty copies of the laws in slip form.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 139 (Jan. 28, 1899, No. 12, 30 Stat. 1388; Mar. 2, 1901, No. 16, §§ 1, 2, 31 Stat. 1464; June 20, 1936, ch. 630, title IV, § 6, 49 Stat. 1550).

Reference to the Official Register is omitted as obsolete. The authorization for its compilation was repealed by Public Law 88–626.

CROSS REFERENCES

American Printing House for the Blind, books for Library of Congress, see section 105 of Title 20, Education.

Geological Survey reports, distribution of two additional copies to the Library of Congress, see section 1318 of this title.

House and Senate documents and reports, distribution to the Library of Congress, see section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701, 906 of this title.

§ 1719. International exchange of Government publications.

For the purpose of more fully carrying into effect the convention concluded at Brussels on March 15, 1886, and proclaimed by the President of the United States on January 15, 1889, there shall be supplied to the Library of Congress not to exceed one hundred and twenty-five copies each of all Government publications, including the daily and bound copies of the Congressional Record, for distribution, through the Smithsonian Institution, to foreign governments which agree to send to the United States similar publications of their governments for delivery to the Library of Congress. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 139a (Mar. 2, 1901, No. 16, § 3, 31 Stat. 1465; Mar. 3, 1925, ch. 421, § 7, 43 Stat. 1106; June 20, 1936, ch. 630, title IV, § 6, 49 Stat. 1550).

REFERENCES IN TEXT

There were two conventions concluded at Brussels on Mar. 15, 1886, and proclaimed by the President on Jan. 15, 1889: one was a convention "for the international exchange of official documents, scientific, and literary publications"; the other was "for the immediate exchange of the official journals, parliamentary annals, and documents."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701, 906, 1718 of this title.

§ 1720. Documents not needed by departments to be turned over to Superintendent of Documents.

Public documents accumulating in the several executive departments, bureaus, and offices, not needed for official use, shall be turned over to the Superintendent of Documents annually for distribution or sale. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 78 (Jan. 12, 1895, ch. 23, § 67, 28 Stat. 611).

§ 1721. Exchange of documents by heads of departments.

Heads of departments may exchange surplus documents for other documents and books required by them, when it is to the advantage of the public service. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 93 (Jan. 12, 1895, ch. 23, § 95, 28 Stat. 623).

§ 1722. Departmental distribution of publications.

Government publications printed for or received by the executive departments, whether for official use or for distribution, except those required by section 1701 of this title to be distributed by the Public Printer, shall be distributed by a competent person detailed to this duty in each department by the head of the department. He shall prevent duplication and make detailed report to the head of the department. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 96 (Jan. 12, 1895, ch. 23, § 92, 28 Stat. 623; May 29, 1928, ch. 901, § 1(2), 45 Stat. 986).

Chapter 19.—DEPOSITORY LIBRARY PROGRAM

Sec.
1901. Definition of Government publication.
1902. Availability of Government publications through Superintendent of Documents; lists of publications not ordered from Government Printing Office.
1903. Distribution of publications to depositories; notice to Government components; cost of printing and binding.
1904. Classified list of Government publications for selection by depositories.
1905. Distribution to depositories; designation of additional libraries; justification; authorization for certain designations.
1906. Land-grant colleges constituted depositories.
1907. Libraries of executive departments, service academies, and independent agencies constituted depositories; certifications of need; disposal of unwanted publications.
1908. American Antiquarian Society to receive certain publications.
1909. Requirements of depository libraries; reports on conditions; investigations; termination; replacement.
1910. Designations of replacement depositories; limitations on numbers; conditions.
1911. Free use of Government publications in depositories; disposal of unwanted publications.
1912. Regional depositories; designation; functions; disposal of publications.
1913. Appropriations for supplying depository libraries; restriction.
1914. Implementation of depository library program by Public Printer.

§ 1901. Definition of Government publication.

"Government publication" as used in this chapter, means informational matter which is published as an individual document at Government expense, or as required by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 81a (Pub. L. 87–579, § 1, Aug. 9, 1962, 76 Stat. 352).

§ 1902. Availability of Government publications through Superintendent of Documents; lists of publications not ordered from Government Printing Office.

Government publications, except those determined by their issuing components to be required for official use only or for strictly administrative or operational purposes which have no public interest or educational value and publications classified for reasons of national security, shall be made available to depository libraries through the facilities of the Superintendent of Documents for public information. Each component of the Government shall furnish the Superintendent of Documents a list of such publications it issued during the previous month, that were obtained from sources other than the

Government Printing Office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 81b (Pub. L. 87–579, § 1, Aug. 9, 1962, 76 Stat. 352).

§ 1903. Distribution of publications to depositories; notice to Government components; cost of printing and binding.

Upon request of the Superintendent of Documents, components of the Government ordering the printing of publications shall either increase or decrease the number of copies of publications furnished for distribution to designated depository libraries and State libraries so that the number of copies delivered to the Superintendent of Documents is equal to the number of libraries on the list. The number thus delivered may not be restricted by any statutory limitation in force on August 9, 1962. Copies of publications furnished the Superintendent of Documents for distribution to designated depository libraries shall include—

the journals of the Senate and House of Representatives;

all publications, not confidential in character, printed upon the requisition of a congressional committee;

Senate and House public bills and resolutions; and

reports on private bills, concurrent or simple resolutions;

but not so-called cooperative publications which must necessarily be sold in order to be self-sustaining.

The Superintendent of Documents shall currently inform the components of the Government ordering printing of publications as to the number of copies of their publications required for distribution to depository libraries. The cost of printing and binding those publications distributed to depository libraries obtained elsewhere than from the Government Printing Office, shall be borne by components of the Government responsible for their issuance; those requisitioned from the Government Printing Office shall be charged to appropriations provided the Superintendent of Documents for that purpose. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 85 (part) (Mar. 1, 1907, ch. 2284, § 4, 34 Stat. 1014; June 25, 1938, ch. 708, 52 Stat. 1206; Aug. 9, 1962, Pub. L. 87–579, § 5, 76 Stat. 354).

The last paragraph of former section 85 will be found in section 1906 of the revision.

§ 1904. Classified list of Government publications for selection by depositories.

The Superintendent of Documents shall currently issue a classified list of Government publications in suitable form, containing annotations of contents and listed by item identification numbers to facilitate the selection of only those publications needed by depository libraries. The selected publications shall be distributed to depository libraries in accordance with regulations of the Superintendent of Documents, as long as they fulfill the conditions provided by law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964, ed., § 83 (R.S. § 502; Jan. 12, 1895, ch. 23, §§ 53, 61, 28 Stat. 608, 610; Aug. 9, 1962, Pub. L. 87–579, § 3, 76 Stat. 353).

§ 1905. Distribution to depositories; designation of additional libraries; justification; authorization for certain designations.

The Government publications selected from lists prepared by the Superintendent of Documents, and when requested from him, shall be distributed to depository libraries specifically designated by law and to libraries designated by Senators, Representatives, and the Resident Commissioner from Puerto Rico, by the Commissioner of the District of Columbia, and by the Governors of Guam, American Samoa, and the Virgin Islands, respectively. Additional libraries within areas served by Representatives or the Resident Commissioner from Puerto Rico may be designated by them to receive Government publications to the extent that the total number of libraries designated by them does not exceed two within each area. Not more than two additional libraries within a State may be designated by each Senator from the State. Before an additional library within a State, congressional district or the Commonwealth of Puerto Rico is designated as a depository for Government publications, the head of that library shall furnish his Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be, with justification of the necessity for the additional designation. The justification, which shall also include a certification as to the need for the additional depository library designation, shall be signed by the head of every existing depository library within the congressional district or the Commonwealth of Puerto Rico or by the head of the library authority of the State or the Commonwealth of Puerto Rico, within which the additional depository library is to be located. The justification for additional depository library designations shall be transmitted to the Superintendent of Documents by the Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be. The Commissioner of the District of Columbia may designate two depository libraries in the District of Columbia, the Governor of Guam and the Governor of American Samoa may each designate one depository library in Guam and American Samoa, respectively, and the Governor of the Virgin Islands may designate one depository library on the island of Saint Thomas and one on the island of Saint Croix. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 82 (R.S. § 501; Mar. 1, 1907, ch. 2284, § 4, 34 Stat. 1014; Aug. 9, 1962, Pub. L. 87–579, § 2, 76 Stat. 353).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1910 of this title.

§ 1906. Land-grant colleges constituted depositories.

Land-grant colleges are constituted depositories to receive Government publications subject to the depository laws. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 85 (part) (Mar. 1, 1907, ch. 2284, § 4, 34 Stat. 1014; June 25, 1938, ch. 708, 52 Stat. 1206; Aug. 9, 1962, Pub. L. 87–579, 76 Stat. 354).

This section is from the last paragraph of former section 85; the remainder of that section will be found in section 1903 of the revision.

§ 1907. Libraries of executive departments, service academies, and independent agencies constituted depositories; certifications of need; disposal of unwanted publications.

The libraries of the executive departments, of the United States Military Academy, of the United States Naval Academy, of the United States Air Force Academy, of the United States Coast Guard Academy, and of the United States Merchant Marine Academy are designated depositories of Government publications. A depository library within each independent agency may be designated upon certification of need by the head of the independent agency to the Superintendent of Documents. Additional depository libraries within executive departments and independent agencies may be designated to receive Government publications to the extent that the number so designated does not exceed the number of major bureaus or divisions of the departments and independent agencies. These designations may be made only after certification by the head of each executive department or independent agency to the Superintendent of Documents as to the justifiable need for additional depository libraries. Depository libraries within executive departments and independent agencies may dispose of unwanted Government publications after first offering them to the Library of Congress and the Archivist of the United States. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1285.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 87 (Jan. 12, 1895, ch. 23, § 98, 28 Stat. 624; Aug. 9, 1962, Pub. L. 87–579, § 7, 76 Stat. 355).

§ 1908. American Antiquarian Society to receive certain publications.

One copy of the public journals of the Senate and of the House of Representatives, and of the documents published under the orders of the Senate and House of Representatives, respectively, shall be transmitted to the Executive of the Commonwealth of Massachusetts for the use and benefit of the American Antiquarian Society of the Commonwealth. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1285.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 88 (Dec. 1, 1814, No. 7, 3 Stat. 248).

§ 1909. Requirements of depository libraries; reports on conditions; investigations; termination; replacement.

Only a library able to provide custody and service for depository materials and located in an area where it can best serve the public need, and within an area not already adequately served by existing depository libraries may be designated by Senators, Representatives, the Resident Commissioner from Puerto Rico, the Commissioner of the District of Columbia, or the Governors of Guam, American Samoa, or the Virgin Islands as a depository of Government publications. The designated depository libraries shall report to the Superintendent of Documents at least every two years concerning their condition.

The Superintendent of Documents shall make firsthand investigation of conditions for which need is indicated and include the results of investigations in his annual report. When he ascertains that the number of books in a depository library is below ten thousand, other than Government publications, or it has ceased to be maintained so as to be accessible to the public, or that the Government publications which have been furnished the library have not been properly maintained, he shall delete the library from the list of depository libraries if the library fails to correct the unsatisfactory conditions within six months. The Representative or the Resident Commissioner from Puerto Rico in whose area the library is located or the Senator who made the designation, or a successor of the Senator, and, in the case of a library in the District of Columbia, the Commissioner of the District of Columbia, and, in the case of a library in Guam, American Samoa, or the Virgin Islands, the Governor, shall be notified and shall then be authorized to designate another library within the area served by him, which shall meet the conditions herein required, but which may not be in excess of the number of depository libraries authorized by law within the State, district, territory, or the Commonwealth of Puerto Rico, as the case may be. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1285.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 86 (Jan. 12, 1895, ch. 23, § 70, 28 Stat. 612; Aug. 9, 1962, Pub. L. 87–579, § 6, 76 Stat. 354).

§ 1910. Designations of replacement depositories; limitations on numbers; conditions.

The designation of a library to replace a depository library, other than a depository library specifically designated by law, may be made only within the limitations on total numbers specified by section 1905 of this title, and only when the library to be replaced ceases to exist, or when the library voluntarily relinquishes its depository status, or when the Superintendent of Documents determines that it no longer fulfills the conditions provided by law for depository libraries. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 84 (June 23, 1913, ch. 3, § 5, 38 Stat. 75; Aug. 9, 1962, Pub. L. 87–579, § 4, 76 Stat. 353).

§ 1911. Free use of Government publications in depositories; disposal of unwanted publications.

Depository libraries shall make Government publications available for the free use of the general public, and may dispose of them after retention for five years under section 1912 of this title, if the depository library is served by a regional depository library. Depository libraries not served by a regional depository library, or that are regional depository libraries themselves, shall retain Government publications

permanently in either printed form or in microfacsimile form, except superseded publications or those issued later in bound form which may be discarded as authorized by the Superintendent of Documents. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 92 (part) (Jan. 12, 1895, ch. 23, § 74, 28 Stat. 620; June 20, 1936, ch. 630, title VII, § 11, 49 Stat. 1552; Aug. 9, 1962, Pub. L. 87-579, § 8, 76 Stat. 355).

The first sentence of section 92, is classified to section 1119; the remainer comprises this section of the revision.

§ 1912. Regional depositories; designation; functions; disposal of publications.

Not more than two depository libraries in each State and the Commonwealth of Puerto Rico may be designated as regional depositories, and shall receive from the Superintendent of Documents copies of all new and revised Government publications authorized for distribution to depository libraries. Designation of regional depository libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them, after approval by the head of the library authority of the State or the Commonwealth of Puerto Rico, as the case may be, who shall first ascertain from the head of the library to be so designated that the library will, in addition to fulfilling the requirements for depository libraries, retain at least one copy of all Government publications either in printed or microfacsimile form (except those authorized to be discarded by the Superintendent of Documents); and within the region served will provide interlibrary loan, reference service, and assistance for depository libraries in the disposal of unwanted Government publications. The agreement to function as a regional depository library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

The libraries designated as regional depositories may permit depository libraries, within the areas served by them, to dispose of Government publications which they have retained for five years after first offering them to other depository libraries within their area, then to other libraries. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1286).

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964, ed., § 84a (Pub. L. 87-579, § 9, Aug. 9, 1962, 76 Stat. 355).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1911 of this title.

§ 1913. Appropriations for supplying depository libraries; restriction.

Appropriations available for the Office of Superintendent of Documents may not be used to supply depository libraries documents, books, or other printed matter not requested by them, and their requests shall be subject to approval by the Superintendent of Documents. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 85a (June 27, 1956, ch. 453, § 101, 70 Stat. 369).

§ 1914. Implementation of depository library program by Public Printer.

The Public Printer, with the approval of the Joint Committee on Printing, as provided by section 103 of this title, may use any measures he considers necessary for the economical and practical implementation of this chapter. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 81c (Pub. L. 87-579, § 10, Aug. 9, 1962, 76 Stat. 356).

Chapter 21.—ARCHIVAL ADMINISTRATION

Sec.
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2110. Preservation of motion-picture films, still pictures, and sound recordings.
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CROSS REFERENCES

Accounting systems, forms, and procedures: authority of Comptroller General; settlement of accounts of collecting and disbursing officers with General Accounting Office, responsibility for, see section 3107 of this title.

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Federal agency management program to provide for compliance with this chapter and regulations thereunder, see section 3102 of this title.

Federal Records Council, consultation of Administrator of General Services with Council with view of obtaining advice and assistance in carrying out the purposes of this chapter, see section 2701 of this title.

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Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2112, 2701 of this title; title 7 section 79.

§ 2101. Definitions.

As used in sections 2103—2113 of this title—

"Presidential archival depository" means an institution operated by the United States to house and preserve the papers and book of a President or former President of the United States, together with other historical materials belonging to a President or former President of the United States, or related to his papers or to the events of his official or personal life;

"historical materials" including books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials having historical or commemorative value.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(j) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 12, 1962, ch. 703, § 1 (o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, § 4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69; Mar. 15, 1958, Pub. L. 85-341, § 1(1), 72 Stat. 34).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2901, 3102, 3107 of this title.

§ 2102. Archivist of the United States.

The Administrator of General Services shall appoint the Archivist of the United States. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 391(a) (June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381).

This section incorporates only the last sentence of paragraph (a) of former section 391. The balance of that section will be found in sections 1506, 2301, 2501, and 2902 of the revision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2901, 3102, 3107 of this title.

§ 2103. Acceptance of records for historical preservation.

When it appears to the Administrator of General Services to be in the public interest, he may—

(1) accept for deposit with the National Archives of the United States the records of a Federal agency or of the Congress determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government;

(2) direct and effect the transfer to the National Archives of the United States of records of a Federal agency that have been in existence for more than fifty years and determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government, unless the head of the agency which has custody of them certifies in writing to the Administrator that they must be retained in his custody for use in the conduct of the regular current business of the agency;

(3) direct and effect, with the approval of the head of the originating agency, or if the existence of the agency has been terminated, then with the approval of his successor in function, if any, the transfer of records deposited or approved for deposit with the National Archives of the United States to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and

(4) transfer materials from private sources authorized to be received by the Administrator by section 3106 of this title.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(a) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; and amended July 12, 1952, ch. 703, § 1 (o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, § 4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2104. Responsibility for custody, use, and withdrawal of records.

The Administrator of General Services shall be responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Administrator, the Archivist of the United States, and to the employees of the General Services Administration, respectively. When the head of an agency states in writing restrictions that appear to him to be necessary or desirable in the public interest on the use or examination of records being considered for transfer from his custody to the Administrator, the Administrator shall impose the restrictions on the records so transferred, and may not remove or relax the restrictions without the concurrence in writing of the head of the agency from which the material was transferred, or of his successor in function, if any. Statutory and other restrictions referred to in this section shall remain in force until the records have been in existence for fifty years unless the Administrator by order determines as to specific bodies of records that the restrictions shall remain in force for a longer period. Restriction on the use or examination of records deposited with the National Archives of the United States imposed by section 3 of the National Archives Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Administrator with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(b) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2105. Preservation, arrangement, duplication, exhibition of records.

The Administrator of General Services shall provide for the preservation, arrangement, repair and rehabilitation, duplication and reproduction (including microcopy publications), description, and exhibition of records or other documentary material transferred to him as may be needful or appropriate, including the preparation and publication of inventories, indexes, catalogs, and other finding aids or guides to facilitate their use. He may also prepare guides and other finding aids to Federal records and, when approved by the National Historical Publications Commission, publish such historical works and

collections of sources as seem appropriate for printing or otherwise recording at the public expense. (Pub L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(c) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; July 12, 1952, ch. 703, § 1(o), 66 Stat. 594).

EX. ORD. NO. 11440. SUPPLEMENTAL USE OF EXHIBITS AND DISPLAYS CREATED IN FUTHERANCE OF AUTHORIZED PROGRAMS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Ex. Ord. No. 11440, Dec. 11, 1968, 33 F.R. 18475, provided:

WHEREAS the executive departments and agencies of the Government, in discharging their various responsibilities, create a large volume of materials (including books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects of historical or commemorative value) which from time to time are incorporated into or reproduced for use in exhibits or other types of visual displays needed for use in carrying out their programs; and

WHEREAS under Chapter 21 of Title 44, United States Code, the Administrator of General Services is authorized to accept for deposit in the National Archives of the United States the records of any Federal agency or of the Congress of the United States that are determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government, as well as the papers and other historical materials of any official or former official of the Government, and to make provisions for the exhibition of materials transferred to him; and.

WHEREAS many of the exhibits and displays so prepared, produced, or otherwise created by the executive departments and agencies possess historical significance which warrants their preservation and exhibition as part of the archival and cultural heritage of the United States:

NOW, THEREFORE, by virtue of the authority vested in me, as President of the United States, it is hereby ordered as follows:

SECTION 1. The heads of all executive departments and agencies are directed—

(a) when initiating plans for the preparation, production, or other creation of exhibits and displays in furtherance of their program missions, to confer with the Administrator of General Services, or his designee, for the purpose of assuring that any such exhibits or displays which the Administrator finds appropriate for supplemental exhibition as part of the archival and cultural heritage of the United States are prepared, produced, or otherwise created in a manner which assures, to the maximum possible extent, their appropriateness, after they have served their primary program purpose, for such supplemental exhibition, and

(b) to transfer to the Administrator, without reimbursement, such exhibits or displays as he determines are appropriate for such supplemental exhibition after they have served their primary program purpose, subject to such conditions requiring return to the department or agency of all or any of the materials incorporated in the exhibits or displays as may be mutually agreeable.

SEC. 2. The Administrator of General Services is directed to—

(a) provide advice, counsel, and assistance to the heads of executive departments and agencies in the preparation, production, or other creation of exhibits and displays which he finds will have future value for exhibition as part of the archival and cultural heritage of the United States; and

(b) accept any such exhibit or display when it has served its primary program purpose and (1) arrange for its supplemental exhibition as appropriate, (2) preserve any such exhibit or display which possesses sufficient historical or other value to warrant continued preservation, or (3) dispose of any such exhibit or display when, in his judgment, the reasons for its continued preservation or exhibition cease to exist, all subject to the conditions agreed upon incident to transfer to the Administrator of General Services of the exhibit or display.

LYNDON B. JOHNSON

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2106. Servicing records.

The Administrator of General Services shall provide and maintain facilities he considers necessary or desirable for servicing records in his custody that are not exempt from examination by statutory or other restrictions. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(d) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2107. Material accepted for deposit.

When the Administrator of General Services considers it to be in the public interest he may accept for deposit—

(1) the papers and other historical materials of a President or former President of the United States, or other official or former official of the Government, and other papers relating to and contemporary with a President or former President of the United States, subject to restrictions agreeable to the Administrator as to their use; and

(2) documents, including motion-picture films, still pictures, and sound recordings, from private sources that are appropriate for preservation by the Government as evidence of its organization, functions, policies, decisions, procedures, and transactions.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code 1964 ed., § 397(e) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; July 12, 1952, ch. 703, § 1(p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2108. Presidential archival depository.

(a) When the Administrator of General Services considers it to be in the public interest he may accept, for and in the name of the United States, land, buildings, and equipment offered as a gift to the United States for the purposes of creating a Presidential archival depository, and take title to the land, buildings, and equipment on behalf of the United States, and maintain, operate, and protect them as a Presidential archival depository, and as part of the national archives system; and make agreements, upon terms and conditions he considers proper, with a State, political subdivision, university, institution of higher learning, institute, or foundation to use as a Presidential archival depository land, buildings, and equipment of the State, subdivision, university, or other organization, to be made available by it without transfer of title to the United States, and maintain, operate, and protect the depository as a part of the national archives system.

The Administrator shall submit a report in writing on a proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives, and include—

a description of the land, buildings, and equipment offered as a gift or to be made available without transfer of title;

a statement of the terms of the proposed agreement, if any;

a general description of the types of paper, documents, or other historical materials proposed to be deposited in the Presidential archival depository so to be created, and of the terms of the proposed deposit;

a statement of the additional improvements and equipment, if any, necessary to the satisfactory operation of the depository, together with an estimate of the cost; and

an estimate of the annual cost to the United States of maintaining, operating, and protecting the depository.

The Administrator may not take title to land, buildings, and equipment or make an agreement, until the expiration of the first period of 60 calendar days of continuous session of the Congress following the date on which the report is transmitted, computed as follows:

Continuity of session is broken only by an adjournment sine die, but the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded.

(b) When the Administrator considers it to be in the public interest, he may deposit in a Presidential archival depository papers, documents, or other historical materials accepted under section 3106 of this title, or Federal records appropriate for preservation.

(c) When the Administrator considers it to be in the public interest, he may exercise, with respect to papers, documents, or other historical materials deposited under this section, or otherwise, in a Presidential archival depository, all the functions and responsibilities otherwise vested in him pertaining to Federal records or other documentary materials in his custody or under his control. The Administrator, in negotiating for the deposit of Presidential historical materials, shall take steps to secure to the Government, as far as possible, the right to have continuous and permanent possession of the materials. Papers, documents, or other historical materials accepted and deposited under section 3106 of this title and this section are subject to restrictions as to their availability and use stated in writing by the donors or depositors, including the restriction that they shall be kept in Presidential archival depository. The restrictions shall be respected for the period stated, or until revoked or terminated by the donors or depositors or by persons legally qualified to act on their behalf. Subject to the restrictions, the Administrator may dispose by sale, exchange, or otherwise, of papers, documents, or other materials which the Archivist determines to have no permanent value or historical interest or to be surplus to the needs of a Presidential archival depository.

(d) When the Administrator considers it to be in the public interest, he may cooperate with and assist a university, institution of higher learning, institute, foundation, or other organization or qualified individual to further or to conduct study or research in historical materials deposited in a Presidential archival depository.

(e) When the Administrator considers it to be in the public interest, he may charge and collect reasonable fees for the privilege of visiting and viewing exhibit rooms or museum space in a Presidential archival depository.

(f) When the Administrator considers it to be in the public interest, he may provide reasonable office space in a Presidential archival depository for the personal use of a former President of the United States.

(g) When the Administrator considers it be in the public interest, he may accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving a Presidential archival depository. The proceeds of gifts or bequests, together with the proceeds from fees or from sales of historical materials, copies or reproductions, catalogs, or other items, having to do with a Presidential archival depository, shall be paid into the National Archives Trust Fund to be held, administered, and expended for the benefit and in the interest of the Presidential archival depository in connection with which they were received, including administrative and custodial expenses as the Administrator determines. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1289.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(f) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; and amended July 12, 1952, ch. 703, § 1 (o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695).

JOHN FITZGERALD KENNEDY LIBRARY

Pub. L. 89–547, Aug. 27, 1966, 80 Stat. 370, provided: "That the Administrator of General Services is hereby authorized to accept title to the structure or structures to be erected and equipped at Cambridge, Massachusetts, by the John Fitzgerald Kennedy Library, Incorporated, to be transferred to the United States Government, without reimbursement, for use as a Presidential archival depository to be known as the John Fitzgerald Library, and to maintain, operate, and protect such depository as a part of the National Archives system. The Administrator may enter into such agreements with the officers of the John Fitzgerald Kennedy Library, Incorporated, as are necessary to complete the transfer of title to the United States and may do so without regard to the provision of section 507(f) (1) of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. [former] 397(f) (1) [now subsec. (a) of this section], that the Administrator shall not enter into any such agreement until the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a report in writing of any such proposed Presidential archival depository is transmitted by the Administrator to the President of the Senate and the Speaker of the House of Representatives."

LYNDON BAINES JOHNSON PRESIDENTIAL ARCHIVAL DEPOSITORY

Pub. L. 89–169, Sept. 6, 1965, 79 Stat. 648, provided: "That the Administrator of General Services is hereby authorized to enter into an agreement upon such terms and conditions as he determines proper with the University of Texas to utilize as the Lyndon Baines Johnson Archival Depository, land, buildings, and equipment of such university to be made available by it without transfer of title to the United States, and to maintain, operate and protect such depository as a part of the National Archives system. Such agreement may be entered into without regard to the provisions of section 507(f) (1) of the Federal Property and Administrative Services Act of 1949, as

amended (44 U.S.C. [former] 397(f) (1)) [now subsec. (a) of this section], that the Administrator shall not enter into any such agreement until the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a report in writing of any such proposed Presidential archival depository is transmitted by the Administrator to the President of the Senate and the Speaker of the House of Representatives."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2109. Depository for agreements between States.

The Administrator of General Services may receive duplicate originals or authenticated copies of agreements or compacts entered into under the Constitution and laws of the United States, between States of the Union, and take necessary actions for their preservation and servicing. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1290.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(h) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 12, 1952, ch. 703, § 1 (o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, § 4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69; Mar. 15, 1958, Pub. L. 85-341, § 1(1), 72 Stat. 34).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2110. Preservation of motion-picture films, still pictures, and sound recordings.

The Administrator of General Services may make and preserve motion-picture films, still pictures, and sound recordings pertaining to and illustrative of the historical development of the United States Government and its activities, and provide for preparing, editing, titling, scoring, processing, duplicating, reproducing, exhibiting, and releasing for non-profit educational purposes, motion-picture films, still pictures, and sound recordings in his custody. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1290.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(i) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; and amended July 12, 1952, ch. 703, § 1 (o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, § 4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69; Mar. 15, 1958, Pub. L. 85-341, § 1(1), 72 Stat. 34).

CROSS REFERENCES

Secretary of Agriculture: loan, rental or sale of films, see section 2246 of Title 7, Agriculture; sale of photographic prints and maps, see section 2243 of Title 7; sale of prints and lantern slides, see section 2245 of Title 7.

Secretary of Health, Education, and Welfare, establishment of loan service of captioned films and educational media for handicapped, see section 2491 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2111. Reports; correction of violations.

(a) When the Administrator of General Services considers it necessary, he may obtain reports from Federal agencies on their activities under chapters 21, 25, 27, 29, 31, and 33 of this title.

(b) When the Administrator finds that a provision of chapter 21, 25, 27, 29, or 31 of this title has been or is being violated, he shall inform in writing the head of the agency concerned of the violation and make recommendations for its correction. Unless corrective measures satisfactory to the Administrator are inaugurated within a reasonable time, the Administrator shall submit a written report of the matter to the President and the Congress. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1290.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 398 (June 30, 1949, ch. 288, title V, § 508, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2112. Legal status of reproductions; official seal; fees for copies and reproductions.

(a) When records that are required by statute to be retained indefinitely have been reproduced by photographic, microphotographic, or other processes, in accordance with standards established by the Administrator of General Services the indefinite retention by the photographic, microphotographic, or other reproductions constitutes compliance with the statutory requirement for the indefinite retention of the original records. The reproductions, as well as reproductions made under regulations to carry out chapter 21, 29, and 31 of this title, shall have the same legal status as the originals.

(b) There shall be an official seal for the National Archives of the United States which shall be judicially noticed. When a copy or reproduction, furnished under this section, is authenticated by the official seal and certified by the Administrator, the copy or reproduction shall be admitted in evidence equally with the original from which it was made.

(c) The Administrator may charge a fee not in excess of 10 percent above the costs or expenses for making or authenticating copies or reproductions of materials transferred to his custody. Fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund. He may not charge for making or authenticating copies or reproductions of materials for official use by the United States Government. Reimbursement may be accepted to cover the cost of furnishing copies or reproductions that could not otherwise be furnished. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 399 (June 30, 1949, ch. 288, title V, § 509, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2113. Limitation on liability.

When letters and other intellectual productions, exclusive of material copyrighted or patented, come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of literary property rights or analogous rights arising out of use of the

materials for display, inspection, research, reproduction, or other purposes. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 400 (June 30, 1949, ch. 288, title V, § 510, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2101, 2901, 3102, 3107 of this title.

§ 2114. Records of Congress.

The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress all the noncurrent records of the Congress and of each congressional committee and transfer them to the General Services Administration for preservation, subject to the orders of the Senate or the House of Representatives, respectively. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 402 (Aug. 2, 1946, ch. 753, title I, § 140, 60 Stat. 833).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2901 of this title.

Chapter 23.—NATIONAL ARCHIVES TRUST FUND BOARD

Sec.
2301. Establishment of Board; membership.
2302. Authority of Board; seal; employees; bylaws, rules, regulations.
2303. Powers and obligations of Board; liability of members.
2304. Compensation of members; availability of trust funds for expenses of Board.
2305. Acceptance of gifts.
2306. Investment of funds.
2307. Trust fund account; disbursements; sales of publications and releases.
2308. Tax exemption for gifts.

§ 2301. Establishment of Board; membership.

The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the chairman of the House of Representatives, Committee on Post Office and Civil Service and the chairman of the Senate Committee on Post Office and Civil Service. The authority of the Administrator of General Services under section 754 of title 40 to regroup, transfer, and distribute functions within the General Services Administration does not extend to the Board or its functions. Membership on the Board is not an office within the meaning of the statutes of the United States. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 300bb, 391 (part) (July 9, 1941, ch. 284, § 2, 55 Stat. 581; Aug. 2, 1946, ch. 753, title I, §§ 102, 121, 60 Stat. 814, 822; June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381).

This section incorporates only the last sentence of paragraph (b) of former section 391. The balance of that section will be found in sections 1506, 2102, 2501, and 2902 of the revision.

§ 2302. Authority of Board; seal; employees; bylaws, rules, regulations.

In carrying out the purposes of this chapter, the Board may—

(1) adopt an official seal, which shall be judicially noticed;

(2) appoint, or authorize the Chairman to appoint, without regard to the civil-service laws, necessary employees, and fix their duties; and

(3) adopt bylaws, rules, and regulations necessary for the administration of its functions under this chapter.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300hh (July 9, 1941, ch. 284, § 8, 55 Stat. 582).

§ 2303. Powers and obligations of Board; liability of members.

The Board shall have all the usual powers and obligations of a trustee with respect to property and funds administered by it, but the members of the Board are not personally liable, except for malfeasance (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300ff (July 9, 1941, ch. 284, § 6, 55 Stat. 582).

§ 2304. Compensation of members; availability of trust funds for expenses of Board.

Compensation may not be paid to the members of the Board for their services as members. Costs incurred by the Board in carrying out its duties under this chapter, including the expenditures necessarily made by the members of the Board in the performance of their duties and the compensation of persons employed by the Board, shall be paid out of income from trust funds available to the Board for the purpose. Unless otherwise restricted by the instrument of gift or bequest, the Board, by resolution, may authorize the Chairman to use for these purposes, or for any other purpose for which funds may be expended under this chapter, the principal of a gift or bequest accepted under this chapter. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300ii (July 9, 1941, ch. 284, § 9, 55 Stat. 582).

§ 2305. Acceptance of gifts.

The Board may accept, receive, hold, and administer gifts or bequests of money, securities, or other personal property, for the benefit of or in connection with the national archival and records activities administered by the General Services Administration as may be approved by the Board. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300cc (July 9, 1941, ch. 284, § 3, 55 Stat. 581).

§ 2306. Investment of funds.

The Secretary of the Treasury shall receipt for moneys or securities composing trust funds given or bequeathed to the Board and shall invest, reinvest, and retain the moneys or securities as the Board from time to time determines. The Board may not engage in business or exercise a voting privilege which may be incidental to securities in such trust funds, nor may the Secretary of the Treasury make investments for the account of the Board which

could not lawfully be made by a trust company in the District of Columbia, unless directly authorized by the instrument of gift or bequest under which the funds to be invested are derived, and may retain investments accepted by the Board. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300dd (July 9, 1941, ch. 284, § 4, 55 Stat. 581).

§ 2307. Trust fund account; disbursements; sales of publications and releases.

The income from trust funds held by the Board, and the proceeds from the sale of securities and other personal property, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the National Archives Trust Fund, subject to disbursement by the Division of Disbursement, Treasury Department, on the basis of certified vouchers of the Chairman or his authorized agent, unless otherwise restricted by the instrument of gift or bequest, for and in the interest of the national archival and records activities administered by the General Services Administration, including but not restricted to the preparation and publication of special works and collections of sources and the preparation, duplication, editing, and release of historical photographic materials and sound recordings. The Chairman may sell publications and releases authorized by this section and paid for out of the income derived from trust funds at a price which will cover their cost plus 10 percent, and moneys received from these sales shall be paid into, administered, and expended as part of the National Archives Trust Fund. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300ee (July 9, 1941, ch. 284, § 5, 55 Stat. 581).

§ 2308. Tax exemption for gifts.

Gifts and bequests received by the Board under this chapter, and the income from them are exempt from taxes. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 300gg (July 9, 1941, ch. 284, § 7, 55 Stat. 582).

Chapter 25.—NATIONAL HISTORICAL PUBLICATIONS COMMISSION

Sec.
2501. Creation; composition; appointment and tenure.
2502. Vacancies.
2503. Executive director; editorial and clerical staff; reimbursement of members for transportation expenses; honorarium.
2504. Duties; authorization of grants for collection, reproduction, and publication of documentary historical source material.
2505. Special advisory committees; membership; reimbursement.
2506. Records to be kept by grantees.
2507. Report to Congress.

CROSS REFERENCES

Accounting systems, forms, and procedures: authority of Comptroller General; settlement of accounts of collecting and disbursing officers with General Accounting Office, responsibility for, see section 3107 of this title.

Definitions applicable to provisions of Federal Property and Administrative Services Act of 1949, see section 472 of Title 40, Public Buildings, Property, and Works.

Definitions used in provisions respecting records management by Administrator of General Services to have same meaning when used in this chapter, see section 2901 of this title; title 7 section 79.

Exemptions from provisions of this chapter, see section 474 of Title 40, Public Buildings, Property, and Works.

Federal agency management program to provide for compliance with this chapter and regulations thereunder, see section 3102 of this title.

Federal Records Council, consultation of Administrator of General Services with Council with view of obtaining advice and assistance in carrying out the purposes of this chapter, see section 2701 of this title.

Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2701, 2901 of this title; title 7 section 79.

§ 2501. Creation; composition; appointment and tenure.

The National Historical Publications Commission shall consist of the Archivist of the United States (or an alternate designated by him), who shall be Chairman; the Librarian of Congress (or an alternate designated by him); one Senator to be appointed, for a term of four years, by the President of the Senate; one Representative to be appointed, for a term of two years, by the Speaker of the House of Representatives; one member of the judicial branch of the Government to be appointed, for a term of four years, by the Chief Justice of the United States; one representative of the Department of State to be appointed, for a term of four years, by the Secretary of State; one representative of the Department of Defense to be appointed, for a term of four years, by the Secretary of Defense; two members of the American Historical Association to be appointed for terms of four years by the council of the Association; and two other members outstanding in the fields of the social or physical sciences to be appointed for terms of four years by the President of the United States.

The Commission shall meet annually and on call of the Chairman.

The authority of the Administrator of General Services under section 754 of title 40 to regroup, transfer, and distribute functions within the General Services Administration does not extend to the Commission or its functions. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 391 (part), 393(a) (June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381, and title V, § 503(a) as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

This section incorporates only the last sentence of paragraph (b) of former section 391. The balance of that section will be found in sections 1506, 2102, 2301, and 2902 of the revision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2502. Vacancies.

A person appointed to fill a vacancy in the membership of the Commission shall be appointed only for the unexpired term of the member whom he succeeds, and his appointment shall be made in the same manner as the appointment of his predecessor. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(b) (June 30, 1949, ch. 288, title V, § 503(b), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2503. Executive director; editorial and clerical staff; reimbursement of members for transportation expenses; honorarium.

The Commission may appoint, without reference to chapter 51 of title 5, an executive director and such editorial and clerical staff as it determines to be necessary. Members of the Commission who represent a branch or agency of the Government shall serve as members of the Commission without additional compensation. All members of the Commission shall be reimbursed for transportation expenses incurred in attending meetings of the Commission, and members other than those who represent a branch or agency of the Government of the United States shall receive instead of subsistence en route to or from or at the place of service, for each day actually spent in connection with the performance of their duties as members of the Commission, a sum, not to exceed $25, as the Commission prescribes. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(c) (June 30, 1949, ch. 288, title V, § 503(c), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2504. Duties; authorization of grants for collection, reproduction, and publication of documentary historical source material.

The Commission shall make plans, estimates, and recommendations for historical works and collections of sources, it considers appropriate for printing or otherwise recording at the public expense. It shall also cooperate with and encourage appropriate Federal, State, and local agencies and nongovermental institutions, societies, and individuals in collecting and preserving and, when it considers it desirable, in editing and publishing the papers of outstanding citizens of the United States, and other documents as may be important for an understanding and appreciation of the history of the United States. The Administrator of General Services may, within the limits of available appropriated and donated funds, make allocations to Federal agencies, and grants to State and local agencies and to nonprofit organizations and institutions, for the collecting, describing, preserving and compiling, and publishing (including microfilming and other forms of reproduction) of documentary sources significant to the history of the United States. Before making allocations and grants, the Administrator should seek the advice and recommendations of the National Historical Publications Commission. The Chairman of the Commission shall transmit to the Administrator from time to time, and at least annually, plans, estimates, and recommendations approved by the Commission. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(d) (June 30, 1949, ch. 288, title V, § 503(d), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 28, 1964, Pub. L. 88–383, § 503(f) 78 Stat. 335).

AUTHORIZATION OF APPROPRIATIONS

Section 503(f) of act June 30, 1949, ch. 288, title V, as added July 28, 1964, Pub. L. 88–383, 78 Stat. 335, and amended Aug. 8, 1968, Pub. L. 90–461, 82 Stat. 638, provided that: "There is hereby authorized to be appropriated to the General Services Administration for the fiscal year ending June 30, 1965, and each of the nine succeeding fiscal years an amount not to exceed $500,000 each year for the purposes specified in subsection (d) of this section [now this section]: *Provided,* That such appropriations shall be available until expended when so provided in appropriation Acts."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2506, 2507, 3102, 3107 of this title.

§ 2505. Special advisory committees; membership; reimbursement.

The Commission may establish special advisory committees to consult with and make recommendations to it, from among the leading historians, political scientists, archivists, librarians, and other specialists of the Nation. Members of special advisory committees shall be reimbursed for transportation and other expenses on the same basis as members of the Commission. (Pub. L. 90–620, Oct, 22, 1968, 82 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(e) (June 30, 1949, ch. 288, title V, § 503, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 28, 1964, Pub. L. 88–383, 78 Stat. 335).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2506. Records to be kept by grantees.

(a) Each recipient of grant assistance under section 2504 of this title shall keep such records as the Administrator of General Services prescribes, including records which fully disclose the amount and disposition by the recipient of the proceeds of the grants, the total cost of the project or undertaking in connection with which funds are given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and any other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States or their authorized representatives shall have access for the purposes of audit and examination to books, documents, papers, and records of the recipients that are pertinent to the grants received under section 2504 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(g) (June 30, 1949, ch. 288, title V, § 503, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 28, 1964, Pub. L. 88–383, 78 Stat. 335).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2507. Report to Congress.

The Administrator of General Services shall make an annual report to the Congress concerning projects undertaken and carried out under section 2504 of this title, including detailed information concerning the receipt and use of all appropriated and donated funds made available to him. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 393(h) (June 30, 1949, ch. 288, title V, § 503, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 28, 1964, Pub. L. 88-383, 78 Stat. 335).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

Chapter 27.—FEDERAL RECORDS COUNCIL

Sec.
2701. Establishment; composition; chairman.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2901 of this title; title 7 section 79.

§ 2701. Establishment; composition; chairman.

The Administrator of General Services shall establish a Federal Records Council, and shall advise and consult with the Council with a view to obtaining its advice and assistance in carrying out the purposes of chapters 21, 25, 27, 29, and 31 of this title. The Council shall include representatives of the legislative, judicial, and executive branches of the Government in such number as the Administrator determines, but at least four representatives of the legislative branch, at least two representatives of the judicial branch, and at least six representatives of the executive branch. Members of the Council representing the legislative branch shall be designated, in equal number, by the President of the Senate and the Speaker of the House of Representatives, respectively. Members of the Council representing the judicial branch shall be designated by the Chief Justice of the United States. The Administrator may designate from persons named by the head of an executive agency concerned, not more than one representative from the agency to serve as a member of the Council. Members of the Council shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of the duties as members of the Council.

The Council shall elect a chairman from among its own membership, and shall meet at least annually. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 394 (June 30, 1949, ch. 288, title V, § 504, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

CROSS REFERENCES

Accounting systems, forms, and procedures: authority of Comptroller General; settlement of accounts of collecting and disbursing officers with General Accounting Office, responsibility for, see section 3107 of this title.

Definitions applicable to provisions of Federal Property and Administrative Services Act of 1949, see section 472 of Title 40, Public Buildings, Property, and Works.

Definitions used in provisions respecting records management by Administrator of General Services to have same meaning when used in this chapter, see section 2901 of this title.

Federal agency management program to provide for compliance with this section and regulations thereunder, see section 3102 of this title.

Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

Chapter 29.—RECORDS MANAGEMENT BY ADMINISTRATOR OF GENERAL SERVICES

Sec.
2901. Definitions.
2902. Records management, surveys, and reports.
2903. Custody and control of property.
2904. Records management by Administrator; duties generally.
2905. Establishment of standards for selective retention of records; security measures.
2906. Personal inspection and survey of records.
2907. Records centers for storage, process, and servicing of records.
2908. Regulations.
2909. Retentions of records.
2910. Final authority of Administrator in records practices.

CROSS REFERENCES

Accounting systems, forms, and procedures: authority of Comptroller General; settlement of accounts of collecting and disbursing officers with General Accounting Office, responsibility for, see section 3107 of this title.

Exemptions from provisions of this chapter, see section 474 of Title 40, Public Buildings, Property, and Works.

Federal agency management program to provide for compliance with this chapter and regulations thereunder, see section 3102 of this title.

Federal Records Council, consultation of Administrator of General Services with Council with view of obtaining advice and assistance in carrying out the purposes of this chapter, see section 2701 of this title.

General Services Administration, see section 751 et seq. of Title 40, Public Buildings, Property, and Works.

Legal status of reproductions made under regulations to carry out this chapter, see section 2112 of this title.

Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2112, 2701 of this title; title 7 section 79.

§ 2901. Definitions.

As used in chapters 25 and 27, sections 2901, 2903-2910, chapter 31, and sections 2101—2115[1] of this title—

"records" has the meaning given by section 3301 of this title;

"records center" means an establishment maintained by the Administrator of General Services or by a Federal agency primarily for the storage, servicing, security, and processing of records that must be preserved for varying periods of time and need not be retained in office equipment and space;

"servicing" means making available for use information in records and other materials in the custody of the Administrator—

(1) by furnishing the records or other materials, or information from them, or copies or reproductions thereof, to agencies of the Government for official use, and to the public; and

[1] So in original. There is no section 2115.

(2) by making and furnishing authenticated or unauthenticated copies or reproductions of the records and other materials;

"National Archives of the United States" means those official records that have been determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government, and have been accepted by the Administrator for deposit in his custody;

"unauthenticated copies" means exact copies or reproductions of records or other materials that are not certified as such under seal and that need not be legally accepted as evidence.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 401 (June 30, 1949, ch. 288, title V, § 511, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3102, 3107 of this title.

§ 2902. Records management, surveys, and reports.

The Administrator of General Services may—

(1) make surveys of Government records and records management and disposal practices and obtain reports on them from Federal agencies;

(2) promote, in cooperation with the executive agencies, improved records management practices and controls in agencies, including the central storage or disposition of records not needed by agencies for their current use; and

(3) report to the Congress and the Director of the Bureau of the Budget from time to time the results of these activities.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 391 (part) (June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381).

This section incorporates only paragraph (c) of former section 391. The remainder of that section will be found in sections 1506, 2102, 2301, 2501, of the revision.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 2903. Custody and control of property.

The Administrator shall have immediate custody and control of the National Archives Building and its contents, and may design, construct, purchase, lease, maintain, operate, protect, and improve buildings used by him for the storage of records of Federal agencies in the District of Columbia and elsewhere. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 392 (June 30, 1949, ch. 288, title V, § 502, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2901, 3102 of this title.

§ 2904. Records management by Administrator; duties generally.

The Administrator of General Services shall provide for the economical and efficient management of records of Federal agencies by—

(1) analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value, and

(2) promoting the efficient and economical utilization of space, equipment, and supplies needed to create, maintain, store, and service records.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(a) (June 30, 1949, ch. 288, title V, § 505(a), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 2905. Establishment of standards for selective retention of records; security measures.

The Administrator of General Services shall establish standards for the selective retention of records of continuing value, and assist Federal agencies in applying the standards to records in their custody. He shall notify the head of a Federal agency of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that shall come to his attention, and assist the head of the agency in initiating action through the Attorney General for the recovery of records unlawfully removed and for other redress provided by law. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(b) (June 30, 1949, ch. 288, title V, § 505(b), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 2906. Personal inspection and survey of records.

The Administrator of General Services may inspect or survey personally or by deputy the records of any Federal agency, and make surveys of records management and records disposal practices in agencies. Officials and employees of agencies shall give him full cooperation in inspections and surveys. Records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected or surveyed in accordance with regulation promulgated by the Administrator, subject to the approval of the head of the custodial agency. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(c) (June 30, 1949, ch. 288, title V, § 505(c), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 2907. Records centers for storage, process, and servicing of records.

The Administrator of General Services may establish, maintain, and operate—

(1) records centers for the storage, processing, and servicing of records for Federal agencies pending their deposit with the National Archives of the United States or their disposition in any other manner authorized by law; and

(2) centralized microfilming services for Federal agencies.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(d) (June 30, 1949, ch. 288, title V, § 505(d), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 2908. Regulations.

Subject to applicable law, the Administrator of General Services shall promulgate regulations governing the transfer of records from the custody of one executive agency to that of another. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(e) (June 30, 1949, ch. 288, title V, § 505(e), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 2909. Retention of records.

The Administrator of General Services may empower a Federal agency, upon the submission of evidence of need, to retain records for a longer period than that specified in disposal schedules; and, in accordance with regulations promulgated by him, may withdraw disposal authorizations covering records listed in disposal schedules. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1297; Pub. L. 91–287, § 4, June 23, 1970, 84 Stat. 322.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 395(f) (June 30, 1949, ch. 288, title V, § 505(f), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

AMENDMENTS

1970—Pub. L. 91–287 struck out "approved by Congress" following "disposal schedules" in two instances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107, 3303a of this title.

§ 2910. Final authority of Administrator in records practices.

The Administrator of General Services shall have final authority in matters involving the conduct of surveys of Government records, and records creation, maintenance, management and disposal practices in Federal agencies, under sections 2904—2909 and 3101—3107 of this title, and the implementation of recommendations based on surveys. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396a (Aug. 26, 1954, ch. 935, ch. VIII, § 801, 68 Stat. 816).

A reference to the Federal Property and Administrative Services Act of 1949 is deleted as unnecessary since the source of this section was enacted subsequent to that act and consequently superseded it to the extent that this section is inconsistent with that Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2901, 3107 of this title.

Chapter 31.—RECORDS MANAGEMENT BY FEDERAL AGENCIES

Sec.
3101. Records management by agency heads; general duties.
3102. Establishment of program of management.
3103. Storage, processing, and servicing of records.
3104. Certifications and determinations on transferred records.
3105. Safeguards.
3106. Unlawful removal, destruction of records.
3107. Authority of Comptroller General.

CROSS REFERENCES

Definitions applicable to provisions of Federal Property and Administrative Services Act of 1949, see section 472 of Title 40, Public Buildings, Property, and Works.

Definitions used in provisions respecting records management by Administrator of General Services to have same meaning when used in this chapter, see section 2901 of this title.

Exemptions from provisions of this chapter, see section 474 of Title 40, Public Buildings, Property, and Works.

Federal agency management program to provide for compliance with this chapter and regulations issued thereunder, see section 3102 of this title.

Federal Records Council, consultation of Administrator of General Services with Council with view of obtaining advice and assistance in carrying out the purposes of this chapter, see section 2701 of this title.

Final authority of Administrator in records practices under this chapter, see section 2910 of this title.

Legal status of reproductions made under regulations to carry out this chapter, see section 2112 of this title.

Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2112, 2701, 2901 of this title; title 7 section 79.

§ 3101. Records management by agency heads; general duties.

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(a) (June 30, 1949, ch. 288, title V, § 506(a), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 3102. Establishment of program of management.

The head of each Federal agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. The program, among other things, shall provide for

(1) effective controls over the creation, maintenance, and use of records in the conduct of current business;

(2) cooperation with the Administrator of General Services in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value; and

(3) compliance with sections 2101—2113, 2501—2507, 2701, 2901, 2903–2909, and 3101—3107, of this title and the regulations issued under them.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(b) (June 30, 1949, ch. 288, title V, § 506(b), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3107 of this title.

§ 3103. Storage, processing, and servicing of records.

When the head of a Federal agency determines that it may effect substantial economies or increased operating efficiency, he shall provide for appropriate storage, processing, and servicing of records in a records center maintained and operated by the Administrator of General Services or, when approved by him, in a center maintained and operated by the head of the Federal agency. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(c) (June 30, 1949, ch. 288, title V, § 506(c), as added Sept. 5, 1950, ch. 849, § 6(d), Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 3104. Certifications and determinations on transferred records.

An official of the Government who is authorized to certify to facts on the basis of records in his custody, may certify to facts on the basis of records that have been transferred by him or his predecessors to the Administrator of General Services, and may authorize the Administrator to certify to facts and to make administrative determinations on the basis of records transferred to the Administrator, notwithstanding any other law. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(d) (June 30, 1949, ch. 288, title V, § 506(d), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended Feb. 5, 1964, Pub. L. 88–265, 78 Stat. 8).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 3105. Safeguards.

The head of each Federal agency shall establish safeguards against the removal or loss of records he determines to be necessary and required by regulations of the Administrator of General Services. Safeguards shall include making it known to officials and employees of the agency—

(1) that records in the custody of the agency are not to be alienated or destroyed except in accordance with sections 3301—3314 of this title, and

(2) the penalties provided by law for the unlawful removal or destruction of records.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(e) (June 30, 1949, ch. 288, title V, § 506(e), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102, 3107 of this title.

§ 3106. Unlawful removal, destruction of records.

The head of each Federal agency shall notify the Administrator of General Services of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency of which he is the head that shall come to his attention, and with the assistance of the Administrator shall initiate action through the Attorney General for the recovery of records he knows or has reason to believe have been unlawfully removed from his agency, or from another Federal agency whose records have been transferred to his legal custody. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(f) (June 30, 1949, ch. 288, title V, § 506(f), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2103, 2108, 2910, 3102, 3107 of this title.

§ 3107. Authority of Comptroller General.

Sections 2101—2113, 2501—2507, 2701, 2901, 2904—2910, and 3101—3107, of this title do not limit the authority of the Comptroller General of the United States with respect to prescribing accounting systems, forms, and procedures, or lessen the responsibility of collecting and disbursing officers for rendition of their accounts for settlement by the General Accounting Office. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 396(g) (June 30, 1949, ch. 288, title V, § 506(g), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2910, 3102 of this title.

Chapter 33.—DISPOSAL OF RECORDS

Sec.
3301. Definition of records.
3302. Regulations covering lists of records for disposal, procedure for disposal, and standards for reproduction; approval by President.
3303. Lists and schedules of records to be submitted to Administrator of General Services by head of each Government agency.

Sec.
3303a. Examination by Administrator of General Services of lists and schedules of records lacking preservation value; disposal of records.
3308. Disposal of similar records where prior disposal was authorized.
3309. Preservation of claims of Government until settled in General Accounting Office; disposal authorized upon written approval of Comptroller General.
3310. Disposal of records constituting menace to health, life, or property.
3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Administrator of General Services.
3312. Photographs or microphotographs of records considered as originals; certified reproductions admissible in evidence.
3313. Moneys from sale of records payable into the Treasury.
3314. Procedures for disposal of records exclusive.

AMENDMENTS

1970—Pub. L. 91-287, § 3, June 23, 1970, 84 Stat. 322, inserted item 3303a and deleted items 3304 to 3307.

CROSS REFERENCES

Reports from Federal agencies on their activities under this chapter, authority of Administrator of General Services to obtain; correction of violations, see section 2111 of this title.

Safeguards against removal or loss of records, prohibition against alienation or destruction except in accordance with this chapter, see section 3105 of this title.

§ 3301. Definition of records.

As used in this chapter, "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 366 (July 7, 1943, ch. 192, § 1, 57 Stat. 380).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2901, 3105 of this title.

§ 3302. Regulations covering lists of records for disposal, procedure for disposal, and standards for reproduction; approval by President.

The Administrator of General Services shall promulgate regulations, not inconsistent with this chapter, establishing—

(1) procedures for the compiling and submitting to him of lists and schedules of records proposed for disposal,

(2) procedures for the disposal of records authorized for disposal, and

(3) standards for the reproduction of records by photographic or microphotographic processes with a view to the disposal of the original records. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 367 (July 7, 1943, ch. 192, § 2, 57 Stat. 381; June 30, 1949, ch. 288, title I, § 104, 63 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3105, 3303, 3303a, 3308 of this title.

§ 3303. Lists and schedules of records to be submitted to Administrator of General Services by head of each Government agency.

The head of each agency of the United States Government shall submit to the Administrator of General Services, under regulations promulgated as provided by section 3302 of this title—

(1) lists of any records in the custody of the agency that have been photographed or microphotographed under the regulations and that, as a consequence, do not appear to have sufficient value to warrant their further preservation by the Government;

(2) lists of other records in the custody of the agency not needed by it in the transaction of its current business and that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government; and

(3) schedules proposing the disposal after the lapse of specified periods of time of records of a specified form or character that either have accumulated in the custody of the agency or may accumulate after the submission of the schedules and apparently will not after the lapse of the period specified have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 368 (July 7, 1943, ch. 192, § 3, 57 Stat. 381; June 30, 1949, ch. 288, title I, § 104 (a), 68 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3105, 3303a of this title.

§ 3303a. Examination by Administrator of General Services of lists and schedules of records lacking preservation value; disposal of records.

(a) The Administrator of General Services shall examine the lists and schedules submitted to him under section 3303 of this title. If the Administrator determines that any of the records listed in a list or schedule submitted to him do not, or will not after the lapse of the period specified, have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government, he may—

(1) notify the agency to that effect; and

(2) empower the agency to dispose of those records in accordance with regulations promulgated under section 3302 of this title.

(b) Authorizations granted under lists and schedules submitted to the Administrator under section

3303 of this title shall be mandatory, subject to section 2909 of this title. Authorizations granted under schedules promulgated under subsection (d) of this section shall be permissive.

(c) The Administrator may request advice and counsel from the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives with respect to the disposal of any particular records under this chapter whenever he considers that—

(1) those particular records may be of special interest to the Congress; or

(2) consultation with the Congress regarding the disposal of those particular records is in the public interest.

However, this subsection does not require the Administrator to request such advice and counsel as a regular procedure in the general disposal of records under this chapter.

(d) The Administrator may promulgate schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government.

(e) The Administrator may approve and effect the disposal of records that are in his legal custody, provided that records that had been in the custody of another existing agency may not be disposed of without the written consent of the head of the agency.

(f) The Administrator shall make an annual report to the Congress concerning the disposal of records under this chapter, including general descriptions of the types of records disposed of and such other information as he considers appropriate to keep the Congress fully informed regarding the disposal of records under this chapter. (Added Pub. L. 91–287, § 1, June 23, 1970, 84 Stat. 321.)

§§ 3304 to 3307. Repealed. Pub. L. 91–287, § 2(c) June 23, 1970, 84 Stat. 321.

Sections, Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1300, 1301, related to disposal of records as follows:

Section 3304, submission to Congress by Administrator of General Services of lists and schedules of records lacking preservation value.

Section 3305, examination of lists and schedules by joint congressional committees and report to Congress.

Section 3306, disposal of records by head of Government agency upon notification by Administrator of action by joint congressional committee.

Section 3307, disposal of records upon failure of joint congressional committee to act.

Subject matter is now covered by section 3303a of this title, last sentence of first par. and second par. of former section 3304 of this title being covered by subsecs. (e) and (d) of section 3303a of this title, respectively.

§ 3308. Disposal of similar records where prior disposal was authorized.

When it appears to the Administrator of General Services that an agency has in its custody, or is accumulating, records of the same form or character as those of the same agency previously authorized to be disposed of, he may empower the head of the agency to dispose of the records, after they have been in existence a specified period of time, in accordance with regulations promulgated under section 3302 of this title and without listing or scheduling them. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1301; Pub. L. 91–287, § 2(a), June 23, 1970, 84 Stat. 321.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 373 (July 7, 1943, ch. 192, § 8, 57 Stat. 382; June 30, 1949, ch. 288, Title I, § 104(a), 63 Stat. 381).

AMENDMENTS

1970—Pub. L. 91–287 struck out "by Congress" following "authorized".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3105, 3309 of this title.

§ 3309. Preservation of claims of Government until settled in General Accounting Office; disposal authorized upon written approval of Comptroller General.

Records pertaining to claims and demands by or against the Government of the United States or to accounts in which the Government of the United States is concerned, either as debtor or creditor, may not be disposed of by the head of an agency under authorization granted under this chapter, until the claims, demands, and accounts have been settled and adjusted in the General Accounting Office, except upon the written approval of the Comptroller General of the United States. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1301; Pub. L. 91–287, § 2(b), June 23, 1970, 84 Stat. 321.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 374 (July 7, 1943, ch. 192, § 9, 57 Stat. 382).

AMENDMENTS

1970—Pub. L. 91–287 substituted "under this chapter" for "under sections 3306–3308 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3310. Disposal of records constituting menace to health, life, or property.

When the Administrator of General Services and the head of the agency that has custody of them jointly determine that records in the custody of an agency of the United States Government are a continuing menace to human health or life or to property, the Administrator shall eliminate the menace immediately by any method he considers necessary. When records in the custody of the Administrator are disposed of under this section, the Administrator shall report their disposal to the agency from which they were transferred. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1301.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 375 (July 7, 1943, ch. 192, § 10, 57 Stat. 382; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Administrator of General Services.

During a state of war between the United States and another nation, or when hostile action by a foreign power appears imminent, the head of an

agency of the United States Government may authorize the destruction of records in his legal custody situated in a military or naval establishment, ship, or other depository outside the territorial limits of continental United States—

(1) the retention of which would be prejudicial to the interests of the United States or

(2) which occupy space urgently needed for military purposes and are, in his opinion, without sufficient administrative, legal, research, or other value to warrant their continued preservation.

Within six months after their disposal, the official who directed the disposal shall submit a written report to the Administrator of General Services in which he shall describe the character of the records and state when and where he disposed of them. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1301.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 376 (July 7, 1943, ch. 192, § 11, 57 Stat. 382; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3312. Photographs or microphotographs of records considered as originals; certified reproductions admissible in evidence.

Photographs or microphotographs of records made in compliance with regulations under section 3302 of this title shall have the same effect as the originals and shall be treated as originals for the purpose of their admissibility in evidence. Certified or authenticated reproductions of the photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 378 (July 7, 1943, ch. 192, § 13, 57 Stat. 382).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3313. Moneys from sale of records payable into the Treasury.

Moneys derived by agencies of the Government from the sale of records disposed of under this chapter shall be paid into the Treasury of the United States unless otherwise required by law. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 379 (July 7, 1943, ch. 192, § 14, 57 Stat. 383).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3314. Procedures for disposal of records exclusive.

The procedures prescribed by this chapter are exclusive, and records of the United States Government may not be alienated or destroyed except under this chapter. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 380 (July 7, 1943, ch. 192, § 15, 57 Stat. 383).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

Chapter 35.—COORDINATION OF FEDERAL REPORTING SERVICES

Sec.
3501. Information for Federal agencies.
3502. Definitions.
3503. Duties of Director of the Bureau of the Budget.
3504. Designation of central collection agency.
3505. Independent collection by an agency prohibited.
3506. Determination of necessity for information; hearing.
3507. Cooperation of agencies in making information available.
3508. Unlawful disclosure of information; penalties; release of information to other agencies.
3509. Plans or forms for collecting information; submission to Director; approval.
3510. Rules and regulations.
3511. Penalty for failure to furnish information.

§ 3501. Information for Federal agencies.

Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 421 (Dec. 24, 1942, ch. 811, § 2, 56 Stat. 1078).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3502. Definitions.

As used in this chapter—

"Federal agency" means an executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but does not include the General Accounting Office nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

"person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State or territorial government or branch, or a political subdivision of a State or territory or a branch of a political subdivision;

"information" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 426 (Dec. 24, 1942, ch. 811, § 7, 56 Stat. 1079).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3503. Duties of Director of the Bureau of the Budget.

With a view to carrying out the policy of this chapter, the Director of the Bureau of the Budget from time to time shall—

(1) investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies;

(2) investigate the methods used by agencies in obtaining information; and

(3) coordinate as rapidly as possible the information-collecting services of all agencies with a view to reducing the cost to the Government of obtaining information and minimizing the burden upon business enterprises and other persons, and using, as far as practicable, for continuing organization, files of information and existing facilities of the established Federal agencies.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed.. Supp. II, § 422(a) (Dec. 24, 1942, ch. 811, § 3(a), 56 Stat. 1078).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3504. Designation of central collection agency.

When, after investigation, the Director of the Bureau of the Budget is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and other interested persons may have an opportunity to present their views. After the hearing, the Director may issue an order designating a collecting agency to obtain information for two or more of the agencies concerned, and prescribing (with reference to the collection of information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. The Director may modify the order from time to time as circumstances require, but modification may not be made except after investigation and hearing. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(b) (Dec. 24, 1942, ch. 811, § 3(b), 56 Stat. 1078).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3505. Independent collection by an agency prohibited.

While an order or modified order is in effect, a Federal agency covered by it may not obtain for itself information which it is the duty of the collecting agency designated by the order to obtain. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(c) (Dec. 24, 1942, ch. 811, § 3(c), 56 Stat. 1078).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3506. Determination of necessity for information; hearing.

Upon the request of a party having a substantial interest, or upon his own motion, the Director of the Bureau of the Budget may determine whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency or for any other proper purpose. Before making a determination, he may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines the collection of information by the agency is unnecessary, for any reason, the agency may not engage in the collection of the information. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1303.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(d) (Dec. 24, 1942, ch. 811, § 3(d), 56 Stat. 1078).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3507. Cooperation of agencies in making information available.

For the purposes of this chapter, the Director of the Bureau of the Budget may require a Federal agency to make available to another Federal agency

information obtained from any person after December 24, 1942, and all agencies are directed to cooperate to the fullest practicable extent at all times in making information available to other agencies.

This chapter does not apply to the obtaining or releasing of information by the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department, nor to the obtaining by a Federal bank supervisory agency of reports and information from banks as authorized by law and in the proper performance of the agency's functions in its supervisory capacity. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1304.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(e) (Dec. 24, 1942, ch. 811, § 3(e), 56 Stat. 1078).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3508. Unlawful disclosure of information; penalties; release of information to other agencies.

(a) If information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law including penalties which relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

(b) Information obtained by a Federal agency from a person under this chapter may be released to another Federal agency only—

(1) in the form of statistical totals or summaries; or

(2) if the information as supplied by persons to a Federal agency had not, at the time of collection, been declared by that agency or by a superior authority to be confidential; or

(3) when the persons supplying the information consent to the release of it to a second agency by the agency to which the information was originally supplied; or

(4) when the Federal agency to which another Federal agency releases the information has authority to collect the information itself and the authority is supported by legal provision for criminal penalties against persons failing to supply the information.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1304.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 423 (Dec. 24, 1942, ch. 811, § 4, 56 Stat. 1079).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3509. Plans or forms for collecting information; submission to Director; approval.

A Federal agency may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency has submitted to the Director the plans or forms, together with copies of pertinent regulations and of other related materials as the Director of the Bureau of the Budget has specified; and

(2) the Director has stated that he does not disapprove the proposed collection of information.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1304.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 424 (Dec. 24, 1942, ch. 811, § 5, 56 Stat. 1079).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

§ 3510. Rules and regulations.

The Director of the Bureau of the Budget may promulgate rules and regulations necessary to carry out sections 3501—3511 of this title. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 425 (Dec. 24, 1942, ch. 811, § 6, 56 Stat. 1079).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 3511. Penalty for failure to furnish information.

A person failing to furnish information required by an agency shall be subject to penalties specifically prescribed by law, and no other penalty may be

imposed either by way of fine or imprisonment or by the withdrawal or denial of a right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity is legally conditioned on facts which would be revealed by the information requested. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., Supp. II, § 427 (Dec. 24, 1942, ch. 811, § 8, 56 Stat. 1080).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3510 of this title.

Chapter 37.—ADVERTISEMENTS BY GOVERNMENT AGENCIES

Sec.
3701. Advertisements for contracts in District of Columbia.
3702. Advertisements not to be published without written authority.
3703. Rate of payment for advertisements, notices, and proposals.

§ 3701. Advertisements for contracts in District of Columbia.

Advertisements for contracts for the public service may not be published in any newspaper published and printed in the District of Columbia unless the supplies or labor covered by the advertisement are to be furnished or performed in the District of Columbia or in the adjoining counties of Maryland or Virginia. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 321 (R.S. § 79; June 20, 1874, ch. 328, 18 Stat. 90; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317; July 31, 1876, ch. 246, 19 Stat. 105; Aug. 2, 1946, ch. 744, § 17(b), 60 Stat. 811; 1950 Reorg. Plan No. 20, § 2(b), eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272).

CROSS REFERENCES

Procurement procedures, advertising requirements, see section 253 of Title 41, Public Contracts.

Quality of quantities of paper for public printing, advertisements for proposals, see section 509 of this title.

Specifications in advertisements for paper, see section 510 of this title.

§ 3702. Advertisements not to be published without written authority.

Advertisements, notices, or proposals for an executive department of the Government, or for a bureau or office connected with it, may not be published in a newspaper except under written authority from the head of the department; and a bill for advertising or publication may not be paid unless there is presented with the bill a copy of the written authority. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 324 (R.S. § 3828).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 302; title 26 section 2126.

§ 3703. Rate of payment for advertisements, notices, and proposals.

Advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts. But the heads of the several departments may secure lower terms at special rates when the public interest requires it. The rates shall include the furnishing of lawful evidence, under oath, of publication, to be made and furnished by the printer or publisher making publication. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1305.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 322, 325 (R.S. § 853; June 20, 1878, ch. 359, § 1, 20 Stat. 216; Sept. 23, 1950, ch. 1010, § 5, 64 Stat. 986).

The second sentence of former section 325 was added. The balance was superseded by former section 322 which will be found in section 3703 of the revision.

TITLE 45.—RAILROADS

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CROSS REFERENCE

Land grant in aid of railroads, see chapter 21 of Title 43, Public Lands.

Chapter 1.—SAFETY APPLIANCES AND EQUIPMENT ON RAILROAD ENGINES AND CARS, AND PROTECTION OF EMPLOYEES AND TRAVELERS

Sec.

1. Driving-wheel brakes and appliances for operating train-brake system.
2. Automatic couplers.
3. Refusal of insufficiently equipped cars from connecting lines.
4. Grab irons or handholds for security in coupling and uncoupling cars.
5. Standard height of drawbars for freight cars; noncomplying cars excluded from traffic.
6. Failure to equip cars as provided; duty of United States attorneys and Secretary of Transportation; exceptions from operation of provisions.
7. Assumption of risk by employees.
8. Provisions of certain sections extended.
9. Power or train brakes; operation by engineer; rules for installation, inspection, maintenance, and repair.
10. Former duties, requirements, and liabilities continued unless specifically amended.
11. Safety appliances required for each car; when hand brakes may be omitted.
12. Safety appliances, as designated by the Secretary of Transportation to be standards of equipment; modification of standard height of drawbars.
13. Penalty for using car not equipped as provided; hauling car for repairs where equipment becomes defective; liability for death or injury of employee; use of chains instead of drawbars.
14. Liability for using car with defective equipment, except as specified.
15. Enforcement by Secretary.
16. Application of provisions to common carriers and vehicles subject to "Safety Appliance Acts".
17. Locomotives to be equipped with safety ash pans.
18. Penalty for violation, and actions therefor; duties of United States attorneys and of Secretary.
19. Enforcement by Secretary of provisions as to safety ash pans.

Sec.

20. Who included in term "common carrier".
21. Provisions not applicable to locomotives on which ash pan not necessary.
22. Inspection of locomotives and appurtenances; definitions.
23. Use of unsafe locomotives and appurtenances unlawful; inspection and tests.

24 to 27. Omitted.

28. Rules and instructions as to inspection.
29. Duties of district inspectors; inspection and repairs by carriers; notice to carrier of condition of boiler; appeal to director and reexamination; further appeal to Secretary.
30. Powers and duties of inspectors, and provisions of certain sections applicable to all parts of locomotive and tender; examinations of inspectors.
31. Annual report of director.
32. Report by carrier to director as to accident; preservation of disabled parts; investigation and report thereupon.
33. Reports by Secretary of investigations.
34. Penalty for violations by carrier; duty of United States attorney to sue therefor; director to give information.
35. Investigation and report by Secretary on block-signal systems and appliances for automatic control of trains; evidence.
36. Investigation and testing by Secretary of appliances or systems to promote safety.
37. Inspection of mail cars.
38. Monthly reports of railroad accidents; duty of carrier to make.
39. Penalty for failure to make report.
40. Investigation by Secretary of accidents; cooperation with State commissions; reports of investigations.
41. Reports not evidence in suits for damages.
42. Rules and regulations; form of reports.
43. Definitions.

44 to 46. Transferred.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 section 751.

§ 1. Driving-wheel brakes and appliances for operating train-brake system.

It shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose. (Mar. 2, 1893, ch. 196, § 1, 27 Stat. 531.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1)(A) of Title 49, Transportation.

SAFETY APPLIANCE ACTS

The following acts are commonly referred to as Safety Appliance Acts:

Mar. 2, 1893, ch. 196, 27 Stat. 531. See sections 1—7 of this title.

Mar. 2, 1903, ch. 976, 32 Stat. 943. See sections 8—10 of this title.

Apr. 14, 1910, ch. 160, 36 Stat. 298. See sections 11—16 of this title.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6, 7, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 2. Automatic couplers.

It shall be unlawful for any common carrier engaged in interstate commerce by railroad to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars. (Mar. 2, 1893, ch. 196, § 2, 27 Stat. 531.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1)(A) of Title 49, Transportation.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6, 7, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 3. Refusal of insufficiently equipped cars from connecting lines.

When any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section 1 of this title, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with said section, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by sections 1 to 7 of this title. (Mar. 2, 1893, ch. 196, § 3, 27 Stat. 531.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1)(A) of Title 49, Transportation.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6, 7, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 4. Grab irons or handholds for security in coupling and uncoupling cars.

Until otherwise ordered by the Secretary of Transportation, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or handholds in the ends and sides of each car for greater security to men in coupling and uncoupling cars. (Mar. 2, 1893, ch. 196, § 4, 27 Stat. 531.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(A) of Title 49, Transportation.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6, 7, 8, 9, 10, 12, 13, 14, 16, 37 of this title.

§ 5. Standard height of drawbars for freight cars; noncomplying cars excluded from traffic.

No freight cars, either loaded or unloaded, shall be used in interstate traffic which do not comply with the prescribed standard as to height of drawbars. (Mar. 2, 1893, ch. 196, § 5, 27 Stat. 531.)

CODIFICATION

Section is based on last sentence of section 5 of Act Mar. 2, 1893. The first part of section 5, authorizing the American Railway Association to designate the standard height of drawbars and to certify its determination to the Interstate Commerce Commission, and requiring the Commission to give notice of the standard to all common carriers and to determine a standard if the association failed to do so, was omitted as executed.

TRANSFER OF FUNCTIONS

All powers duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

Modification of height of drawbars by Interstate Commerce Commission, see section 12 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6, 7, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 6. Failure to equip cars as provided; duty of United States attorneys and Secretary of Transportation; exceptions from operation of provisions.

Any common carrier engaged in interstate commerce by railroad using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of sections 1 to 7 of this title, shall be liable to a penalty of $250 for each and every such violation, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Secretary of Transportation to lodge with the proper United States attorneys information of any such violations as may come to his knowledge: *Provided,* That nothing in sections 1 to 7 of this title shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs. (Mar. 2, 1893, ch. 196, § 6, 27 Stat. 532; Apr. 1, 1896, ch. 87, 29 Stat. 85; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Aug. 14, 1957, Pub. L. 85–135, § 1 (1), 71 Stat. 352.)

AMENDMENTS

1957—Pub. L. 85–135 substituted "$250" for "$100".

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(A) of Title 49, Transportation.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" in the catchline and "United States attorney" for "United States district attorney", "United States attorney" for "district attorney" and "United States attorneys" for "district attorneys", respectively, in the order enumerated in the text of this section. See section 541 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 7, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 7. Assumption of risk by employees.

Any employee of any common carrier engaged in interstate commerce by railroad who may be injured by any locomotive, car, or train in use contrary to the provision of sections 1 to 7 of this title shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car, or train had been brought to his knowledge. (Mar. 2, 1893, ch. 196, § 8, 27 Stat. 532.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

CROSS REFERENCES

Assumption of risks of employment, see section 54 of this title.

Common carriers by railroads in the Territories and the District of Columbia, section as applicable to, see section 8 of this title.

Contributory negligence by employees, see section 53 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6, 8, 9, 10, 13, 14, 16, 37 of this title.

§ 8. Provisions of certain sections extended.

The provisions and requirements of sections 1 to 7 of this title shall be held to apply to common carriers by railroads in the Territories and the District of Columbia and shall apply in all cases, whether or not the couplers brought together are of the same kind, make, or type; and the provisions and requirements relating to train brakes, automatic couplers, grab irons, and the height of drawbars shall be held to apply to all trains, locomotives, tenders, cars, and similar vehicles used on any railroad engaged in interstate commerce, and in the Territories and the District of Columbia, and to all other locomotives, tenders, cars, and similar vehicles used in connection therewith, excepting those trains, cars, and locomotives exempted by the provisions of section 6 of this title, or which are used upon street railways. (Mar. 2, 1903, ch. 976, § 1, 32 Stat. 943.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SAFETY APPLIANCE ACT

This section and sections 9 and 10 of this title constitute the Safety Appliance Act of Mar. 2, 1903. Act Mar. 2, 1903 amended the Safety Appliance Act of Mar. 2, 1893, ch. 196, 27 Stat. 531, as amended by act Apr. 1, 1896, ch. 87, 29 Stat. 85.

CROSS REFERENCES

Carriers subject to section generally, see section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10, 13, 14, 16 of this title.

§ 9. Power or train brakes; operation by engineer; rules for installation, inspection, maintenance, and repair.

Whenever, as provided in sections 1 to 7 of this title, any train is operated with power or train brakes not less than 50 per centum of the cars in such train shall have their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said 50 per centum shall have their brakes so used and operated; and, to more fully carry into effect the objects of said sections, the Secretary of Transportation may, from time to time, after full hearing, increase the minimum percentage of cars in any train required to be operated with power or train brakes which must have their brakes used and operated as aforesaid. The rules, standards, and instructions of the Association of American Railroads, adopted in 1925 and revised in 1933, 1934, 1941, and 1953, with such revisions as may have been adopted prior to the date of enactment of the Power or Train Brakes Safety Appliance Act of 1958, for the installation, inspection, maintenance, and repair of all power or train brakes for common carriers engaged in interstate commerce by railroad shall remain the rules, standards, and instructions for the installation, inspection, maintenance, and repair of all power or train brakes unless changed, after hearing, by order of the Secretary of Transportation: *Provided, however,* That such rules or standards or instructions or changes therein shall be promulgated solely for the purpose of achieving safety. The provisions and requirements of this section shall apply to all trains, locomotives, tenders, cars, and similar vehicles used, hauled, or permitted to be used or hauled, by any railroad engaged in interstate commerce. In the execution of this section, the Secretary of Transportation may utilize the services of the Association of American Railroads, and may avail himself of the advice and assistance of any department, commission, or board of the United States Government, and of State governments, but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law. Failure to comply with any rule, regulation, or requirement promulgated by the Secretary of Transportation pursuant to the provisions of this section shall be subject to the like penalty as failure to comply with any requirement of this section. (Mar. 2, 1903, ch. 976, § 2, 32 Stat. 943; Apr. 11, 1958, Pub. L. 85–375, 72 Stat. 86.)

REFERENCES IN TEXT

The Power or Train Brakes Safety Appliance Act of 1958, referred to in the text, is Pub. L. 85–375, which amended this section.

The date of enactment of the Power or Train Brakes Safety Appliance Act of 1958, referred to in the text, is Apr. 11, 1958.

CODIFICATION

Provisions for the initial adoption and implementation by the Interstate Commerce Commission of the rules, standards, and instructions of the Association of American Railroads one hundred and twenty days after the enactment of the Power or Train Brakes Safety Appliance Act of 1958, have been omitted as executed.

AMENDMENTS

1958—Pub. L. 85–375 required the Commission [now the Secretary of Transportation, see Transfer of Functions note below] to adopt and put into effect the rules, standards, and instructions of the Association of American Railroads for the installation, inspection, maintenance, and repair of all power or train brakes.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(B) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10, 13, 14, 16 of of this title.

§ 10. Former duties, requirements, and liabilities continued unless specifically amended.

Nothing in sections 8 and 9 of this title shall be held or construed to relieve any common carrier, the Secretary of Transportation, or any United States attorney from any of the provisions, powers, duties, liabilities, or requirements of sections 1 to 7 of this title, and all of such provisions, powers, duties, requirements, and liabilities shall, except as specifically amended by sections 8 and 9 of this title, apply thereto. (Mar. 2, 1903, ch. 976, § 3, 32 Stat. 943; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(B) of Title 49, Transportation.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "United States district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 14, 16 of this title.

§ 11. Safety appliances required for each car; when hand brakes may be omitted.

It shall be unlawful for any common carrier subject to the provisions of sections 11 to 16 of this title to haul, or permit to be hauled or used on its line, any car subject to the provisions of said sections not equipped with appliances provided for in said sections, to wit: All cars must be equipped with secure sill steps and efficient hand brakes; all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards, and all cars having ladders shall also be equipped with secure handholds or grab irons on their roofs at the tops of such ladders: *Provided,* That in the loading and hauling of long commodities, requiring more than one car, the hand brakes may be omitted

on all save one of the cars while they are thus combined for such purpose. (Apr. 14, 1910, ch. 160, § 2, 36 Stat. 298.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 13, 14, 15, 16 of this title.

§ 12. Safety appliances, as designated by the Secretary of Transportation to be standards of equipment; modification of standard height of drawbars.

The number, dimensions, location, and manner of application of the appliances provided for by sections 4 and 11 of this title as designated by the Secretary of Transportation shall remain as the standards of equipment to be used on all cars subject to the provisions of sections 11 to 16 of this title, unless changed by an order of said Secretary of Transportation to be made after full hearing and for good cause shown; and failure to comply with any such requirement of the Secretary of Transportation shall be subject to a like penalty as failure to comply with any requirement of sections 11 to 16 of this title. Said Secretary is given authority, after hearing, to modify or change, and to prescribe the standard height of drawbars and to fix the time within which such modification or change shall become effective and obligatory, and prior to the time so fixed it shall be unlawful to use any car or vehicle in interstate or foreign traffic which does not comply with the standard now fixed or the standard so prescribed, and after the time so fixed it shall be unlawful to use any car or vehicle in interstate or foreign traffic which does not comply with the standard so prescribed by the Secretary. (Apr. 14, 1910, ch. 160, § 3, 36 Stat. 298.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(C) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 13, 14, 15, 16 of this title.

§ 13. Penalty for using car not equipped as provided; hauling car for repairs where equipment becomes defective; liability for death or injury of employee; use of chains instead of drawbars.

Any common carrier subject to sections 11 to 16 of this title using, hauling, or permitting to be used or hauled on its line, any car subject to the requirements of said sections not equipped as provided in said sections, shall be liable to a penalty of $250 for each and every such violation, to be recovered as provided in section 6 of this title: *Provided,* That where any car shall have been properly equipped, as provided in sections 1 to 16 of this title, and such equipment shall have become defective or insecure while such car was being used by such carrier upon its line of railroad, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car can be repaired, without liability for the penalties imposed by this section or section 6 of this title, if such movement is necessary to make such repairs and such repairs cannot be made except at such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier, and nothing in this section shall be construed to relieve such carrier from liability in any remedial action for the death or injury of any railroad employee caused to such employee by reason of or in connection with the movement or hauling of such car with equipment which is defective or insecure or which is not maintained in accordance with the requirements of sections 1 to 16 of this title; and nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead of drawbars, in revenue trains or in association with other cars that are commercially used, unless such defective cars contain livestock or "perishable" freight. (Apr. 14, 1910, ch. 160, § 4, 36 Stat. 299; Aug. 14, 1957, Pub. L. 85–135, § 1 (2), 71 Stat. 352.)

AMENDMENTS

1957—Pub. L. 85–135 substituted "$250" for "$100".

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 12, 14, 15, 16 of this title.

§ 14. Liability for using car with defective equipment, except as specified.

Except that, within the limits specified in section 13 of this title the movement of a car with defective or insecure equipment may be made without incurring the penalty provided by the statutes, but shall in all other respects be unlawful, nothing in sections 11 to 16 of this title shall be held or construed to relieve any common carrier, the Secretary of Transportation, or any United States attorney from any of the provisions, powers, duties, liabilities, or requirements heretofore set out in sections 1 to 10 of this title; and, except as aforesaid, all of such provisions, powers, duties, requirements, and liabilities shall apply to sections 11 to 16 of this title. (Apr. 14, 1910, ch. 160, § 5, 36 Stat. 299.)

REFERENCES IN TEXT

"Penalty provided by the statutes", referred to in the text, may have reference to the penalty provisions specified in section 13 of this title.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(C) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 12, 13, 15, 16 of this title.

§ 15. Enforcement by Secretary.

It shall be the duty of the Secretary of Transportation to enforce the provisions of sections 11 to 16 of this title as to equipment of each car with safety appliances and all powers heretofore granted to said Secretary are extended to him for the purpose of such enforcement. (Apr. 14, 1910, ch. 160, § 6, 36 Stat. 299.)

TRANSFER OF FUNCTIONS

The Secretary of Transporation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(C) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 12, 13, 14, 16 of this title.

§ 16. Application of provisions to common carriers and vehicles subject to "Safety Appliance Acts."

The provisions of sections 11 to 16 of this title, as to the equipment of cars with the designated safety appliances apply to every common carrier and every vehicle subject to what are commonly known as the "Safety Appliance Acts" set out in sections 1 to 10 of this title. (Apr. 14, 1910, ch. 160, § 1, 36 Stat. 298.)

REFERENCES IN TEXT

"Safety Appliance Acts", referred to in the text, see note under section 1 of this title.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transporation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 12, 13, 14, 15 of this title.

§ 17. Locomotives to be equipped with safety ash pans.

It shall be unlawful for any common carrier engaged in interstate or foreign commerce by railroad to use any locomotive in moving interstate or foreign traffic or for any common carrier by railroad in any Territory of the United States or the District of Columbia to use any locomotive, not equipped with an ash pan, which can be dumped or emptied and cleaned without the necessity of any employee going under such locomotive. (May 30, 1908, ch. 225, §§ 1, 2, 35 Stat. 476.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transporation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

CROSS REFERENCES

Locomotives exempt, see section 21 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18, 20, 21 of this title.

§ 18. Penalty for violation, and actions therefor; duties of United States attorneys and of Secretary.

Any such common carrier using any locomotive in violation of the provisions of section 17 of this title shall be liable to a penalty of $200 for each and every such violation, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Secretary of Transportation to lodge with the proper United States attorneys information of any such violations as may come to his knowledge. (May 30, 1908, ch. 225, § 3, 35 Stat. 476; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transporation. See section 1655(e)(1)(D) of Title 49, Transporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20, 21 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" in the catchline and "United States attorney" for "United States district attorney", "United States attorney" for "district" and "United States attorneys" for "district attorneys", respectively, in the order enumerated in the text of this section. See section 541 of Title 28, Judiciary and Judicial Procedure.

§ 19. Enforcement by Secretary of provisions as to safety ash pans.

It shall be the duty of the Secretary of Transportation to enforce the provisions as to safety ash pans, and all powers heretofore granted to said Secretary are extended to him for the purpose of such enforcement. (May 30, 1908, ch. 225, § 4, 35 Stat. 476.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(D) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21 of this title.

§ 20. Who included in term "common carrier."

The term "common carrier" as used in sections 17 and 18 of this title shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier. (May 30, 1908, ch. 225, § 5, 35 Stat. 476.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety applicances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21 of this title.

§ 21. Provisions not applicable to locomotives on which ash pan not necessary.

Nothing in the provisions of sections 17 to 20 of this title, shall apply to any locomotive upon which, by reason of the use of oil, electricity, or other such agency, an ash pan is not necessary. (May 30, 1908, ch. 225, § 6, 35 Stat. 476.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety applicances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

§ 22. Inspection of locomotives and appurtenances; definitions.

When used in sections 23 and 28 to 34 of this title, the terms "carrier" and "common carrier" means a common carrier by railroad, or partly by railroad and partly by water, within the continental United States, subject to the Interstate Commerce Act, as amended, excluding street, suburban, and interurban electric railways unless operated as a part of a general railroad system of transportation. The term "railroad" as used in said sections shall include all the roads in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and the term "employees" as used in said sections shall be held to mean persons actually engaged in or connected with the movement of any train. (Feb. 17, 1911, ch. 103, § 1, 36 Stat. 913; June 7, 1924, ch. 355, § 1, 43 Stat. 659.)

REFERENCES IN TEXT

The Interstate Commerce Act, as amended, referred to in the text, is classified to chapters 1, 8, 12, 13, and 19 of Title 49, Transportation.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

BOILER INSPECTION ACTS

The following acts are commonly referred to as Boiler Inspection Acts:

Feb. 17, 1911, ch. 103, 36 Stat. 913. See sections 22—29, 31—34 of this title.

Mar. 4, 1915, ch. 169, 38 Stat. 1192. See section 30 of this title.

June 26, 1918, ch. 105, 40 Stat. 616. See sections 24—26 of this title.

June 7, 1924, ch. 355, 43 Stat. 659. See sections 22—27 of this title.

Apr. 22, 1940, ch. 124, 54 Stat. 148. See sections 24—34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 30, 34 of this title.

§ 23. Use of unsafe locomotives and appurtenances unlawful; inspection and tests.

It shall be unlawful for any carrier to use or permit to be used on its line any locomotive unless said locomotive, its boiler, tender, and all parts and appurtenances thereof are in proper condition and safe to operate in the service to which the same are put, that the same may be employed in the active service of such carrier without unnecessary peril to life or limb, and unless said locomotive, its boiler, tender, and all parts and appurtenances thereof have been inspected from time to time in accordance with the provisions of sections 28 to 30 and 32 of this title and are able to withstand such test or tests as may be prescribed in the rules and regulations hereinafter provided for. (Feb. 17, 1911, ch. 103, § 2, 36 Stat. 913; Mar. 4, 1915, ch. 169, § 1, 38 Stat. 1192; June 7, 1924, ch. 355, § 2, 43 Stat. 659.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 29, 30, 34 of this title.

§§ 24 to 27. Omitted.

CODIFICATION

Section 24, acts Feb. 17, 1911, ch. 103, § 3, 36 Stat. 914; Apr. 22, 1940, ch. 124, §1, 54 Stat. 148; May 27, 1947, ch. 85, § 1, 61 Stat. 120; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972, provided for the appointment and salaries of a director of locomotive inspection and two assistant directors of locomotive inspection and is omitted pursuant to Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5,

Government Organization and Employees, which abolishes the offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives. Acts June 26, 1918, ch. 105, 40 Stat. 616; June 7, 1924, ch. 355, § 6, 43 Stat. 639; June 27, 1930, ch. 644, § 1, 46 Stat. 822, which provided for the pay of chief inspector, assistant inspectors, and district directors of locomotives, and related to office allowances for each inspector, and which were formerly set out in the credit to section 24 of this title, were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643, 646, 648.

Section 25, acts Feb. 17, 1911, ch. 103, § 3, 36 Stat. 914; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148; May 27, 1947, ch. 85, § 1, 61 Stat. 120, provided for the location of the office of the director of locomotive inspection in Washington, D.C., and for the staffing of such office, and is omitted pursuant to Reorg. Plan No. 3 of 1965.

Section 26, acts Feb. 17, 1911, ch. 103, § 4, 36 Stat. 914; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148; May 27, 1947, ch. 85, § 2, 61 Stat. 120, directed the director of locomotive inspection to divide the country into 50 locomotive boiler inspection districts so as to most effectively divide up the work of the inspector for each such district and is omitted pursuant to Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts. Acts June 26, 1918, ch. 105, 40 Stat. 616; June 27, 1930, ch. 644, § 2, 46 Stat. 823, which were formerly set out in the credit to section 26, were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643, 648.

Section 27, act. Feb. 17, 1911, ch. 103, § 4 (par), as added June 7, 1924, ch. 355, § 4, 43 Stat. 659, and amended Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148, authorized the appointment of 15 additional boiler inspectors over and above the number authorized by section 26 of this title as the needs of the service may require, and is omitted pursuant to Reorg. Plan No. 3 of 1965.

§ 28. Rules and instructions as to inspection.

Each carrier subject to this chapter shall file its rules and instructions for the inspection of locomotive boilers with the chief inspector within three months after February 17, 1911, and such rules and instructions shall become obligatory upon such carrier: *Provided, however,* That if any carrier subject to this chapter shall fail to file its rules and instructions the director of locomotive inspection shall prepare rules and instructions not inconsistent herewith for the inspection of locomotive boilers, to be observed by such carrier; which rules and instructions, a copy thereof being served upon the president, general manager, or general superintendent of such carrier, shall be obligatory, and a violation thereof punished as hereinafter provided: *Provided also,* That such common carrier may from time to time change the rules and regulations herein provided for, but such change shall not take effect and the new rules and regulations be in force until the same shall have been filed with and approved by the Secretary of Transportation. The director of locomotive inspection shall also make all needful rules, regulations, and instructions not inconsistent herewith for the conduct of his office and for the government of the district inspectors: *Provided, however,* That all such rules and instructions shall be approved by the Secretary of Transportation before they take effect. (Feb. 17, 1911, ch. 103, § 5, 36 Stat. 914; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148.)

CODIFICATION

Provision for the holding of hearings and approval by the Interstate Commerce Commission with reference to the rules and instruction filed by the carriers within three months after Feb. 17, 1911, and provision for the modification of such filed rules and instructions as required by the Commission, have been omitted as executed.

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" in two instances.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(E) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locmotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 23, 29, 30, 34 of this title.

§ 29. Duties of district inspectors; inspection and repairs by carriers; notice to carrier of condition of boiler; appeal to director and reexamination; further appeal to Secretary.

It shall be the duty of each inspector to become familiar, so far as practicable, with the condition of each locomotive boiler ordinarily housed or repaired in his district, and if any locomotive is ordinarily housed or repaired in two or more districts, then the director of locomotive inspection or an assistant shall make such division between inspectors as will avoid the necessity for duplication of work. Each inspector shall make such personal inspection of the locomotive boilers under his care from time to time as may be necessary to fully carry out the provisions of sections 22, 23, 28, 29, and 31 to 34 of this title, and as may be consistent with his other duties, but he shall not be required to make such inspections at stated times or at regular intervals. His first duty shall be to see that the carriers make inspections in accordance with the rules and regulations established or approved by the Secretary of Transportation, and that carriers repair the defects which such inspections disclose before the boiler or boilers or appurtenances pertaining thereto are again put in service. To this end each carrier subject to said sections shall file with the inspector in charge, under the oath of the proper officer or employee, a duplicate of the report of each inspection required by such rules and regulations, and shall also file with such inspector, under the oath of the proper officer or employee, a report showing the repair of the defects disclosed by the inspection. The rules and regulations hereinbefore provided for shall prescribe the time at which such reports shall be

made. Whenever any district inspector shall, in the performance of his duty, find any locomotive boiler or apparatus pertaining thereto not conforming to the requirements of the law or the rules and regulations established and approved as hereinbefore stated, he shall notify the carrier in writing that the locomotive is not in serviceable condition, and thereafter such boiler shall not be used until in serviceable condition: *Provided,* That a carrier, when notified by an inspector in writing that a locomotive boiler is not in serviceable condition, because of defects set out and described in said notice, may within five days after receiving said notice, appeal to the director of locomotive inspection by telegraph or by letter to have said boiler reexamined, and upon receipt of the appeal from the inspector's decision, the director of locomotive inspection shall assign one of the assistant directors of locomotive inspection or any district inspector other than the one from whose decision the appeal is taken to reexamine and inspect said boiler within fifteen days from date of notice. If upon such reexamination the boiler is found in serviceable condition, the director of locomotive inspection shall immediately notify the carrier in writing, whereupon such boiler may be put into service without further delay; but if the reexamination of said boiler sustains the decision of the district inspector, the director of locomotive inspection shall at once notify the carrier owning or operating such locomotive that the appeal from the decision of the inspector is dismissed, and upon the receipt of such notice the carrier may, within thirty days, appeal to the Secretary of Transportation, and upon such appeal, and after hearing, said Secretary shall have power to revise, modify, or set aside such action of the director of locomotive inspection and declare that said locomotive is in serviceable condition and authorize the same to be operated: *Provided further,* That pending either appeal the requirements of the inspector shall be effective. (Feb. 17, 1911, ch. 103, § 6, 36 Stat. 915; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148.)

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" and "assistant directors of locomotive inspection" for "chief inspector" and "assistant chief inspectors" wherever appearing.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(E) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 23, 30, 34 of this title.

§ 30. Powers and duties of inspectors, and provisions of certain sections applicable to all parts of locomotive and tender; examinations of inspectors.

The director of locomotive inspection and the two assistant directors of locomotive inspection, together with all the district inspectors, appointed as hereinbefore provided, shall inspect and shall have the same powers and duties with respect to all the parts and appurtenances of the locomotive and tender that they have with respect to the boiler of a locomotive and the appurtenances thereof, and the provision of sections 22, 23, 28, 29, and 31 to 34 of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances. All inspectors and applicants for the position of inspector shall be examined touching their qualifications and fitness with respect to the additional duties imposed. (Mar. 4, 1915, ch. 169, § 2, 38 Stat. 1192; Apr. 22, 1940, ch. 124, § 2, 54 Stat. 148.)

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" wherever appearing.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 23, 34 of this title.

§ 31. Annual report of director.

The director of locomotive inspection shall make an annual report to the Secretary of Transportation of the work done during the year, and shall make such recommendations for the betterment of the service as he may desire. (Feb. 17, 1911, ch. 103, § 7, 36 Stat. 916; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148.)

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" wherever appearing.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers,

duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(E) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 29, 30, 34 of this title.

§ 32. Report by carrier to director as to accident; preservation of disabled parts; investigation and report thereupon.

In the case of accident resulting from failure from any cause of a locomotive boiler or its appurtenances, resulting in serious injury or death to one or more persons, a statement forthwith must be made in writing of the fact of such accident, by the carrier owning or operating said locomotive, to the director of locomotive inspection. Whereupon the facts concerning such accident shall be investigated by the director of locomotive inspection or one of his assistants, or such inspector as the director of locomotive inspection may designate for that purpose. And where the locomotive is disabled to the extent that it cannot be run by its own steam, the part or parts affected by the said accident shall be preserved by said carrier intact, so far as possible, without hindrance or interference to traffic until after said inspection. The director of locomotive inspection or an assistant or the designated inspector making the investigation shall examine or cause to be examined thoroughly the boiler or part affected, making full and detailed report of the cause of the accident to the director of locomotive inspection. (Feb. 17, 1911, ch. 103, § 8, 36 Stat. 916; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148.)

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" wherever appearing.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 23, 29, 30, 33, 34 of this title.

§ 33. Reports by Secretary of investigations.

The Secretary of Transportation may at any time call upon the director of locomotive inspection for a report of any accident embraced in section 32 of this title, and upon the receipt of said report, if he deems it to the public interest, make reports of such investigations, stating the cause of accident, together with such recommendations as he deems proper. Such reports shall be made public in such manner as the Secretary deems proper. Neither said report nor any report of said investigation nor any part thereof shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation. (Feb. 17, 1911, ch. 103, § 8, 36 Stat. 916; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148.)

AMENDMENTS

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" wherever appearing.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(E) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 29, 30, 34 of this title.

§ 34. Penalty for violations by carrier; duty of United States attorney to sue therefor; director to give information.

Any common carrier violating the provisions of sections 22, 23, and 28 to 34 of this title relating to locomotives, their boilers, tenders, and so forth, or any rule or regulation made under such provisions or any lawful order of any inspector shall be liable to a penalty of $250 for each and every such violation, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such attorneys, subject to the direction of the Attorney General, to bring such suits upon duly verified information being lodged with them, respectively, of such violations having occurred; and it shall be the duty of the director of locomotive inspection to give information to the proper United States attorney of all violations

coming to his knowledge. (Feb. 17, 1911, ch. 103, § 9, 36 Stat. 916; Apr. 22, 1940, ch. 124, § 1, 54 Stat. 148; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Aug. 14, 1957, Pub. L. 85–135, § 3, 71 Stat. 352.)

AMENDMENTS

1957—Pub. L. 85–135 substituted "$250" for "$100".

1940—Act Apr. 22, 1940, substituted "director of locomotive inspection" for "chief inspector" and struck out "of locomotive boilers".

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e) (1) of Title 49, Transportation.

The offices of director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, together with the function of the director of locomotive inspection with respect to dividing the territory comprising the several states and the District of Columbia into 50 locomotive boiler-inspection districts, were abolished and all other functions transferred to the Interstate Commerce Commission by Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320, set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Catchline amended by act June 25, 1948, eff. Sept. 1, 1948, which substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 29, 30 of this title.

§ 35. Investigations and report by Secretary on block-signal systems and appliances for automatic control of trains; evidence.

The Secretary of Transportation is directed to investigate and report on the use of and necessity for block-signal systems and appliances for the automatic control of railway trains in the United States. For this purpose the Secretary is authorized to employ persons who are familiar with the subject, and may use such of his own employees as are necessary to make a thorough examination into the matter.

In transmitting his report to the Congress the Secretary shall recommend such legislation as to the Secretary seems advisable.

To carry out and give effect to the provisions of this section the Secretary shall have power to issue subpenas, administer oaths, examine witnesses, require the production of books and papers, and receive depositions taken before any proper officer in any State or Territory of the United States. (June 30, 1906, No. 46, 34 Stat. 838.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See action 1655(e) (1) (H) Title 49, Transportation.

§ 36. Investigation and testing by Secretary of appliances or systems to promote safety.

The Secretary of Transportation is authorized, at his discretion, to investigate, test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation which may be furnished in completed shape to the Secretary for such investigation and test entirely free of cost to the Government. For this purpose the Secretary is authorized to employ persons familiar with the subject to be investigated and tested, and may also make use of his regular employees for such purposes. (May 27, 1908, ch. 200, § 1, 35 Stat. 325.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e) (1) (I) of Title 49, Transportation.

§ 37. Inspection of mail cars.

Hereafter all inspectors employed for the enforcement of the provisions of sections 1 to 7 of this title, as to safety appliances shall also be required to make examination of the construction, adaptability, design, and condition of all mail cars used on any railroad in the United States and make report thereon, a copy of which report shall be transmitted to the Postmaster General. (May 27, 1908, ch. 200, § 1, 35 Stat. 324; Mar. 4, 1909, ch. 299, § 1, 35 Stat. 965.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e) (1) (I) of Title 49, Transportation.

§ 38. Monthly reports of railroad accidents; duty of carrier to make.

It shall be the duty of the general manager, superintendent, or other proper officer of every common carrier engaged in interstate or foreign commerce by railroad to make to the Secretary of Transportation a monthly report, under oath, of all collisions, derailments, or other accidents resulting in death or injury to any person or damage to equipment or roadbed, arising from the operation of such railroad, which report shall state the nature and causes thereof and the circumstances connected therewith: *Provided,* That hereafter all said carriers shall be relieved from the duty of reporting accidents in their annual financial and operating reports made to the Secretary. (May 6, 1910, ch. 208, § 1, 36 Stat. 350; Sept. 13, 1960, Pub. L. 86–762, § 1, 74 Stat. 903.)

AMENDMENTS

1960—Pub. L. 86–762 substituted "death or injury to any person or damage to equipment or roadbed" for "injury to persons, equipment, or roadbed", and deleted "under such rules and regulations as may be prescribed by the said commission" following "operation of such railroad."

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(K) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 39, 42, 43 of this title.

§ 39. Penalty for failure to make report.

Any common carrier failing to make the report provided for in section 38 of this title within thirty days after the end of any month shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than $100 for each and every offense and for every day during which it shall fail to make such report after the time herein specified for making the same. (May 6, 1910, ch. 208, § 2, 36 Stat. 351.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1)(K) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 43 of this title.

§ 40. Investigation by Secretary of accidents; cooperation with State commissions; reports of investigations.

The Secretary of Transportation shall have authority to investigate all collisions, derailments, or other accidents resulting in serious injury to person or to the property of a railroad occurring on the line of any common carrier engaged in interstate or foreign commerce by railroad. The Secretary, or any impartial investigator thereunto authorized by the Secretary, shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose may subpena witnesses, administer oaths, take testimony, and require the production of books, papers, orders, memoranda, exhibits, and other evidence, and shall be provided by said carriers with all reasonable facilities: *Provided,* That when such accident is investigated by a commission of the State in which it occurred, the Secretary of Transportation shall, if convenient, make any investigation he may have previously determined upon, at the same time as, and in connection with, the State commission investigation. The Secretary shall, when he deems it to the public interest, make reports of such investigations, stating the cause of accident, together with such recommendations as he deems proper. Such reports shall be made public in such manner as the Secretary deems proper. (May 6, 1910, ch. 208, § 3, 36 Stat. 351.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(K) of Title 49, Transportation.

CROSS REFERENCES

Report to Commission of failure of safety system, device, or appliance, see section 26 (f) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 42, 43 of this title; title 49 section 26.

§ 41. Reports not evidence in suits for damages.

Neither the report required by section 38 of this title nor any report of the investigation provided for in section 40 of this title nor any part thereof shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation. (May 6, 1910, ch. 208, § 4, 36 Stat. 351.)

TRANSFER OF FUNCTIONS

All power, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(1)(K) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 43 of this title; title 49 section 26.

§ 42. Rules and regulations; form of reports.

The Secretary of Transportation is authorized to prescribe such rules and regulations and such forms for making the reports hereinbefore provided as are necessary to implement and effectuate the purposes of sections 38 to 43 of this title. (May 6, 1910, ch. 208, § 5, 36 Stat. 351; Sept. 13, 1960, Pub. L. 86–762, § 2, 74 Stat. 904.)

AMENDMENTS

1960—Pub. L. 86–762 substituted "such rules and regulations and such forms for making the reports hereinbefore provided as are necessary to implement and effectuate the purposes of sections 38 to 43 of this title" for "for such common carriers a method and form for making the reports hereinbefore provided."

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Interstate Commerce Commission pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof under this section relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers to the Secretary of Transportation. See section 1655(e)(1)(K) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43 of this title; title 49 section 26.

§ 43. Definitions.

(a) The term "interstate commerce," as used in sections 38 and 40 of this title, shall include transportation from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, and the term "foreign commerce," as used in said sections, shall include transportation from any State or Territory or the District of Columbia to any foreign country and from any foreign country to any State or Territory or the District of Columbia.

(b) The phrase "arising from the operation of such railroad," as used in sections 38 to 43 of this title, shall include all activities of the railroad which are related to the performance of its transportation business. (May 6, 1910, ch. 208, § 7, 36 Stat. 351; Sept. 13, 1960, Pub. L. 86-762, § 3, 74 Stat. 904.)

AMENDMENTS

1960—Pub. L. 86-762 designated existing provisions as subsec. (a), and added subsec. (b).

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating to safety appliances and equipment on railroad engines and cars and the protection of employees and travelers were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e) (1) (K) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 42 of this title.

§§ 44 to 46. Transferred.

Sections transferred to sections 1201—1203, respectively of Title 49, Transportation.

Chapter 2.—LIABILITY FOR INJURIES TO EMPLOYEES

Sec.
51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; definition of employees.
52. Carriers in Territories or other possessions of United States.
53. Contributory negligence; diminution of damages.
54. Assumption of risks of employment.
55. Contract, rule, regulation, or device exempting from liability; set-off.
56. Actions; limitation; concurrent jurisdiction of courts.
57. Who included in term "common carrier".
58. Duty or liability of common carriers and rights of employees under other acts not impaired.
59. Survival of right of action of person injured.
60. Penalty for suppression of voluntary information incident to accidents; separability of provisions.

§ 51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; definition of employees.

Every common carrier by railroad while engaging in commerce between any of the several States or Territories, or between any of the States and Territories, or between the District of Columbia and any of the States or Territories, or between the District of Columbia or any of the States or Territories and any foreign nation or nations, shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

Any employee of a carrier, any part of whose duties as such employee shall be the furtherance of interstate or foreign commerce; or shall, in any way directly or closely and substantially, affect such commerce as above set forth shall, for the purposes of this chapter, be considered as being employed by such carrier in such commerce and shall be considered as entitled to the benefits of this chapter. (Apr. 22, 1908, ch. 149, § 1, 35 Stat. 65; Aug. 11, 1939, ch. 685, § 1, 53 Stat. 1404.)

AMENDMENTS

1939—Act Aug. 11, 1939, added last par., defining employee.

EMPLOYERS' LIABILITY ACTS

The following are commonly referred to as Employers' Liability Acts:

June 11, 1906, ch. 3073, 34 Stat. 232 [Unconstitutional.]

Apr. 22, 1908, ch. 149, 35 Stat. 65. See sections 51—59 of this title.

Apr. 5, 1910, ch. 143, 36 Stat. 291. See sections 56, 59 of this title.

Aug. 11, 1939, ch. 685, 53 Stat. 1404. See sections 51, 54, 56, and 60 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Form of complaint, see Form 14, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 52. Carriers in Territories or other possessions of United States.

Every common carrier by railroad in the Territories, the District of Columbia, the Panama Canal Zone, or other possessions of the United States shall be liable in damages to any person suffering injury while he is employed by such carrier in any of said jurisdictions, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment. (Apr. 22, 1908, ch. 149, § 2, 35 Stat. 65.)

§ 53. Contributory negligence; diminution of damages.

In all actions on and after April 22, 1908 brought against any such common carrier by railroad under or by virtue of any of the provisions of this chapter to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided,* That no such

employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, § 3, 35 Stat. 66.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 437 of this title.

§ 54. Assumption of risks of employment.

In any action brought against any common carrier under or by virtue of any of the provisions of this chapter to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where such injury or death resulted in whole or in part from the negligence of any of the officers, agents, or employees of such carrier; and no employee shall be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, § 4, 35 Stat. 66; Aug. 11, 1939, ch. 685, § 1, 53 Stat. 1404.)

AMENDMENTS

1939—Act Aug. 11, 1939, inserted "where such injury * * * in any case" following "of his employment in any case".

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 437 of this title.

§ 55. Contract, rule, regulation, or device exempting from liability; set-off.

Any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this chapter, shall to that extent be void: *Provided,* That in any action brought against any such common carrier under or by virtue of any of the provisions of this chapter, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought. (Apr. 22, 1908, ch. 149, § 5, 35 Stat. 66.)

§ 56. Actions; limitation; concurrent jurisdiction of courts.

No action shall be maintained under this chapter unless commenced within three years from the day the cause of action accrued.

Under this chapter an action may be brought in a district court of the United States, in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States. (Apr. 22, 1908, ch. 149, § 6, 35 Stat. 66; Apr. 5, 1910, ch. 143, § 1, 36 Stat. 291; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 11, 1939, ch. 685, § 2, 53 Stat. 1404; June 25, 1948, ch. 646, § 18, 62 Stat. 989.)

CODIFICATION

The first paragraph of this section is from act Apr. 22, 1908.

The second paragraph of this section is from act Apr. 5, 1910.

AMENDMENTS

1948—Act June 25, 1948, omitted provision in last sentence relating to removal of actions.

1939—Act Aug. 11, 1939, changed limitation in first sentence from two to three years.

CHANGE OF NAME

"District court" was substituted for "circuit court" to conform to act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section shall be effective Sept. 1, 1948.

CROSS REFERENCES

Actions in state courts not removable to federal courts, see section 1445 of Title 28, Judiciary and Judicial Procedure.

Venue of district court—

Generally, see chapter 87 of Title 28, Judiciary and Judicial Procedure.

Change of venue, see section 1404 of Title 28.

§ 57. Who included in term "common carrier."

The term "common carrier" as used in this chapter shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier. (Apr. 22, 1908, ch. 149, § 7, 35 Stat. 66.)

§ 58. Duty or liability of common carriers and rights of employees under other acts not impaired.

Nothing in this chapter shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress. (Apr. 22, 1908, ch. 149, § 8, 35 Stat. 66.)

§ 59. Survival of right of action of person injured.

Any right of action given by this chapter to a person suffering injury shall survive to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee, and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, but in such cases there shall be only one recovery for the same injury. (Apr. 22, 1908, ch. 149, § 9, as added Apr. 5, 1910, ch. 143, § 2, 36 Stat. 291.)

§ 60. Penalty for suppression of voluntary information incident to accidents; separability of provisions.

Any contract, rule, regulation, or device whatsoever, the purpose, intent, or effect of which shall be to prevent employees of any common carrier from furnishing voluntarily information to a person in interest as to the facts incident to the injury or death of any employee, shall be void, and whoever, by threat, intimidation, order, rule, contract, regulation, or device whatsoever, shall attempt to prevent any person from furnishing voluntarily such information to a person in interest, or whoever discharges or otherwise disciplines or attempts to discipline any employee for furnishing voluntarily such information to a person in interest, shall, upon conviction thereof, be punished by a fine of not more

than $1,000 or imprisoned for not more than one year, or by both such fine and imprisonment, for each offense: *Provided,* That nothing herein contained shall be construed to void any contract, rule, or regulation with respect to any information contained in the files of the carrier, or other privileged or confidential reports.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby. (Apr. 22, 1908, ch. 149, § 10, as added Aug. 11, 1939, ch. 685, § 3, 53 Stat. 1404.)

Chapter 3.—HOURS OF SERVICE OF EMPLOYEES

Sec.
61. Carriers subject to provisions of sections 61 to 64b of this title; definitions; time on duty.
62. Employees' hours of service.
(a) Limitations.
(b) Determination of service.
(c) Wreck or relief trains.
(d) Applicability.
63. Dispatcher's hours of service.
(a) Limitations.
(b) Determination of service.
(c) Emergency service.
64. Maximum hours of service; shorter periods permissible.
64a. Manner of enforcement of sections 61 to 64b of this title.
(a) Penalty; suits therefor; statute of limitations.
(b) Duty of Secretary of Transportation.
(c) Knowledge imputed to carrier.
(d) Exceptions from operation.
(e) Railroads with not more than fifteen employees; exceptions in public interest; review.
64b. Enforcement by Secretary of Transportation.
65. Establishment of eight-hour day.
66. Penalty for violation.

§ 61. Carriers subject to provisions of sections 61 to 64b of this title; definitions; time on duty.

(a) Sections 61 to 64b of this title shall apply to any common carrier or carriers, their officers, agents, and employees, engaged in the transportation of passengers or property by railroad in the District of Columbia or any territory of the United States, or from one State or territory of the United States or the District of Columbia to any other State or territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States.

(b) For the purposes of sections 61 to 64b of this title—

(1) The term "railroad" includes all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease.

(2) The term "employee" means an individual actually engaged in or connected with the movement of any train.

(3) Time on duty shall commence when an employee reports for duty and terminate when the employee is finally released from duty, and shall include:

(A) Interim periods available for rest at other than a designated terminal;

(B) Interim periods available for less than four hours rest at a designated terminal;

(C) Time spent in deadhead transportation by an employee to a duty assignment: *Provided,* That time spent in deadhead transportation by an employee from duty to his point of final release shall not be counted in computing time off duty;

(D) The time an employee is actually engaged in or connected with the movement of any train; and

(E) Such period of time as is otherwise provided by these sections 61 to 64b of this title.

(Mar. 4, 1907, ch. 2939, § 1, 34 Stat. 1415; Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 463.)

Codification

This was the first section of the Hours of Service Act of Mar. 4, 1907.

Sections 2—4 of that act are set forth in sections 62—64 of this title.

The "Adamson Law," establishing an eight-hour day for employees of carriers engaged in interstate and foreign commerce, constitutes sections 65 and 66 of this title.

Amendments

1969—Pub. L. 91–169 divided existing provisions, with minor changes, into subsec. (a) and pars. (1) and (2) of subsec. (b) and added par. (3).

Effective Date of 1969 Amendment

Section 3 of Pub. L. 91–169 provided that: "This Act [amending this section and sections 62–64 of this title, and enacting section 64a and 64b of this title, and provisions set out as a note under this section] shall take effect one year after the date of its enactment [Dec. 26, 1969]."

Separability of Provisions

Section 2 of Pub. L. 91–169 provided that: "If any provision of the amendment made by the first section of this Act [amending this section and sections 62–64 of this title and enacting sections 64a and 64b of this title] is held invalid, the remainder of such amendment shall not be affected thereby."

Transfer of Functions

All powers, duties, and functions of the Interstate Commerce Commission relating to hours of service of employees under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(2) of Title 49, Transportation.

Section Referred to in Other Sections

This section is referred to in sections 62, 64, 64a, 64b of this title.

§ 62. Employees' hours of service.

(a) Limitations.

It shall be unlawful for any common carrier, its officers or agents, subject to sections 61 to 64b of this title—

(1) to require or permit an employee, in case such employee shall have been continuously on duty for fourteen hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty, except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours; or

(2) to require or permit an employee to continue on duty or to go on duty when he has not had at

least eight consecutive hours off duty during the preceding twenty-four hours.

(b) Determination of service.

In determining, for the purposes of subsection (a), the number of hours an employee is on duty, there shall be counted, in addition to the time such employee is actually engaged in or connected with the movement of any train, all time on duty in other service performed for the common carrier during the twenty-four-hour period involved.

(c) Wreck or relief trains.

The provisions of sections 61 to 64b of this title shall not apply to the crews of wreck or relief trains.

(d) Applicability.

The provisions of this section shall not apply to an employee during such period of time as the provisions of section 63 of this title apply to his duty and off-duty periods. (Mar. 4, 1907, ch. 2939, § 2, 34 Stat. 1416; Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 463.)

REFERENCES IN TEXT

"The effective date of this paragraph," referred to in subsec. (a)(1), is the effective date of Pub. L. 91–169, which, pursuant to section 3 of Pub. L. 91–169, was to take effect one year after the date of enactment of Pub. L. 91–169, which was approved Dec. 26, 1969.

AMENDMENTS

1969—Pub. L. 91–169 reduced from 16 to 14 the number of hours an employee can be be continuously on duty, with provision for a further reduction in the number of consecutive hours of service to 12 upon the expiration of the two year period beginning on the effective date of subsec. (a)(1), added provision requiring at least eight consecutive hours off duty during the 24 hours preceding employee's return to duty, added provision for determining what constitutes the number of hours an employee is on duty for the purposes of subsec. (a), exempted crews of wreck or relief trains from the provisions of sections 61–64b of this title, added provisions rendering section inapplicable when the provisions of section 63 of this title apply, and struck out provision setting maximum hours for telegraph operators, train dispatchers, etc., and which authorized Interstate Commerce Commission to delay the application of this section.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–169 to take effect one year after Dec. 26, 1969, see section 3 of Pub. L. 91–169, set out as a note under section 61 of this title.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission relating to hours of service of employees under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(2) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 61, 64, 64a, 64b of this title.

§ 63. Dispatcher's hours of service.

(a) Limitations.

No operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements—

(1) shall be required or permitted to be or remain on duty for more than nine hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where two or more shifts are employed; and

(2) shall be required or permitted to be or remain on duty for more than twelve hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where only one shift is employed.

(b) Determination of service.

For the purposes of subsection (a), in determining the number of hours an employee is on duty in a class of service, and at a place, described in paragraph (1) or (2) of such subsection, there shall be counted, in addition to the time spent by him on duty in such service at such place, all time on duty in other service performed for the common carrier during the twenty-four-hour period involved.

(c) Emergency service.

Notwithstanding subsection (a) of this section, in case of emergency the employees named in such subsection may be permitted to be and remain on duty for four additional hours in any period of twenty-four consecutive hours of not exceeding three days in any period of seven consecutive days. (Mar. 4, 1907, ch. 2939, § 3, 34 Stat. 1416; May 4, 1916, ch. 109, § 1, 39 Stat. 61; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Aug. 14, 1957, Pub. L. 85–135, § 2, 71 Stat. 352; Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 464.)

CODIFICATION

Act May 4, 1916, added the minimum fine provision.

AMENDMENTS

1969—Pub. L. 91–169 substituted provision covering maximum allowable hours for train dispatcher or other employee who receives or delivers orders affecting train movements, for provision setting penalty for violations of maximum hour limits. Penalties are now set in section 64a of this title.

1957—Pub. L. 85–135 substituted "$200" for "$100".

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–169 to take effect one year after Dec. 26, 1969, see section 3 of Pub. L. 91–169, set out as a note under section 61 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "United States district attorney" where it first appears, and "United States attorney" for "district attorney" in the subsequent two instances. See section 541 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission relating to hours of service of employees under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(2) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 61, 62, 64, 64a, 64b, of this title.

§ 64. Maximum hours of service; shorter periods permissible.

The requirements imposed by sections 61 to 64b of this title with respect to time on duty of employees are hereby declared to result in the maximum permissible hours of service consistent with safety. However, shorter hours of service and time on duty of employees for lesser periods of time are hereby declared to be proper subjects for collective bargain-

ing between any common carrier subject to sections 61 to 64b of this title and its employees. (Mar. 4, 1907, ch. 2939, § 4, 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91–169, § 83 Stat. 464.)

AMENDMENTS

1969—Pub. L. 91–169 substituted provision expressly allowing shorter work periods than the statutory maximum for provision charging the Interstate Commerce Commission with responsibility for enforcing the maximum work hours for railroad employees.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–169 to take effect one year after Dec. 26, 1969, see section 3 of Pub. L. 91–169, set out as a note under section 61 of this title.

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission relating to hours of service of employees under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(2) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 61, 62, 64a, 64b of this title.

§ 64a. Manner of enforcement of sections 61 to 64b of this title.

(a) Penalty; suits therefor; statute of limitations.

Any such common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be, or remain on duty in violation of section 62 or section 63 of this title shall be liable to a penalty of $500 for each and every violation, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed; and it shall be the duty of such United States attorney to bring such suit upon satisfactory information being lodged with him; but no such suit shall be brought after the expiration of two years from the date of such violation.

(b) Duty of Secretary of Transportation.

It shall be the duty of the Secretary of Transportation to lodge with the appropriate United States attorney information of any violation as may come to the knowledge of the Secretary.

(c) Knowledge imputed to carrier.

In all prosecutions under sections 61 to 64b of this title the common carrier shall be deemed to have knowledge of all acts of all its officers and agents.

(d) Exceptions from operation.

The provisions of sections 61 to 64b of this title shall not apply in any case of casualty or unavoidable accident or the act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time said employee left a terminal, and which could not have been foreseen.

(e) Railroads with not more than fifteen employees; exceptions in public interest; review.

With respect to any railroad which employs a total of not more than 15 employees covered by sections 61 to 64b of this title, the Secretary of Transportation may after full hearing in any particular case and for good cause shown exempt any such railroad subject to sections 61 to 64b of this title with respect to one or more of its employees from the limitations imposed by sections 61 to 64b of this title for a specified period of time, if the Secretary of Transportation finds that such exemption is in the public interest and will not adversely affect safety. Such order is to be subject to review at least annually. In no event shall any such exemption be made for any railroad described in this section to work its employees beyond 16 hours either consecutively or in the aggregate within any 24-hour period. (Mar. 4, 1907, ch. 2939, § 5, as added Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 464.)

EFFECTIVE DATE

Section effective one year after Dec. 26, 1969, see section 3 of Pub. L. 91–169, set out as a note under section 61 of this title.

PRIOR PROVISIONS

A prior section 5 of Act Mar. 4, 1907, formed a part of the original enactment but was never classified to the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 61, 62, 64, 64b of this title.

§ 64b. Enforcement by Secretary of Transportation.

It shall be the duty of the Secretary of Transportation to carry out the provisions of sections 61 to 64b of this title. (Mar. 4, 1907, ch. 2939, § 6, as added Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 465.)

EFFECTIVE DATE

Section effective one year after Dec. 26, 1969, see section 3 of Pub. L. 91–169, set out as a note under section 61 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 61, 62, 64, 64a of this title.

§ 65. Establishment of eight-hour day.

Eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all employees who are now or may hereafter be employed by any common carrier by railroad, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, which is subject to the provisions of chapter 1 of Title 49, and who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, from any State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from one place in a territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States: *Provided*, That the above exceptions shall not apply to railroads though less than one hundred miles in length whose principal business is leasing or furnishing terminal or transfer facilities to other railroads, or are themselves engaged in transfers of

freight between railroads, or between railroads and industrial plants. (Sept. 3, 5, 1916, ch. 436, § 1, 39 Stat. 721.)

CODIFICATION

This section and section 66 of this title, constitute sections 1 and 4 of the "Adamson Act," "establishing an eight-hour day for employees of carriers engaged in interstate and foreign commerce."

DATE OF APPROVAL

Act Sept. 3, 5, 1916, was approved on Sept. 3 and again on Sept. 5, because Sept. 3 was Sunday, and some doubt existed as to the validity of an act approved on that day.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 66 of this title.

§ 66. Penalty for violation.

Any person violating any provision of section 65 of this title shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 and not more than $1,000, or imprisoned not to exceed one year, or both. (Sept. 3, 5, 1916, ch. 436, § 4, 39 Stat. 722.)

Chapter 4.—CARE OF ANIMALS IN TRANSIT

Sec.
71. Transportation of animals; time of confinement; unloading for rest and feeding; unloading sheep.
72. Animals unloaded to be fed and watered by or at expense of owner; lien.
73. Penalty for failure to comply with law; when provisions for unloading not to apply.
74. Penalty recoverable by civil action; duty of United States attorneys to prosecute.
75, 76. Transferred.

§ 71. Transportation of animals; time of confinement; unloading for rest and feeding; unloading sheep.

No railroad, express company, car company, common carrier other than by water, or the receiver, trustee, or lessee of any of them, whose road forms any part of a line of road over which cattle, sheep, swine, or other animals shall be conveyed from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia, shall confine the same in cars, boats, or vessels of any description for a period longer than twenty-eight consecutive hours without unloading the same in a humane manner, into properly equipped pens, for rest, water, and feeding, for a period of at least five consecutive hours, unless prevented by storm or by other accidental or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight: *Provided,* That upon the written request of the owner or person in custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time of confinement may be extended to thirty-six hours. In estimating such confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest or food or water on connecting roads shall be included, it being the intent of this chapter to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon the contingencies hereinbefore stated: *Provided,* That it shall not be required that sheep be unloaded in the nighttime, but where the time expires in the nighttime in case of sheep the same may continue in transit to a suitable place for unloading, subject to the aforesaid limitation of thirty-six hours. (June 29, 1906, ch. 3594, § 1, 34 Stat. 607.)

CODIFICATION

This was section 1 of the "Cruelty to Animals Act" or "Live Stock Transportation Act" of June 29, 1906.

Sections 2—4 of act June 29, 1906, are set forth in sections 72—74 of this title.

The act, sections 71—74 of this title, is also referred to as the "Twenty-Eight Hour Law", and "Food and Rest Law".

REPEALS

Section 5 of act June 29, 1906, repealed R. S. §§ 4386—4390, which were similar provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72, 73 of this title.

§ 72. Animals unloaded to be fed and watered by or at expense of owner; lien.

Animals so unloaded shall be properly fed and watered during such rest either by the owner or person having the custody thereof, or in case of his default in so doing, then by the railroad, express company, car company, common carrier other than by water, or the receiver, trustee, or lessee of any of them, or by the owners or masters of boats or vessels transporting the same, at the reasonable expense of the owner or person in custody thereof, and such railroad, express company, car company, common carrier other than by water, receiver, trustee, or lessee of any of them, owners or masters, shall in such case have a lien upon such animals for food, care, and custody furnished, collectible at their destination in the same manner as the transportation charges are collected, and shall not be liable for any detention of such animals, when such detention is of reasonable duration, to enable compliance with section 71 of this title, but nothing in this section shall be construed to prevent the owner or shipper of animals from furnishing food therefor, if he so desires. (June 29, 1906, ch. 3594, § 2, 34 Stat. 608.)

CODIFICATION

Former R. S. § 4387, contained provisions similar to those of the text of this section, as to feeding and watering, and a lien on the animals for the supplies furnished them. Former R. S. § 4390 as amended by act Feb. 27, 1877, ch. 69, 19 Stat. 251, provided for the enforcement of the lien in certain District Courts.

REPEALS

R. S. §§ 4387, 4390, were repealed by act June 29, 1906.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 73 of this title.

§ 73. Penalty for failure to comply with law; when provisions for unloading not to apply.

Any railroad, express company, car company, common carrier other than by water, or the receiver, trustee, or lessee of any of them, or the master or owner of any steam, sailing, or other vessel who knowingly and willfully fails to comply with the provisions of sections 71 and 72 of this title shall for every such failure be liable for and forfeit and pay a penalty of not less than $100 nor more than $500: *Provided,* That when animals are carried in cars, boats, or other vessels in which they can and do have

proper food, water, space, and opportunity to rest the provisions in regard to their being unloaded shall not apply. (June 29, 1906, ch. 3594, § 3, 34 Stat. 608.)

REPEALS

Similar provisions were contained in R. S. § 4388, repealed by act June 29, 1906.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 74 of this title.

§ 74. Penalty recoverable by civil action; duty of United States attorneys to prosecute.

The penalty created by section 73 of this title shall be recovered by civil action in the name of the United States in the district court holden within the district where the violation may have been committed or the person or corporation resides or carries on business; and it shall be the duty of United States attorneys to prosecute all violations of this chapter reported by the Secretary of Agriculture, or which come to their notice or knowledge by other means. (June 29, 1906, ch. 3594, § 4, 34 Stat. 608; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CHANGE OF NAME

Catchline amended by act June 25, 1948, eff. Sept. 1, 1948, which substituted "United States attorneys" for "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure.

Act Mar. 3, 1911, authorized change of "circuit court" to "district court" as now set out.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F. R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 75, 76. Transferred.

CODIFICATION

Sections 75 and 76 have been transferred to sections 466a and 466b of Title 46, Shipping.

Chapter 5.—GOVERNMENT-AIDED RAILROADS

Sec.
81. Union Pacific Railroad.
82. Connection of other roads.
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92a. Repealed.
93. Indian goods and supplies.
94. Liens of United States; redemption of prior incumbrances.
95. Sinking funds to secure debt to United States.

§ 81. Union Pacific Railroad.

The books, records, correspondence, and all other documents of the Union Pacific Railroad Company, shall at all times be open to inspection by the Secretary of the Treasury, or such persons as he may delegate for that purpose. The laws of the United States providing for proceedings in bankruptcy shall not be held to apply to said corporation. No dividend shall be made by said company but from the actual net earnings thereof; and no new stock shall be issued or mortgages or pledges made on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing, or the renewals thereof. No director or officer of said road shall be interested, directly or indirectly, in any contract therewith except for his lawful compensation as such officer. Any director or officer who shall pay or declare, or aid in paying or declaring, any dividend, or creating any mortgage or pledge prohibited by this section, shall be punished by imprisonment not exceeding two years, and by fine not exceeding $5,000. (R. S. § 5256.)

DERIVATION

Act Mar. 3, 1873, ch. 226, § 4, 17 Stat. 509.

CODIFICATION

The Union Pacific Railroad Company was incorporated, and provisions made for the construction of the Union Pacific Railroad by act July 1, 1862, ch. 120, 12 Stat. 489, amended by act July 2, 1864, ch. 216, 13 Stat. 356. With the exception of section 15 of the last cited act which is given as amended in section 83 of this title the other provisions of this act are omitted as executed. Further provisions relating to the Union Pacific Railroad were made by the Thurman Act, May 7, 1878, ch. 96, 20 Stat. 56, which is likewise omitted as executed.

§ 82. Connection of other roads.

Any railroad company incorporated under any law of the United States, or of any State, which has been or may be organized by an Act of Congress, may connect its road with the Union Pacific Railroad, or any of its branches. (R. S. § 5257.)

DERIVATION

Acts July 1, 1862, ch. 120, § 15, 12 Stat. 496; June 20, 1874, ch. 331, 18 Stat. 112.

§ 83. Roads and telegraphs to be operated as continuous line; equal facilities to be afforded.

The several companies authorized by the Acts of Congress known as the Pacific Railroad Acts to construct railroads are required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line; and, in such operation and use, to afford and secure to each equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others, and it shall not be lawful for the proprietors of any line of telegraph, authorized by such Acts and the amendatory Act of July 2, 1864, to refuse or fail to convey for all persons requiring the transmission of news and messages of like character, on pain of forfeiting to the person injured for each offense, the sum of $100, and such other damage as he may have suffered on account of said refusal or failure, to be sued for and recovered in any court of the United States, or of any State or Territory of competent jurisdiction.

And any officer or agent of the companies authorized to construct the aforesaid roads, or of any company engaged in operating either of said roads, who shall refuse to operate and use the road or telegraph under his control, or which he is engaged in operating for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line, or shall refuse, in such operation and use, to afford and secure to each of said roads equal advantages and facilities as to rates, time, or transportation, without any discrimination of any kind in favor of, or adverse to, the road or business of any or either of said companies, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding $1,000, and may be imprisoned not less than six months. In case of failure or refusal of the Union Pacific Railroad Company, or either of said branches, to comply with the requirements of the Acts of Congress known as the Pacific Railroad Acts and the amendatory Acts of July 2, 1864, and June 20, 1874, the party injured or the company aggrieved may bring an action in the district court of the United States in the Territory or district in which any portion of the road of the defendant may be situated, for damages on account of such failure or refusal; and, upon recovery, the plaintiff shall be entitled to judgment for treble the amount of all excess of freight and fares collected by the defendant, and for treble amount of damages sustained by the plaintiff by such failure or refusal; and for each and every violation of or failure to comply with the requirements of this paragraph of this section, a new cause of action shall arise; and in case of suit in any such Territory or district, process may be served upon any agent of the defendant found in the Territory or district in which such suit may be brought, and such service shall be by the court held to be good and sufficient; and it is provided that for all the purposes of said Pacific Railroad Acts, and the Acts amendatory thereto, the railway of the Denver Pacific Railway and Telegraph Company shall be deemed and taken to be a part and extension of the road of the Kansas Pacific Railroad, to the point of junction thereof with the road of the Union Pacific Railroad Company at Cheyenne, as provided in the Act of March 3, 1869. (July 2, 1864, ch. 216, § 15, 13 Stat. 362; June 20, 1874, ch. 331, 18 Stat. 111; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCES IN TEXT

Act July 2, 1864, ch. 216, from which section was taken, amended act July 1, 1862, ch. 120, 12 Stat. 489, and words "companies authorized by Acts of Congress known as the Pacific Railroad Acts" refer to the Leavenworth, Pawnee and Western Railroad Company of Kansas; the Hannibal and Saint Joseph Railroad Company of Missouri; the Pacific Railroad Company of Missouri; and the Central Pacific Railroad Company of California, to which the 1862 act referred.

Act Mar. 3, 1869, ch. 127, 15 Stat. 324, referred to in last clause of text, related to contracts between the Union Pacific Railway Company, and the Denver Pacific Railway and Telegraph Company of Colorado for the construction of certain lines.

CODIFICATION

Last par. is from act June 20, 1874.

CHANGE OF NAME

Act Mar. 3, 1911, changed words "Circuit Court" to read "district court", as now set out.

§ 84. Interstate communication.

Every railroad company in the United States, whose road is operated by steam, its successors and assigns, is authorized to carry upon and over its road, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination. But this section shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any Act granting lands to any such company to aid in the construction of its road, nor shall it be construed to authorize any railroad company to build any new road or connection with any other road without authority from the State in which such railroad or connection may be proposed. And Congress may at any time alter, amend, or repeal this section. (R. S. § 5258.)

DERIVATION

Act June 15, 1866, ch. 124, §§ 1, 2, 14 Stat. 66.

§ 85. Compensation of directors appointed by the United States.

Whenever, in any grant of land or other subsidies to railroads or other corporations, the United States has reserved the right, or shall reserve it, to appoint directors, engineers, commissioners, or other agents to examine the roads, or act in conjunction with other officers of such company or companies, all the costs, charges, and pay of such directors, engineers, commissioners, or agents shall be paid by the respective companies. Such directors, engineers, commissioners, or agents shall be paid for such services the sum of $10 per day for each and every day actually and necessarily employed, and 10 cents per mile for each and every mile actually and necessarily traveled, in discharging the duties required of them, which per diem and mileage shall be in full compensation for such services. In case any company shall refuse or neglect to make such payments, no more patents for lands or other subsidies shall be issued to such company until these requirements are complied with. (R. S. § 5259.)

DERIVATION

Act July 27, 1866, ch. 278, § 21, 14 Stat. 299.

CROSS REFERENCES

Travel allowances, see section 5701 et seq. of Title 5, Government Organization and Employees.

§ 86. Withholding payments to certain railroads.

The Secretary of the Treasury is directed to withhold all payments to any railroad company and its assigns, on account of freights or transportation over their respective roads of any kind, to the amount of payments made by the United States for interest upon bonds of the United States issued to any such company, and which shall not have been reimbursed, together with the 5 per centum of net earnings due and unapplied, as provided by law. (R. S. § 5260.)

DERIVATION

Acts Mar. 3, 1873, ch. 226, § 2, 17 Stat 508; June 22, 1874, ch. 414, 18 Stat. 200.

REFERENCES IN TEXT

The last phrase of this section "five per centum of net earnings due and unapplied, as provided by law," refers to a provision of act July 1, 1862, ch. 120, 12 Stat. 489, which incorporated the Union Pacific Railroad Company, and which by section 6 thereof, required at least five per cent of the earnings of the road to be applied to the payment of bonds issued by the United States Government in aid of the construction of the road. Other sections of the act made similar provisions with respect to certain other companies.

NET EARNINGS

Further provisions relating to the ascertainment of the amount of net earnings were made by act July 2, 1864, ch. 216, 13 Stat. 356, amending act July 2, 1862, ch. 120, 12 Stat. 489, and the amendatory act of May 7, 1878, ch. 96, 20 Stat. 56.

The method of collection of net earnings was by act June 22, 1874, ch. 414, 18 Stat. 200, set forth as section 89 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87, 90 of this title.

§ 87. Companies may sue in Court of Claims.

Any railroad company from whom payments for freight and transportation have been withheld under the provisions of section 86 of this title may bring suit in the Court of Claims to recover the price of such freight and transportation. (R. S. § 5261; June 25, 1948, ch. 646, § 4, 62 Stat. 986.)

DERIVATION

Act Mar. 3, 1873, ch. 226, § 2, 17 Stat. 508.

AMENDMENTS

1948—Act June 25, 1948, omitted provisions relating to law governing right of company to recover and right of appeal as these provisions are covered by sections 1255 and 1491 of Title 28, Judiciary and Judicial Code.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section shall be effective as of Sept. 1, 1948.

CROSS REFERENCES

Certification to Supreme Court of questions of law, certiorari to Court of Claims, see section 1255 of Title 28, Judiciary and Judicial Procedure.

§ 88. District court to issue mandamus to compel operation of road.

The proper district court of the United States shall have jurisdiction to hear and determine all cases of mandamus to compel said Union Pacific Railroad Company to operate its road as required by law. (R. S. § 5262; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

DERIVATION

Act Mar. 3, 1873, ch. 226, § 4, 17 Stat. 509.

CHANGE OF NAME

Act Mar. 3, 1911, changed "circuit" to "district" court in first line of section.

FEDERAL RULES OF CIVIL PROCEDURE

Mandamus as abolished but relief yet available by appropriate action or motion under Federal Rules of Civil Procedure, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure, and notes of Advisory Committee under rule 81.

§ 89. Collection of percentage of net earnings due United States.

The Secretary of the Treasury is directed to require payment of the railroad companies, their successors and assigns, or the successors or assigns of any or either of said companies, of all sums of money due or to become due, the United States for the 5 per centum of the net earnings provided for by the Act entitled "An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes" approved July 1, 1862, or by any other Act or Acts in relation to the companies therein named, or any other such company or companies, and in case either of said railroad companies shall neglect or refuse to pay the same within sixty days after demand therefor made upon the treasurer of such railroad company, the Secretary of the Treasury shall certify that fact to the Attorney General, who shall thereupon institute the necessary suits and proceedings to collect and otherwise obtain redress in respect of the same in the proper district courts of the United States, and prosecute the same, with all convenient dispatch to a final determination. (June 22, 1874, ch. 414, 18 Stat. 200; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CHANGE OF NAME

Act Mar. 3, 1911, abolished circuit courts and is authority for substitution of words "district court," now appearing in section, for "circuit court".

§ 90. Settlement of accounts for Army and mail transportation.

For the proper adjustment of the accounts of the Union Pacific, Central Pacific, Kansas Pacific, Western Pacific, and Sioux City and Pacific Railroad Companies, respectively, for services which have been or may be hereafter performed for the Government for transportation of the Army and transportation of the mails, the Secretary of the Treasury is authorized to make such entries upon the books of the department as will carry to the credit of said companies the amounts so earned or to be earned by them during each fiscal year and withheld under the provisions of section 86 of this title and of the Act of Congress approved May 7, 1878: *Provided*, That this shall not authorize the expenditure of any money from the Treasury nor change the method now provided by law for the auditing of such claims against the Government: *Provided further*, That this paragraph shall not be so construed as to be a disposition of any moneys due or to become due to or from said companies respectively, or to, in any way, affect their rights or duties or the rights of the United States, under existing laws, it being only intended hereby to enable the proper accounting officers to state on the books of the Treasury the accounts between the Government and said companies, respectively. (Mar. 3, 1879, ch. 183, § 1, 20 Stat. 420.)

DERIVATION

Act Mar. 3, 1879, was Deficiency Appropriation Act of that date.

CROSS REFERENCES

Navy and Marine Corps accounts, application of section, see section 91 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 91 of this title.

§ 91. Settlement of accounts for Navy and Marine Corps transportation.

The provisions of section 90 of this title authorizing the Secretary of the Treasury to make such entries upon the books of the department as will carry to the credit of certain railroad companies named in said section amounts earned or to be earned by them during each fiscal year on account of transportation of the Army and transportation of the mails are extended and made applicable to the transportation of the Navy and the Marine Corps. (Mar. 3, 1897, ch. 386, 29 Stat. 663.)

DERIVATION

Act Mar. 3, 1897, was Naval Appropriation Act.

§ 92. Settlement of claims for transportation over non-bond-aided lines.

The Secretary of the Treasury is authorized and directed to make settlement of the claims growing out of Government transportation over non-bond-aided lines of the Southern Pacific Company and Central Pacific Railroad Company by crediting against the notes of the Central Pacific Railroad Company held in the Treasury of the United States interest on all of said judgment and allowed claims at 4 per centum per annum, as set forth in his letter to the chairman of the Committee on Appropriations of the Senate, dated May 12, 1900. (Mar. 3, 1901, ch. 831, § 1, 31 Stat. 1023.)

DERIVATION

Act Mar. 3, 1901, was Deficiency Appropriation Act of that date.

CROSS REFERENCES

Public accounts, settlement in General Accounting Office, see section 71 of Title 31, Money and Finance.

§ 92a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, acts Feb. 14, 1933, ch. 51, 47 Stat. 800; Mar. 2, 1933, ch. 187, 47 Stat. 1424, related to compensation of certain roads for transportation of property and troops of United States. See section 65 of Title 49, Transportation.

§ 93. Indian goods and supplies.

Payment for transportation of Indian goods and supplies shall include all Indian transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant Acts), but in no case shall more than 50 per centum of full amount of service be paid to said land-grant roads: *Provided,* That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large, and shall be accepted as in full for all demands for such service: *Provided further,* That on and after April 30, 1908 in expending money appropriated for this purpose a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public lands to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose, restricting the charge for such government transportation, having claims against the United States for transportation of Indian goods and supplies over such aided railroads, shall be paid out of the moneys appropriated for such purpose only on the basis of such rate for the transportation of such Indian goods and supplies as the Secretary of the Interior shall deem just and reasonable under the provisions set forth herein, such rate not to exceed 50 per centum of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service. (Apr. 30, 1908, ch. 153, 35 Stat. 73.)

§ 94. Liens of United States; redemption of prior incumbrances.

Whenever, in the opinion of the President, it shall be deemed necessary to the protection of the interests and the preservation of the security of the United States in respect of its lien, mortgage, or other interest in any of the property of any or all of the several companies upon which a lien, mortgage, or other incumbrance paramount to the right, title, or interest of the United States for the same property, or any part of the same, may exist and be then lawfully liable to be enforced, the Secretary of the Treasury shall, under the direction of the President, redeem or otherwise clear off such paramount lien, mortgage, or other incumbrance by paying the sums lawfully due in respect thereof out of the Treasury; and the United States shall thereupon become and be subrogated to all rights and securities theretofore pertaining to the debt, mortgage, lien, or other incumbrance in respect of which such payment shall have been made. It shall be the duty of the Attorney General, under the direction of the President, to take all such steps and proceedings, in the courts and otherwise, as shall be needful to redeem such lien, mortgage, or other incumbrance, and to protect and defend the rights and interests of the United States in respect of the matters in this section mentioned, and to take steps to foreclose any mortgages or liens of the United States on any such railroad property. (Mar. 3, 1887, ch. 345, § 4, 24 Stat. 491.)

CODIFICATION

This section and section 95 of this title were part of act Mar. 3, 1887.

Sections 1—3 of act Mar. 3, 1887, authorized the appointment of a commission to investigate the books, etc., of bond-aided railroads, and were omitted as temporary and executed.

§ 95. Sinking funds to secure debt to United States.

The sinking funds which are or may be held in the Treasury for the security of the indebtedness of either or all of said railroad companies may, in addition to the investments on March 3, 1887, authorized by law, be invested in any bonds of the United States issued prior to said date for the benefit of either or all of said companies, or in any of the first-mortgage bonds of either of said companies which have been issued under the authority of any law of the United States and secured by mortgages of their roads and franchises, which by any law of the United States have been made prior and para-

mount to the mortgage, lien, or other security of the United States in respect of its advances to either of said companies as provided by law. (Mar. 3, 1887, ch. 345, § 5, 24 Stat. 492.)

Chapter 6.—MEDIATION, CONCILIATION, AND ARBITRATION IN CONTROVERSIES BETWEEN CARRIERS AND EMPLOYEES

§§ 101 to 125. Repealed. May 20, 1926, ch. 347, § 14, 44 Stat. 587.

Sections 101—125, act July 15, 1913, ch. 6, §§ 1—11, 38 Stat. 103—108, provided for mediation, conciliation, and arbitration in controversies between carriers and employees. These provisions are covered by the Railway Labor Act which is classified to chapter 8 of this title.

§ 126. Offices of Commissioner and Assistant Commissioner of Mediation and Conciliation abolished.

CODIFICATION

Section, act Dec. 15, 1921, ch. 1, § 1, 42 Stat. 328, abolished the offices of Commissioner and Assistant Commissioner of Mediation and Conciliation.

Chapter 7.—ADJUSTMENT BOARDS AND LABOR BOARDS

§§ 131 to 146. Repealed. May 20, 1926, ch. 347, § 14, 44 Stat. 587.

Sections 131—146, act Feb. 28, 1920, ch. 91, Title III, §§ 300—311, 313, 314, 316, 41 Stat. 469—474, provided for adjustment and labor boards, their powers and jurisdiction, and are covered by the Railway Labor Act, which is classified to chapter 8 of this title.

Chapter 8.—RAILWAY LABOR

Sec.
151. Definitions.
151a. General purposes.
152. General duties.
153. National Railroad Adjustment Board.
154. National Mediation Board.
155. Functions of Mediation Board.
156. Procedure in changing rates of pay, rules, and working conditions.
157. Arbitration.
158. Agreement to arbitrate; form and contents; signatures and acknowledgment; revocation.
159. Award and judgment thereon; effect of chapter on individual employee.
160. Emergency Board.
161. Effect of partial invalidity of chapter.
162. Appropriation.
163. Repeal of prior legislation; exception.
164. Repealed.

CARRIERS BY AIR

181. Application of sections 151 to 152 and 154 to 163 to carriers by air.
182. Same; duties, penalties, benefits, and privileges.
183. Disputes within jurisdiction of Mediation Board.
184. System, group, or regional boards of adjustment.
185. National Air Transport Adjustment Board.
186. Pending cases before Labor Relations Board transferred to Mediation Board.
187. Separability of provisions.
188. Appropriation authorized.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 1951; title 26 section 3231; title 28 section 1445.

§ 151. Definitions.

When used in this chapter and section 225 of Title 28 and for the purposes of said chapter and section—

First. The term "carrier" includes any express company, sleeping-car company, carrier by railroad, subject to the Interstate Commerce Act, and any company which is directly or indirectly owned or controlled by or under common control with any carrier by railroad and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation, receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, and handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is authorized and directed upon request of the Mediation Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "carrier" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to a carrier where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

Second. The term "Adjustment Board" means the National Railroad Adjustment Board created by this chapter.

Third. The term "Mediation Board" means the National Mediation Board created by this chapter.

Fourth. The term "commerce" means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation.

Fifth. The term "employee" as used herein includes every person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee or subordinate official in the orders of the Interstate Commerce Commission now in effect, and as the same may be amended or interpreted by orders hereafter entered by the Commission pursuant to the authority which is conferred upon it to enter orders amending or interpreting such existing orders: *Provided, however,* That no occupational classification made by order of the Interstate Commerce Commission shall be construed to define the crafts according to which railway employees may be organized by their voluntary action, nor shall the jurisdiction or powers of such employee organizations be regarded as in any way limited or defined by the provisions of this chapter or by the orders of the Commission.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

Sixth. The term "representative" means any person or persons, labor union, organization, or corporation designated either by a carrier or group of carriers or by its or their employees, to act for it or them.

Seventh. The term "district court" includes the United States District Court for the District of Columbia; and the term "court of appeals" includes the United States Court of Appeals for the District of Columbia.

This chapter may be cited as the "Railway Labor Act." (May 20, 1926, ch. 347, § 1, 44 Stat. 577; June 7, 1934, ch. 426, 48 Stat. 926; June 21, 1934, ch. 691, § 1, 48 Stat. 1185; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 13, 1940, ch. 664, §§ 2, 3, 54 Stat. 785, 786; June 25, 1948, ch. 646, § 32 (a), (b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

REFERENCES IN TEXT

Section 225 of Title 28, referred to in introductory par. was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948, and is now covered by section 1292 of Title 28, Judiciary and Judicial Procedure.

Interstate Commerce Act, referred to in first subd., is classified to chapters 1, 8, 12, 13 and 19 of Title 49, Transportation.

CODIFICATION

Provisions of act Aug. 13, 1940, § 2, similar to those of subd. "First" of this section, limiting the term "employer" as applied to mining, etc., of coal, are contained in section 228a of this title. Provisions of section 3 of the act, similar to those of subd. "Fifth" of this section, limiting the term "employee" as applied to mining, etc., of coal, are contained in section 228a, former section 261, and section 351 of this title, and section 1532 of Title 26, Internal Revenue Code, 1939.

AMENDMENTS

1940—Act Aug. 13, 1940, added last sentence of subd. "First", and last par. of subd. "Fifth".

CHANGE OF NAME

Subd. seventh amended by act June 25, 1948, § 32 (a), (b), eff. Sept. 1, 1948, as amended by act May 24, 1949. Act June 25, 1948, § 32 (a), as so amended, substituted "court of appeals" for "circuit court of appeals".

Act June 25, 1948, § 32 (b), as so amended, substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia."

Subd. seventh amended by act June 25, 1936, which substituted "District Court of the United States for the District of Columbia" for "Supreme Court of the District of Columbia".

Subd. seventh amended by act June 7, 1934, which substituted "United States Court of Appeals for the District of Columbia" for "Court of Appeals for the District of Columbia".

SOCIAL INSURANCE AND LABOR RELATIONS OF RAILROAD COAL-MINING EMPLOYEES; RETROACTIVE OPERATION OF ACT AUG. 13, 1940; EFFECT ON PAYMENTS, RIGHTS, ETC.

Sections 4—7 of act Aug. 13, 1940, as amended by 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095, with regard to the operation and effect of the laws amended, provided:

"SEC. 4. (a) The laws hereby expressly amended (section 1532 of Title 26, I. R. C. 1939, and sections 151, 215, 228a, [former] 261, and 351 of this title), the Social Security Act, approved August 14, 1935 (section 301 et seq. of Title 42), and all amendments thereto, shall operate as if each amendment herein contained had been enacted as a part of the law it amends, at the time of the original enactment of such law.

"(b) No person (as defined in the Carriers Taxing Act of 1937 [former section 261 et seq. of this title]) shall be entitled, by reason of the provisions of this Act, to a refund of, or relief from liability for, any income or excise taxes paid or accrued, pursuant to the provisions of the Carriers Taxing Act of 1937 [former section 261 et seq. of this title] or subchapter B of chapter 9 of the Internal Revenue Code [section 1500 et seq. of Title 26, I. R. C. 1939], prior to the date of the enactment of this Act by reason of employment in the service of any carrier by railroad subject to part I of the Interstate Commerce Act [section 1 et seq. of Title 49], but any individual who has been employed in such service of any carrier by railroad subject to part I of the Interstate Commerce Act [section 1 et seq. of Title 49] as is excluded by the amendments made by this Act from coverage under the Carriers Taxing Act of 1937 [former section 261 et seq. of this title] and subchapter B of chapter 9 of the Internal Revenue Code [section 1500 et seq. of Title 26, I. R. C. 1939], and who has paid income taxes under the provisions of such Act or subchapter, and any carrier by railroad subject to part I of the Interstate Commerce Act [section 1 et seq. of Title 49] which has paid excise taxes under the provisions of the Carriers Taxing Act of 1937 [former section 261 et seq. of this title] or subchapter B of chapter 9 of the Internal Revenue Code [section 1500 et seq. of Title 26, I. R. C. 1939], may, upon making proper application therefor to the Bureau of Internal Revenue, have the amount of taxes so paid applied in reduction of such tax liability with respect to employment, as may, by reason of the amendments made by this Act, accrue against them under the provisions of title VIII of the Social Security Act [former section 1001 et seq. of Title 42] or the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code) [section 1400 et seq. of Title 26, I. R. C. 1939].

"(c) Nothing contained in this Act shall operate (1) to affect any annuity, pension, or death benefit granted under the Railroad Retirement Act of 1935 [former sections 215—228 of this title] or the Railroad Retirement Act of 1937 [section 228a et seq. of this title], prior to the date of enactment of this Act, or (2) to include any of the services on the basis of which any such annuity or pension was granted, as employment within the meaning of section 210 (b) of the Social Security Act or section 209 (b) of such Act, as amended [former sections 410 (b) and 409 (b), respectively, of Title 42]. In any case in which a death benefit alone has been granted, the amount of such death benefit attributable to services, coverage of which is affected by this Act, shall be deemed to have been paid to the deceased under section 204 of the Social Security Act [section 404 of Title 42] in effect prior to January 1, 1940, and deductions shall be made from any insurance benefit or benefits payable under the Social Security Act, as amended [section 301 et seq. of Title 42], with respect to wages paid to an individual for such services until such deductions total the amount of such death benefit attributable to such services.

"(d) Nothing contained in this Act shall operate to affect the benefit rights of any individual under the Railroad Unemployment Insurance Act [section 351 et seq. of this title] for any day of unemployment (as defined in section 1 (k) of such Act [section 351 (k) of this title]) occurring prior to the date of enactment of this Act. [Aug. 13, 1940]

"SEC. 5. Any application for payment filed with the Railroad Retirement Board prior to, or within sixty days after, the enactment of this Act shall, under such regulations as the Federal Security Administrator may prescribe, be deemed to be an application filed with the Federal Security Administrator by such individual or by any person claiming any payment with respect to the wages of such individual, under any provision of section 202 of the Social Security Act, as amended [section 402 of Title 42].

"SEC. 6. Nothing contained in this Act, nor the action of Congress in adopting it, shall be taken or considered as affecting the question of what carriers, companies, or

individuals, other than those in this Act specifically provided for, are included in or excluded from the provisions of the various laws to which this Act is an amendment.

"SEC. 7. (a) Notwithstanding the provisions of section 1605 (b) of the Internal Revenue Code, [1939] no interest shall, during the period February 1, 1940, to the eighty-ninth day after the date of enactment of this Act, [Aug. 13, 1940] inclusive, accrue by reason of delinquency in the payment of the tax imposed by section 1600 with respect to services affected by this Act performed during the period July 1, 1939, to December 31, 1939, inclusive, with respect to which services amounts have been paid as contributions under the Railroad Unemployment Insurance Act [section 351 et seq. of this title] prior to the date of enactment of this Act.

"(b) Notwithstanding the provisions of section 1601 (a) (3) of the Internal Revenue Code, [1939] the credit allowable under section 1601 (a) against the tax imposed by section 1600 for the calendar year 1939 shall not be disallowed or reduced by reason of the payment into a State unemployment fund after January 31, 1940, of contributions with respect to services affected by this Act performed during the period July 1, 1939, to December 31, 1939, inclusive, with respect to which services amounts have been paid as contributions under the Railroad Unemployment Insurance Act [section 351 et seq. of this title] prior to the date of enactment of this Act [Aug. 13, 1940]: *Provided,* That this subsection shall be applicable only if the contributions with respect to such services are paid into the State unemployment fund before the ninetieth day after the date of enactment of this Act [Aug. 13, 1940]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 157, 181, 182, 184, 185 of this title.

§ 151a. General purposes.

The purposes of the chapter are: (1) To avoid any interruption to commerce or to the operation of any carrier engaged therein; (2) to forbid any limitation upon freedom of association among employees or any denial, as a condition of employment or otherwise, of the right of employees to join a labor organization; (3) to provide for the complete independence of carriers and of employees in the matter of self-organization to carry out the purposes of this chapter; (4) to provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions; (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions. (May 20, 1926, ch. 347, § 2, 44 Stat. 577; June 21, 1934, ch. 691, § 2, 48 Stat. 1186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 157, 181, 182, 184, 185 of this title.

§ 152. General duties.

First. Duty of carriers and employees to settle disputes.

It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof.

Second. Consideration of disputes by representatives.

All disputes between a carrier or carriers and its or their employees shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employees thereof interested in the dispute.

Third. Designation of representatives.

Representatives, for the purposes of this chapter, shall be designated by the respective parties without interference, influence, or coercion by either party over the designation of representatives by the other; and neither party shall in any way interfere with, influence, or coerce the other in its choice of representatives. Representatives of employees for the purposes of this chapter need not be persons in the employ of the carrier, and no carrier shall, by interference, influence, or coercion seek in any manner to prevent the designation by its employees as their representatives of those who or which are not employees of the carrier.

Fourth. Organization and collective bargaining; freedom from interference by carrier; assistance in organizing or maintaining organization by carrier forbidden; deduction of dues from wages forbidden.

Employees shall have the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this chapter. No carrier, its officers, or agents shall deny or in any way question the right of its employees to join, organize, or assist in organizing the labor organization of their choice, and it shall be unlawful for any carrier to interfere in any way with the organization of its employees, or to use the funds of the carrier in maintaining or assisting or contributing to any labor organization, labor representative, or other agency of collective bargaining, or in performing any work therefor, or to influence or coerce employees in an effort to induce them to join or remain or not to join or remain members of any labor organization, or to deduct from the wages of employees any dues, fees, assessments, or other contributions payable to labor organizations, or to collect or to assist in the collection of any such dues, fees, assessments, or other contributions: *Provided,* That nothing in this chapter shall be construed to prohibit a carrier from permitting an employee, individually, or local representatives of employees from conferring with management during working hours without loss of time, or to prohibit a carrier from furnishing free transportation to its employees while engaged in the business of a labor organization.

Fifth. Agreements to join or not to join labor organizations forbidden.

No carrier, its officers, or agents shall require any person seeking employment to sign any contract or agreement promising to join or not to join a labor organization; and if any such contract has been enforced prior to the effective date of this chapter, then such carrier shall notify the employees by an appropriate order that such contract has been discarded and is no longer binding on them in any way.

Sixth. Conference of representatives; time; place; private agreements.

In case of a dispute between a carrier or carriers and its or their employees, arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, it shall be the duty of the designated representative or representatives of such carrier or carriers and of such employees, within ten days after the receipt of notice of a desire on the part of either party to confer in respect to such dispute, to specify a time and place at which such conference shall be held: *Provided,* (1) That the place so specified shall be situated upon the line of the carrier involved or as otherwise mutually agreed upon; and (2) that the time so specified shall allow the designated conferees reasonable opportunity to reach such place of conference, but shall not exceed twenty days from the receipt of such notice: *And provided further,* That nothing in this chapter shall be construed to supersede the provisions of any agreement (as to conferences) then in effect between the parties.

Seventh. Change in pay, rules, or working conditions contrary to agreement or to section 156 forbidden.

No carrier, its officers, or agents shall change the rates of pay, rules, or working conditions of its employees, as a class, as embodied in agreements except in the manner prescribed in such agreements or in section 156 of this title.

Eighth. Notices of manner of settlement of disputes; posting.

Every carrier shall notify its employees by printed notices in such form and posted at such times and places as shall be specified by the Mediation Board that all disputes between the carrier and its employees will be handled in accordance with the requirements of this chapter, and in such notices there shall be printed verbatim, in large type, the third, fourth, and fifth paragraphs of this section. The provisions of said paragraphs are made a part of the contract of employment between the carrier and each employee, and shall be held binding upon the parties, regardless of any other express or implied agreements between them.

Ninth. Disputes as to identity of representatives; designation by Mediation Board; secret elections.

If any dispute shall arise among a carrier's employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of this chapter, it shall be the duty of the Mediation Board, upon request of either party to the dispute, to investigate such dispute and to certify to both parties, in writing, within thirty days after the receipt of the invocation of its services, the name or names of the individuals or organizations that have been designated and authorized to represent the employees involved in the dispute, and certify the same to the carrier. Upon receipt of such certification the carrier shall treat with the representative so certified as the representative of the craft or class for the purposes of this chapter. In such an investigation, the Mediation Board shall be authorized to take a secret ballot of the employees involved, or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives in such manner as shall insure the choice of representatives by the employees without interference, influence, or coercion exercised by the carrier. In the conduct of any election for the purposes herein indicated the Board shall designate who may participate in the election and establish the rules to govern the election, or may appoint a committee of three neutral persons who after hearing shall within ten days designate the employees who may participate in the election. The Board shall have access to and have power to make copies of the books and records of the carriers to obtain and utilize such information as may be deemed necessary by it to carry out the purposes and provisions of this paragraph.

Tenth. Violations; prosecution and penalties.

The willful failure or refusal of any carrier, its officers or agents, to comply with the terms of the third, fourth, fifth, seventh, or eighth paragraph of this section shall be a misdemeanor, and upon conviction thereof the carrier, officer, or agent offending shall be subject to a fine of not less than $1,000, nor more than $20,000, or imprisonment for not more than six months, or both fine and imprisonment, for each offense, and each day during which such carrier, officer, or agent shall willfully fail or refuse to comply with the terms of the said paragraphs of this section shall constitute a separate offense. It shall be the duty of any United States attorney to whom any duly designated representative of a carrier's employees may apply to institute in the proper court and to prosecute under the direction of the Attorney General of the United States, all necessary proceedings for the enforcement of the provisions of this section, and for the punishment of all violations thereof and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States: *Provided,* That nothing in this chapter shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this chapter be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent.

Eleventh. Union security agreements; check-off.

Notwithstanding any other provisions of this chapter, or of any other statute or law of the United States, or Territory thereof, or of any State, any carrier or carriers as defined in this chapter and a labor organization or labor organizations duly designated and authorized to represent employees in accordance with the requirements of this chapter shall be permitted—

(a) to make agreements, requiring, as a condition of continued employment, that within sixty days following the beginning of such employment, or the effective date of such agreements, whichever is the later, all employees shall become members of the labor organization representing their craft or class: *Provided,* That no such agreement shall require such condition of employment with respect to employees to whom membership is not available upon the same terms and conditions as are generally applicable to

any other member or with respect to employees to whom membership was denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership.

(b) to make agreements providing for the deduction by such carrier or carriers from the wages of its or their employees in a craft or class and payment to the labor organization representing the craft or class of such employees, of any periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership: *Provided,* That no such agreement shall be effective with respect to any individual employee until he shall have furnished the employer with a written assignment to the labor organization of such membership dues, initiation fees, and assessments, which shall be revocable in writing after the expiration of one year or upon the termination date of the applicable collective agreement, whichever occurs sooner.

(c) The requirement of membership in a labor organization in an agreement made pursuant to subparagraph (a) of this paragraph shall be satisfied, as to both a present or future employee in engine, train, yard, or hostling service, that is, an employee engaged in any of the services or capacities covered in the First division of paragraph (h) of section 153 of this title defining the jurisdictional scope of the First Division of the National Railroad Adjustment Board, if said employee shall hold or acquire membership in any one of the labor organizations, national in scope, organized in accordance with this chapter and admitting to membership employees of a craft or class in any of said services; and no agreement made pursuant to subparagraph (b) of this paragraph shall provide for deductions from his wages for periodic dues, initiation fees, or assessments payable to any labor organization other than that in which he holds membership: *Provided, however,* That as to an employee in any of said services on a particular carrier at the effective date of any such agreement on a carrier, who is not a member of any one of the labor organizations, national in scope, organized in accordance with this chapter and admitting to membership employees of a craft or class in any of said services, such employee, as a condition of continuing his employment, may be required to become a member of the organization representing the craft in which he is employed on the effective date of the first agreement applicable to him: *Provided, further,* That nothing herein or in any such agreement or agreements shall prevent an employee from changing membership from one organization to another organization admitting to membership employees of a craft or class in any of said services.

(d) Any provisions in paragraphs Fourth and Fifth of this section in conflict herewith are to the extent of such conflict amended. (May 20, 1926, ch. 347, § 2, 44 Stat. 577; June 21, 1934, ch. 691, § 2, 48 Stat. 1186; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Jan. 10, 1951, ch. 1220, 64 Stat. 1238.)

AMENDMENTS

1951—Act Jan. 10, 1951, added par. eleven.

CHANGE OF NAME

Par. ten amended by act June 25, 1948, eff. Sept. 1, 1948, which substituted "United States attorney" for "district attorney of the United States". See section 541 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 157, 181, 182, 184, 185 of this title.

§ 153. National Railroad Adjustment Board.

First. Establishment; composition; powers and duties; divisions; hearings and awards; judicial review.

There is established a Board, to be known as the "National Railroad Adjustment Board", the members of which shall be selected within thirty days after June 21, 1934, and it is provided—

(a) That the said Adjustment Board shall consist of thirty-four members, seventeen of whom shall be selected by the carriers and seventeen by such labor organizations of the employees, national in scope, as have been or may be organized in accordance with the provisions of section 152 of this title.

(b) The carriers, acting each through its board of directors or its receiver or receivers, trustee or trustees, or through an officer or officers designated for that purpose by such board, trustee or trustees, or receiver or receivers, shall prescribe the rules under which its representatives shall be selected and shall select the representatives of the carriers on the Adjustment Board and designate the division on which each such representative shall serve, but no carrier or system of carriers shall have more than one voting representative on any division of the Board.

(c) Except as provided in the second paragraph of subsection (h) of this section, the national labor organizations, as defined in paragraph (a) of this section, acting each through the chief executive or other medium designated by the organization or association thereof, shall prescribe the rules under which the labor members of the Adjustment Board shall be selected and shall select such members and designate the division on which each member shall serve; but no labor organization shall have more than one voting representative on any division of the Board.

(d) In case of a permanent or temporary vacancy on the Adjustment Board, the vacancy shall be filled by selection in the same manner as in the original selection.

(e) If either the carriers or the labor organizations of the employees fail to select and designate representatives to the Adjustment Board, as provided in paragraphs (b) and (c) of this section, respectively, within sixty days after June 21, 1934, in case of any original appointment to office of a member of the Adjustment Board, or in case of a vacancy in any such office within thirty days after such vacancy occurs, the Mediation Board shall thereupon directly make the appointment and shall select an individual associated in interest with the carriers or the group of labor organizations of employees, whichever he is to represent.

(f) In the event a dispute arises as to the right of any national labor organization to participate as per paragraph (c) of this section in the selection and designation of the labor members of the Adjustment Board, the Secretary of Labor shall investigate the

claim of such labor organization to participate, and if such claim in the judgment of the Secretary of Labor has merit, the Secretary shall notify the Mediation Board accordingly, and within ten days after receipt of such advice the Mediation Board shall request those national labor organizations duly qualified as per paragraph (c) of this section to participate in the selection and designation of the labor members of the Adjustment Board to select a representative. Such representative, together with a representative likewise designated by the claimant, and a third or neutral party designated by the Mediation Board, constituting a board of three, shall within thirty days after the appointment of the neutral member, investigate the claims of the labor organization desiring participation and decide whether or not it was organized in accordance with section 152 of this title and is otherwise properly qualified to participate in the selection of the labor members of the Adjustment Board, and the findings of such boards of three shall be final and binding.

(g) Each member of the Adjustment Board shall be compensated by the party or parties he is to represent. Each third or neutral party selected under the provisions of paragraph (f) of this section shall receive from the Mediation Board such compensation as the Mediation Board may fix, together with his necessary traveling expenses and expenses actually incurred for subsistence, or per diem allowance in lieu thereof, subject to the provisons of law applicable thereto, while serving as such third or neutral party.

(h) The said Adjustment Board shall be composed of four divisions, whose proceedings shall be independent of one another, and the said divisions as well as the number of their members shall be as follows:

First division: To have jurisdiction over disputes involving train- and yard-service employees of carriers; that is, engineers, firemen, hostlers, and outside hostler helpers, conductors, trainmen, and yard-service employees. This division shall consist of eight members, four of whom shall be selected and designated by the carriers and four of whom shall be selected and designated by the labor organizations, national in scope and organized in accordance with section 151a and section 152 of this title and which represent employees in engine, train, yard, or hostling service: *Provided, however,* That each labor organization shall select and designate two members on the First Division and that no labor organization shall have more than one vote in any proceedings of the First Division or in the adoption of any award with respect to any dispute submitted to the First Division: *Provided further, however,* That the carrier members of the First Division shall cast no more than two votes in any proceedings of the division or in the adoption of any award with respect to any dispute submitted to the First Division.

Second division: To have jurisdiction over disputes involving machinists, boilermakers, blacksmiths, sheet-metal workers, electrical workers, carmen, the helpers and apprentices of all the foregoing, coach cleaners, power-house employees, and railroad-shop laborers. This division shall consist of ten members, five of whom shall be selected by the carriers and five by the national labor organizations of the employees.

Third division: To have jurisdiction over disputes involving station, tower, and telegraph employees, train dispatchers, maintenance-of-way men, clerical employees, freight handlers, express, station, and store employees, signal men, sleeping-car conductors, sleeping-car porters, and maids and dining-car employees. This division shall consist of ten members, five of whom shall be selected by the carriers and five by the national labor organizations of employees.

Fourth division: To have jurisdiction over disputes involving employees of carriers directly or indirectly engaged in transportation of passengers or property by water, and all other employees of carriers over which jurisdiction is not given to the first, second, and third divisions. This division shall consist of six members, three of whom shall be selected by the carriers and three by the national labor organizations of the employees.

(i) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on June 21, 1934, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes.

(j) Parties may be heard either in person, by counsel, or by other representatives, as they may respectively elect, and the several divisions of the Adjustment Board shall give due notice of all hearings to the employee or employees and the carrier or carriers involved in any disputes submitted to them.

(k) Any division of the Adjustment Board shall have authority to empower two or more of its members to conduct hearings and make findings upon disputes, when properly submitted, at any place designated by the division: *Provided, however,* That except as provided in paragraph (h) of this section, final awards as to any such dispute must be made by the entire division as hereinafter provided.

(*l*) Upon failure of any division to agree upon an award because of a deadlock or inability to secure a majority vote of the division members, as provided in paragraph (n) of this section, then such division shall forthwith agree upon and select a neutral person, to be known as "referee", to sit with the division as a member thereof, and make an award. Should the division fail to agree upon and select a referee within ten days of the date of the deadlock or inability to secure a majority vote, then the division, or any member thereof, or the parties or either party to the dispute may certify that fact to the Mediation Board, which Board shall, within ten days from the date of receiving such certificate, select and name the referee to sit with the division as a member thereof and make an award. The Mediation Board shall be bound by the same provisions in the appointment of these neutral referees as are provided elsewhere in this chapter for the appointment of ar-

bitrators and shall fix and pay the compensation of such referees.

(m) The awards of the several divisions of the Adjustment Board shall be stated in writing. A copy of the awards shall be furnished to the respective parties to the controversy, and the awards shall be final and binding upon both parties to the dispute. In case a dispute arises involving an interpretation of the award, the division of the Board upon request of either party shall interpret the award in the light of the dispute.

(n) A majority vote of all members of the division of the Adjustment Board eligible to vote shall be competent to make an award with respect to any dispute submitted to it.

(o) In case of an award by any division of the Adjustment Board in favor of petitioner, the division of the Board shall make an order, directed to the carrier, to make the award effective and, if the award includes a requirement for the payment of money, to pay to the employee the sum to which he is entitled under the award on or before a day named. In the event any division determines that an award favorable to the petitioner should not be made in any dispute referred to it, the division shall make an order to the petitioner stating such determination.

(p) If a carrier does not comply with an order of a division of the Adjustment Board within the time limit in such order, the petitioner, or any person for whose benefit such order was made, may file in the District Court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the carrier operates, a petition setting forth briefly the causes for which he claims relief, and the order of the division of the Adjustment Board in the premises. Such suit in the District Court of the United States shall proceed in all respects as other civil suits. except that on the trial of such suit the findings and order of the division of the Adjustment Board shall be conclusive on the parties, and except that the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings, unless they accrue upon his appeal, and such costs shall be paid out of the appropriation for the expenses of the courts of the United States. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. The district courts are empowered, under the rules of the court governing actions at law, to make such order and enter such judgment, by writ of mandamus or otherwise, as may be appropriate to enforce or set aside the order of the division of the Adjustment Board: *Provided, however,* That such order may not be set aside except for failure of the division to comply with the requirements of this chapter, for failure of the order to conform, or confine itself, to matters within the scope of the division's jurisdiction, or for fraud or corruption by a member of the division making the order.

(q) If any employee or group of employees, or any carrier, is aggrieved by the failure of any division of the Adjustment Board to make an award in a dispute referred to it, or is aggrieved by any of the terms of an award or by the failure of the division to include certain terms in such award, then such employee or group of employees or carrier may file in any United States district court in which a petition under paragraph (p) could be filed, a petition for review of the division's order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Adjustment Board. The Adjustment Board shall file in the court the record of the proceedings on which it based its action. The court shall have jurisdiction to affirm the order of the division, or to set it aside, in whole or in part, or it may remand the proceeding to the division for such further action as it may direct. On such review, the findings and order of the division shall be conclusive on the parties, except that the order of the division may be set aside, in whole or in part, or remanded to the division, for failure of the division to comply with the requirements of this chapter, for failure of the order to conform, or confine itself, to matters within the scope of the division's jurisdiction, or for fraud or corruption by a member of the division making the order. The judgment of the court shall be subject to review as provided in sections 1291 and 1254 of Title 28.

(r) All actions at law based upon the provisions of this section shall be begun within two years from the time the cause of action accrues under the award of the division of the Adjustment Board, and not after.

(s) The several divisions of the Adjustment Board shall maintain headquarters in Chicago, Illinois, meet regularly, and continue in session so long as there is pending before the division any matter within its jurisdiction which has been submitted for its consideration and which has not been disposed of.

(t) Whenever practicable, the several divisions or subdivisions of the Adjustment Board shall be supplied with suitable quarters in any Federal building located at its place of meeting.

(u) The Adjustment Board may, subject to the approval of the Mediation Board, employ and fix the compensations of such assistants as it deems necessary in carrying on its proceedings. The compensation of such employees shall be paid by the Mediation Board.

(v) The Adjustment Board shall meet within forty days after June 21, 1934, and adopt such rules as it deems necessary to control proceedings before the respective divisions and not in conflict with the provisions of this section. Immediately following the meeting of the entire Board and the adoption of such rules, the respective divisions shall meet and organize by the selection of a chairman, a vice chairman, and a secretary. Thereafter each division shall annually designate one of its members to act as chairman and one of its members to act as vice chairman: *Provided, however,* That the chairmanship and vice-chairmanship of any division shall alternate as between the groups, so that both the chairmanship and vice-chairmanship shall be held alternately by a representative of the carriers and a representative of the employees. In case of a vacancy, such vacancy shall be filled for

the unexpired term by the selection of a successor from the same group.

(w) Each division of the Adjustment Board shall annually prepare and submit a report of its activities to the Mediation Board, and the substance of such report shall be included in the annual report of the Mediation Board to the Congress of the United States. The reports of each division of the Adjustment Board and the annual report of the Mediation Board shall state in detail all cases heard, all actions taken, the names, salaries, and duties of all agencies, employees, and officers receiving compensation from the United States under the authority of this chapter, and an account of all moneys appropriated by Congress pursuant to the authority conferred by this chapter and disbursed by such agencies, employees, and officers.

(x) Any division of the Adjustment Board shall have authority, in its discretion, to establish regional adjustment boards to act in its place and stead for such limited period as such division may determine to be necessary. Carrier members of such regional boards shall be designated in keeping with rules devised for this purpose by the carrier members of the Adjustment Board and the labor members shall be designated in keeping with rules devised for this purpose by the labor members of the Adjustment Board. Any such regional board shall, during the time for which it is appointed, have the same authority to conduct hearings, make findings upon disputes and adopt the same procedure as the division of the Adjustment Board appointing it, and its decisions shall be enforceable to the same extent and under the same processes. A neutral person, as referee, shall be appointed for service in connection with any such regional adjustment board in the same circumstances and manner as provided in paragraph (*l*) of this section, with respect to a division of the Adjustment Board.

Second. System, group, or regional boards: establishment by voluntary agreement; special adjustment boards: establishment, composition, designation of representatives by Mediation Board, neutral member, compensation, quorum, finality and enforcement of awards.

Nothing in this section shall be construed to prevent any individual carrier, system, or group of carriers and any class or classes of its or their employees, all acting through their representatives, selected in accordance with the provisions of this chapter, from mutually agreeing to the establishment of system, group, or regional boards of adjustment for the purpose of adjusting and deciding disputes of the character specified in this section. In the event that either party to such a system, group, or regional board of adjustment is dissatisfied with such arrangement, it may upon ninety days' notice to the other party elect to come under the jurisdiction of the Adjustment Board.

If written request is made upon any individual carrier by the representative of any craft or class of employees of such carrier for the establishment of a special board of adjustment to resolve disputes otherwise referable to the Adjustment Board, or any dispute which has been pending before the Adjustment Board for twelve months from the date the dispute (claim) is received by the Board, or if any carrier makes such a request upon any such representative, the carrier or the representative upon whom such request is made shall join in an agreement establishing such a board within thirty days from the date such request is made. The cases which may be considered by such board shall be defined in the agreement establishing it. Such board shall consist of one person designated by the carrier and one person designated by the representative of the employees. If such carrier or such representative fails to agree upon the establishment of such a board as provided herein, or to exercise its rights to designate a member of the board, the carrier or representative making the request for the establishment of the special board may request the Mediation Board to designate a member of the special board on behalf of the carrier or representative upon whom such request was made. Upon receipt of a request for such designation the Mediation Board shall promptly make such designation and shall select an individual associated in interest with the carrier or representative he is to represent, who, with the member appointed by the carrier or representative requesting the establishment of the special board, shall constitute the board. Each member of the board shall be compensated by the party he is to represent. The members of the board so designated shall determine all matters not previously agreed upon by the carrier and the representative of the employees with respect to the establishment and jurisdiction of the board. If they are unable to agree such matters shall be determined by a neutral member of the board selected or appointed and compensated in the same manner as is hereinafter provided with respect to situations where the members of the board are unable to agree upon an award. Such neutral member shall cease to be a member of the board when he has determined such matters. If with respect to any dispute or group of disputes the members of the board designated by the carrier and the representative are unable to agree upon an award disposing of the dispute or group of disputes they shall by mutual agreement select a neutral person to be a member of the board for the consideration and disposition of such dispute or group of disputes. In the event the members of the board designated by the parties are unable, within ten days after their failure to agree upon an award, to agree upon the selection of such neutral person, either member of the board may request the Mediation Board to appoint such neutral person and upon receipt of such request the Mediation Board shall promptly make such appointment. The neutral person so selected or appointed shall be compensated and reimbursed for expenses by the Mediation Board. Any two members of the board shall be competent to render an award. Such awards shall be final and binding upon both parties to the dispute and if in favor of the petitioner, shall direct the other party to comply therewith on or before the day named. Compliance with such awards shall be enforcible by proceedings in the United States district courts in the same manner and subject to the same provisions that apply to proceedings for enforcement of compliance with awards of the Adjustment Board. (May 20, 1926, ch. 347, § 3, 44 Stat. 578;

June 21, 1934, ch. 691, § 3, 48 Stat. 1189; June 20, 1966, Pub. L. 89-456, §§ 1, 2, 80 Stat. 208, 209; Apr. 23, 1970, Pub. L. 91-234, §§ 1—6, 84 Stat. 199, 200.)

AMENDMENTS

1970—Subd. First, (a). Pub. L. 91-234, § 1, substituted "thirty-four members, seventeen of whom shall be selected by the carriers and seventeen" for "thirty-six members, eighteen of whom shall be selected by the carriers and eighteen".

Subd. First, (b). Pub. L. 91-234, § 2, provided that no carrier or system of carriers have more than one voting representative on any division of the National Railroad Adjustment Board.

Subd. First, (c). Pub L. 91-234, § 3, added "Except as provided in the second paragraph of subsection (h) of this section" preceding "the national labor organizations", and provided that no labor organization have more than one voting representative on any division of the National Railroad Adjustment Board.

Subd. First, (h). Pub. L. 91-234, § 4, decreased the number of members on the First division of the Board from ten to eight members, with an accompanying decrease of five to four as the number of members of such Board elected respectively by the carriers and by the national labor organizations satisfying the enumerated requirements, and set forth the provisos which limited voting by each labor organization or carrier member in any proceedings of the division or in the adoption of any award.

Subd. First, (k). Pub. L. 91-234, § 5, added "except as provided in paragraph (h) of this section" after the proviso.

Subd. First, (n). Pub. L. 91-234, § 6, added "eligible to vote" following "Adjustment Board".

1966—Subd. First, (m). Pub. L. 89-456, § 2(a), struck out from the second sentence the concluding words ", except insofar as they shall contain a money award".

Subd. First, (o). Pub. L. 89-456, § 2(b), added provision for a division to make an order to the petitioner stating that an award favorable to the petitioner should not be made in any dispute referred to it.

Subd. First, (p). Pub. L. 89-456, § 2 (c), (d), substituted in second sentence "conclusive on the parties" for "prima facie evidence of the facts therein stated" and inserted in last sentence reasons for setting aside orders of a division of the Adjustment Board, respectively.

Subd. First, (q). Pub. L. 89-456, § 2(e), added par. (q). Former par. (q) redesignated (r).

Subd. First, (r)—(x). Pub. L. 89-456, § 2(e), redesignated former pars. (q)—(w) as (r)—(x), respectively.

Subd. Second. Pub. L. 89-456, § 1, provided for establishment of special adjustment boards upon request of employees or carriers to resolve disputes otherwise referable to the Adjustment Board and made awards of such boards final.

FEDERAL RULES OF CIVIL PROCEDURE

Costs, see rule 54 and notes of Advisory Committee under the Rule, Title 28, Appendix, Judiciary and Judicial Procedure.

Federal Rules of Civil Procedure as governing the procedure in all suits of a civil nature whether cognizable as cases at law or in equity, see rule 1.

Mandamus as abolished but relief yet available by appropriate action or motion under Federal Rules of Civil Procedure, see rule 81 (b) and notes of Advisory Committee under the Rule.

One form of action, see rule 2.

Pleadings allowed, see rule 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 154, 157, 184, 185 of this title.

§ 154. National Mediation Board.

First. Board of Mediation abolished; National Mediation Board established; composition; term of office; qualifications; salaries; removal.

The Board of Mediation is abolished, effective thirty days from June 21, 1934, and the members, secretary, officers, assistants, employees, and agents thereof, in office upon June 21, 1934, shall continue to function and receive their salaries for a period of thirty days from such date in the same manner as though this chapter had not been passed. There is established, as an independent agency in the executive branch of the Government, a board to be known as the "National Mediation Board", to be composed of three members appointed by the President, by and with the advice and consent of the Senate, not more than two of whom shall be of the same political party. Each member of the Mediation Board in office on January 1, 1965, shall be deemed to have been appointed for a term of office which shall expire on July 1 of the year his term would have otherwise expired. The terms of office of all successors shall expire three years after the expiration of the terms for which their predecessors were appointed; but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board. Two of the members in office shall constitute a quorum for the transaction of the business of the Board. Each member of the Board shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, subject to the provisions of law applicable thereto, while away from the principal office of the Board on business required by this chapter. No person in the employment of or who is pecuniarily or otherwise interested in any organization of employees or any carrier shall enter upon the duties of or continue to be a member of the Board. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

All cases referred to the Board of Mediation and unsettled on June 21, 1934, shall be handled to conclusion by the Mediation Board.

A member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause.

Second. Chairman; principal office; delegation of powers; oaths; seal; report.

The Mediation Board shall annually designate a member to act as chairman. The Board shall maintain its principal office in the District of Columbia, but it may meet at any other place whenever it deems it necessary so to do. The Board may designate one or more of its members to exercise the functions of the Board in mediation proceedings. Each member of the Board shall have power to administer oaths and affirmations. The Board shall have a seal which shall be judicially noticed. The Board shall make an annual report to Congress.

Third. Appointment of experts and other employees; salaries of employees; expenditures.

The Mediation Board may (1) subject to the civil service laws, appoint such experts and assistants to act in a confidential capacity and such other officers and employees as are essential to the effective transaction of the work of the Board; (2) in accordance with chapter 51

and subchapter III of chapter 53 of Title 5, fix the salaries of such experts, assistants, officers, and employees; and (3) make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding, and including expenditures for salaries and compensation, necessary traveling expenses and expenses actually incurred for subsistence, and other necessary expenses of the Mediation Board, Adjustment Board, Regional Adjustment Boards established under paragraph (w) of section 153 of this title, and boards of arbitration, in accordance with the provisions of this section and sections 153 and 157 of this title, respectively), as may be necessary for the execution of the functions vested in the Board, in the Adjustment Board and in the boards of arbitration, and as may be provided for by the Congress from time to time. All expenditures of the Board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

Fourth. Delegation of powers and duties.

The Mediation Board is authorized by its order to assign, or refer, any portion of its work, business, or functions arising under this chapter or any other Act of Congress, or referred to it by Congress or either branch thereof, to an individual member of the Board or to an employee or employees of the Board to be designated by such order for action thereon, and by its order at any time to amend, modify, supplement, or rescind any such assignment or reference. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the Board. In conformity with and subject to the order or orders of the Mediation Board in the premises, [and] such individual member of the Board or employee designated shall have power and authority to act as to any of said work, business, or functions so assigned or referred to him for action by the Board.

Fifth. Transfer of officers and employees of Board of Mediation; transfer of appropriation.

All officers and employees of the Board of Mediation (except the members thereof, whose offices are abolished) whose services in the judgment of the Mediation Board are necessary to the efficient operation of the Board are transferred to the Board, without change in classification or compensation; except that the Board may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

All unexpended appropriations for the operation of the Board of Mediation that are available at the time of the abolition of the Board of Mediation shall be transferred to the Mediation Board and shall be available for its use for salaries and other authorized expenditures. (May 20, 1926, ch. 347, § 4, 44 Stat. 579; June 21, 1934, ch. 691, § 4, 48 Stat. 1193; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Aug. 31, 1964, Pub. L. 88–542, 78 Stat. 748.)

REFERENCES IN TEXT

The civil service laws, referred to in the third subd., are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions setting forth the basic compensation of members of the Board at the rate of $10,000 per annum have been omitted as superseded by section 5315 of Title 5, Government Organization and Employees.

In subdiv. third, "subject to the civil service laws, appoint such experts and assistants to act in a confidential capacity and such other officers and employees" was substituted for "appoint such experts and assistants to act in a confidential capacity and, subject to the provisions of the civil-service laws, such other officers and employees", since the experts and assistants are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by former section 631a of Title 5. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 3301 of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classified Civil Service, see section 5102 of Title 5. For the power of the Civil Service to determine the applicability of those sections to specific positions, see section 5103 of Title 5.

AMENDMENTS

1964—Subdiv. first. Pub. L. 88–542 inserted sentences providing that each member of the Board in office on Jan. 1, 1965, shall be deemed to have been appointed for a term of office which shall expire on July 1 of the year his term would have otherwise expired, and that upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified, and eliminated provisions which related to the terms of office of members first appointed.

1949—Subdiv. third. Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923", which for purposes of classification has been translated as "chapter 51 and subchapter III of chapter 53 of Title 5."

COMPENSATION OF MEMBERS OF NATIONAL MEDIATION BOARD

Compensation of members, see section 5315 of Title 5, Government Organization and Employees.

REPEALS

Act Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, formerly set out in the credit of this section, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 181, 182, 184, 185 of this title.

§ 155. Functions of Mediation Board.

First. Disputes within jurisdiction of Mediation Board.

The parties, or either party, to a dispute between an employee or group of employees and a carrier may invoke the services of the Mediation Board in any of the following cases:

(a) A dispute concerning changes in rates of pay, rules, or working conditions not adjusted by the parties in conference.

(b) Any other dispute not referable to the National Railroad Adjustment Board and not adjusted in conference between the parties or where conferences are refused.

The Mediation Board may proffer its services in case any labor emergency is found by it to exist at any time.

In either event the said Board shall promptly put itself in communication with the parties to such controversy, and shall use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable settlement through mediation shall be unsuccessful, the said Board shall at once endeavor as its final required action (except as pro-

vided in paragraph third of this section and in section 160 of this title) to induce the parties to submit their controversy to arbitration, in accordance with the provisions of this chapter.

If arbitration at the request of the Board shall be refused by one or both parties, the Board shall at once notify both parties in writing that its mediatory efforts have failed and for thirty days thereafter, unless in the intervening period the parties agree to arbitration, or an emergency board shall be created under section 160 of this title, no change shall be made in the rates of pay, rules, or working conditions or established practices in effect prior to the time the dispute arose.

Second. Interpretation of agreement.

In any case in which a controversy arises over the meaning or the application of any agreement reached through mediation under the provisions of this chapter, either party to the said agreement, or both, may apply to the Mediation Board for an interpretation of the meaning or application of such agreement. The said Board shall upon receipt of such request notify the parties to the controversy, and after a hearing of both sides give its interpretation within thirty days.

Third. Duties of Board with respect to arbitration of disputes; arbitrators; acknowledgment of agreement; notice to arbitrators; reconvening of arbitrators; filing contracts with Board; custody of records and documents.

The Mediation Board shall have the following duties with respect to the arbitration of disputes under section 157 of this title:

(a) On failure of the arbitrators named by the parties to agree on the remaining arbitrator or arbitrators within the time set by section 157 of this title, it shall be the duty of the Mediation Board to name such remaining arbitrator or arbitrators. It shall be the duty of the Board in naming such arbitrator or arbitrators to appoint only those whom the Board shall deem wholly disinterested in the controversy to be arbitrated and impartial and without bias as between the parties to such arbitration. Should, however, the Board name an arbitrator or arbitrators not so disinterested and impartial, then, upon proper investigation and presentation of the facts, the Board shall promptly remove such arbitrator.

If an arbitrator named by the Mediation Board, in accordance with the provisions of this chapter, shall be removed by such Board as provided by this chapter, or if such an arbitrator refuses or is unable to serve, it shall be the duty of the Mediation Board, promptly, to select another arbitrator, in the same manner as provided in this chapter for an original appointment by the Mediation Board.

(b) Any member of the Mediation Board is authorized to take the acknowledgment of an agreement to arbitrate under this chapter. When so acknowledged, or when acknowledged by the parties before a notary public or the clerk of a district court or a court of appeals of the United States, such agreement to arbitrate shall be delivered to a member of said Board or transmitted to said Board, to be filed in its office.

(c) When an agreement to arbitrate has been filed with the Mediation Board, or with one of its members, as provided by this section, and when the said Board has been furnished the names of the arbitrators chosen by the parties to the controversy it shall be the duty of the Board to cause a notice in writing to be served upon said arbitrators, notifying them of their appointment, requesting them to meet promptly to name the remaining arbitrator or arbitrators necessary to complete the Board of Arbitration, and advising them of the period within which, as provided by the agreement to arbitrate, they are empowered to name such arbitrator or arbitrators.

(d) Either party to an arbitration desiring the reconvening of a board of arbitration to pass upon any controversy arising over the meaning or application of an award may so notify the Mediation Board in writing, stating in such notice the question or questions to be submitted to such reconvened Board. The Mediation Board shall thereupon promptly communicate with the members of the Board of Arbitration, or a subcommittee of such Board appointed for such purpose pursuant to a provision in the agreement to arbitrate, and arrange for the reconvening of said Board of Arbitration or subcommittee, and shall notify the respective parties to the controversy of the time and place at which the Board, or the subcommittee, will meet for hearings upon the matters in controversy to be submitted to it. No evidence other than that contained in the record filed with the original award shall be received or considered by such reconvened Board or subcommittee, except such evidence as may be necessary to illustrate the interpretations suggested by the parties. If any member of the original Board is unable or unwilling to serve on such reconvened Board or subcommittee thereof, another arbitrator shall be named in the same manner and with the same powers and duties as such original arbitrator.

(e) Within sixty days after June 21, 1934, every carrier shall file with the Mediation Board a copy of each contract with its employees in effect on the 1st day of April 1934, covering rates of pay, rules, and working conditions. If no contract with any craft or class of its employees has been entered into, the carrier shall file with the Mediation Board a statement of that fact, including also a statement of the rates of pay, rules, and working conditions applicable in dealing with such craft or class. When any new contract is executed or change is made in an existing contract with any class or craft of its employees covering rates of pay, rules, or working conditions, or in those rates of pay, rules, and working conditions of employees not covered by contract, the carrier shall file the same with the Mediation Board within thirty days after such new contract or change in existing contract has been executed or rates of pay, rules, and working conditions have been made effective.

(f) The Mediation Board shall be the custodian of all papers and documents heretofore filed with or transferred to the Board of Mediation bearing upon the settlement, adjustment, or determination of disputes between carriers and their employees or upon mediation or arbitration proceedings held under or pursuant to the provisions of any Act of Congress in respect thereto; and the President is authorized to designate a custodian of the records and property of the Board of Mediation until

the transfer and delivery of such records to the Mediation Board and to require the transfer and delivery to the Mediation Board of any and all such papers and documents filed with it or in its possession. (May 20, 1926, ch. 347, § 5, 44 Stat. 580; June 21, 1934, ch. 691, § 5, 48 Stat. 1195; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Subdiv. third (b) amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "court of appeals" in for "circuit court of appeals".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 156, 157, 181, 182, 183, 184, 185 of this title.

§ 156. Procedure in changing rates of pay, rules, and working conditions.

Carriers and representatives of the employees shall give at least thirty days' written notice of an intended change in agreements affecting rates of pay, rules, or working conditions, and the time and place for the beginning of conference between the representatives of the parties interested in such intended changes shall be agreed upon within ten days after the receipt of said notice, and said time shall be within the thirty days provided in the notice. In every case where such notice of intended change has been given, or conferences are being held with reference thereto, or the services of the Mediation Board have been requested by either party, or said Board has proffered its services, rates of pay, rules, or working conditions shall not be altered by the carrier until the controversy has been finally acted upon, as required by section 155 of this title, by the Mediation Board, unless a period of ten days has elapsed after termination of conferences without request for or proffer of the services of the Mediation Board. (May 20, 1926, ch. 347, § 6, 44 Stat. 582; June 21, 1934, ch. 691, § 6, 48 Stat. 1197.)

Ex. Ord. No. 9299, Feb. 4, 1943, 8 F. R. 1669, provided procedure with respect to wage and salary adjustments for employees subject to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 157, 181, 182, 184, 185 of this title.

§ 157. Arbitration.

First. Submission of controversy to arbitration.

Whenever a controversy shall arise between a carrier or carriers and its or their employees which is not settled either in conference between representatives of the parties or by the appropriate adjustment board or through mediation, in the manner provided in sections 151—156 of this title such controversy may, by agreement of the parties to such controversy, be submitted to the arbitration of a board of three (or, if the parties to the controversy so stipulate, of six) persons: *Provided, however,* That the failure or refusal of either party to submit a controversy to arbitration shall not be construed as a violation of any legal obligation imposed upon such party by the terms of this chapter or otherwise.

Second. Manner of selecting board of arbitration.

Such board of arbitration shall be chosen in the following manner:

(a) In the case of a board of three the carrier or carriers and the representatives of the employees, parties respectively to the agreement to arbitrate, shall each name one arbitrator; the two arbitrators thus chosen shall select a third arbitrator. If the arbitrators chosen by the parties shall fail to name the third arbitrator within five days after their first meeting, such third arbitrator shall be named by the Mediation Board.

(b) In the case of a board of six the carrier or carriers and the representatives of the employees, parties respectively to the agreement to arbitrate, shall each name two arbitrators; the four arbitrators thus chosen shall, by a majority vote, select the remaining two arbitrators. If the arbitrators chosen by the parties shall fail to name the two arbitrators within fifteen days after their first meeting, the said two arbitrators, or as many of them as have not been named, shall be named by the Mediation Board.

Third. Board of arbitration; organization; compensation; procedure.

(a) Notice of selection or failure to select arbitrators.

When the arbitrators selected by the respective parties have agreed upon the remaining arbitrator or arbitrators, they shall notify the Mediation Board; and, in the event of their failure to agree upon any or upon all of the necessary arbitrators within the period fixed by this chapter, they shall, at the expiration of such period, notify the Mediation Board of the arbitrators selected, if any, or of their failure to make or to complete such selection.

(b) Organization of board; procedure.

The board of arbitration shall organize and select its own chairman and make all necessary rules for conducting its hearings: *Provided, however,* That the board of arbitration shall be bound to give the parties to the controversy a full and fair hearing, which shall include an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may respectively elect.

(c) Duty to reconvene; questions considered.

Upon notice from the Mediation Board that the parties, or either party, to an arbitration desire the reconvening of the board of arbitration (or a subcommittee of such board of arbitration appointed for such purpose pursuant to the agreement to arbitrate) to pass upon any controversy over the meaning or application of their award, the board, or its subcommittee, shall at once reconvene. No question other than, or in addition to, the questions relating to the meaning or application of the award, submitted by the party or parties in writing, shall be considered by the reconvened board of arbitration or its subcommittee.

Such rulings shall be acknowledged by such board or subcommittee thereof in the same manner, and filed in the same district court clerk's office, as the original award and become a part thereof.

(d) Competency of arbitrators.

No arbitrator, except those chosen by the Mediation Board, shall be incompetent to act as an arbi-

trator because of his interest in the controversy to be arbitrated, or because of his connection with or partiality to either of the parties to the arbitration.

(e) Compensation and expenses.

Each member of any board of arbitration created under the provisions of this chapter named by either party to the arbitration shall be compensated by the party naming him. Each arbitrator selected by the arbitrators or named by the Mediation Board shall receive from the Mediation Board such compensation as the Mediation Board may fix, together with his necessary traveling expenses and expenses actually incurred for subsistence, while serving as an arbitrator.

(f) Award; disposition of original and copies.

The board of arbitration shall furnish a certified copy of its award to the respective parties to the controversy, and shall transmit the original, together with the papers and proceedings and a transcript of the evidence taken at the hearings, certified under the hands of at least a majority of the arbitrators, to the clerk of the district court of the United States for the district wherein the controversy arose or the arbitration is entered into, to be filed in said clerk's office as hereinafter provided. The said board shall also furnish a certified copy of its award, and the papers and proceedings, including testimony relating thereto, to the Mediation Board to be filed in its office; and in addition a certified copy of its award shall be filed in the office of the Interstate Commerce Commission: *Provided, however,* That such award shall not be construed to diminish or extinguish any of the powers or duties of the Interstate Commerce Commission, under the Interstate Commerce Act, as amended.

(g) Compensation of assistants to board of arbitration; expenses; quarters.

A board of arbitration may, subject to the approval of the Mediation Board, employ and fix the compensation of such assistants as it deems necessary in carrying on the arbitration proceedings. The compensation of such employees, together with their necessary traveling expenses and expenses actually incurred for subsistence, while so employed, and the necessary expenses of boards of arbitration, shall be paid by the Mediation Board.

Whenever practicable, the board shall be supplied with suitable quarters in any Federal building located at its place of meeting or at any place where the board may conduct its proceedings or deliberations.

(h) Testimony before board; oaths; attendance of witnesses; production of documents; subpoenas; fees.

All testimony before said board shall be given under oath or affirmation, and any member of the board shall have the power to administer oaths or affirmations. The board of arbitration, or any member thereof, shall have the power to require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as may be deemed by the board of arbitration material to a just determination of the matters submitted to its arbitration, and may for that purpose request the clerk of the district court of the United States for the district wherein said arbitration is being conducted to issue the necessary subpoenas, and upon such request the said clerk or his duly authorized deputy shall be, and he is, authorized, and it shall be his duty, to issue such subpoenas.

Any witness appearing before a board of arbitration shall receive the same fees and mileage as witnesses in courts of the United States, to be paid by the party securing the subpoena. (May 20, 1926, ch. 347, § 7, 44 Stat. 582; June 21, 1934, ch. 691, § 7, 48 Stat. 1197; Oct. 15, 1970, Pub. L. 91–452, title II, § 238, 84 Stat. 930.)

REFERENCES IN TEXT

The Interstate Commerce Act, as amended, referred to in subpar. (f) of par. third, is classified to chapters 1, 8, 12, 13, and 19 of Title 49, Transportation.

AMENDMENTS

1970—Par. Third. Pub. L. 91–452 in subpar. (h) struck out the provisions authorizing the board to invoke the aid of the United States courts to compel witnesses to attend and testify and to produce such books, papers, contracts, agreements, and documents to the same extent and under the some conditions and penalties as provided for in the Interstate Commerce Act.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

WORK RULES DISPUTE

Pub. L. 88–108, Aug. 28, 1963, 77 Stat. 132, provided: "[Sec. 1. Settlement of disputes]. That no carrier which served the notices of November 2, 1959, and no labor organizations which received such notices or served the labor organization notices of September 7, 1960, shall make any change except by agreement, or pursuant to an arbitration award as hereinafter provided, in rates of pay, rules, or working conditions encompassed by any of such notices, or engage in any strike or lockout over any dispute arising from any of such notices. Any action heretofore taken which would be prohibited by the foregoing sentence shall be forthwith rescinded and the status existing immediately prior to such action restored.

"Sec. 2. [Arbitration board]. There is hereby established an arbitration board to consist of seven members. The representatives of the carrier and organization parties to the aforesaid dispute are hereby directed, respectively, within five days after the enactment hereof [Aug. 28, 1963] each to name two persons to serve as members of such arbitration board. The four members thus chosen shall select three additional members. The seven members shall then elect a chairman. If the members chosen by the parties shall fail to name one or more of the additional three members within ten days, such additional members shall be named by the President. If either party fails to name a member or members to the arbitration board within the five days provided, the President shall name such member or members in lieu of such party and shall also name the additional three members necessary to constitute a board of seven members, all within ten days after the date of enactment of this joint resolution [Aug. 28, 1963]. Notwithstanding any other provision of law, the National Mediation Board is authorized and directed: (1) to compensate the arbitrators not named by the parties at a rate not in excess of $100 for each day together with necessary

travel and subsistence expenses, and (2) to provide such services and facilities as may be necessary and appropriate in carrying out the purposes of this joint resolution.

"Sec. 3. [Decision of board]. Promptly upon the completion of the naming of the arbitration board the Secretary of Labor shall furnish to the board and to the parties to the dispute copies of his statement to the parties of August 2, 1963, and the papers therewith submitted to the parties, together with memorandums and such other data as the board may request setting forth the matters with respect to which the parties were in tentative agreement and the extent of disagreement with respect to matters on which the parties were not in tentative agreement. The arbitration board shall make a decision, pursuant to the procedures hereinafter set forth, as to what disposition shall be made of those portions of the carriers' notices of November 2, 1959, identified as 'Use of Firemen (Helpers) on Other Than Steam Power' and 'Consist of Road and Yard Crews' and that portion of the organizations' notices of September 7, 1960, identified as 'Minimum Safe Crew Consist' and implementing proposals pertaining thereto. The arbitration board shall incorporate in such decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement. Such award shall be binding on both the carrier and organization parties to the dispute and shall constitute a complete and final disposition of the aforesaid issues covered by the decision of the board of arbitration.

"Sec. 4. [Award]. To the extent not inconsistent with this joint resolution the arbitration shall be conducted pursuant to sections 7 and 8 of the Railway Labor Act [this section and section 158 of this title], the board's award shall be made and filed as provided in said sections and shall be subject to section 9 of said Act [section 159 of this title]. The United States District Court for the District of Columbia is hereby designated as the court in which the award is to be filed, and the arbitration board shall report to the National Mediation Board in the same manner as arbitration boards functioning pursuant to the Railway Labor Act [this chapter]. The award shall continue in force for such period as the arbitration board shall determine in its award, but not to exceed two years from the date the award takes effect, unless the parties agree otherwise.

"Sec. 5. [Hearings]. The arbitration board shall begin its hearings thirty days after the enactment of this joint resolution [Aug. 28, 1963] or on such earlier date as the parties to the dispute and the board may agree upon and shall make and file its award not later than ninety days after the enactment of this joint resolution [Aug. 28, 1963]: *Provided, however,* That said award shall not become effective until sixty days after the filing of the award.

"Sec. 6. [Collective bargaining for issues not arbitrated]. The parties to the disputes arising from the aforesaid notices shall immediately resume collective bargaining with respect to all issues raised in the notices of November 2, 1959, and September 7, 1960, not to be disposed of by arbitration under section 3 of this joint resolution and shall exert every reasonable effort to resolve such issues by agreement. The Secretary of Labor and the National Mediation Board are hereby directed to give all reasonable assistance to the parties and to engage in mediatory action directed toward promoting such agreement.

"Sec. 7. [Considerations affecting award; enforcement.]

"(a) In making any award under this joint resolution the arbitration board established under section 2 shall give due consideration to the effect of the proposed award upon adequate and safe transportation service to the public and upon the interests of the carrier and employees affected, giving due consideration to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation.

"(b) The obligations imposed by this joint resolution, upon suit by the Attorney General, shall be enforcible through such orders as may be necessary by any court of the United States having jurisdiction of any of the parties.

"Sec. 8. [Expiration date]. This joint resolution shall expire one hundred and eighty days after the date of its enactment [Aug. 28, 1963], except that it shall remain in effect with respect to the last sentence of section 4 for the period prescribed in that sentence.

"Sec. 9. [Separability of provisions]. If any provision of this joint resolution or the application thereof is held invalid, the remainder of this joint resolution and the application of such provision to other parties or in other circumstances not held invalid shall not be affected thereby."

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 154, 155, 181, 182, 184, 185 of this title; title 18 section 6001.

§ 158. Agreement to arbitrate; form and contents; signatures and acknowledgment; revocation.

The agreement to arbitrate—

(a) Shall be in writing;

(b) Shall stipulate that the arbitration is had under the provisions of this chapter;

(c) Shall state whether the board of arbitration is to consist of three or of six members;

(d) Shall be signed by the duly accredited representatives of the carrier or carriers and the employees, parties respectively to the agreement to arbitrate, and shall be acknowledged by said parties before a notary public, the clerk of a district court or court of appeals of the United States, or before a member of the Mediation Board, and, when so acknowledged, shall be filed in the office of the Mediation Board;

(e) Shall state specifically the questions to be submitted to the said board for decision; and that, in its award or awards, the said board shall confine itself strictly to decisions as to the questions so specifically submitted to it;

(f) Shall provide that the questions, or any one or more of them, submitted by the parties to the board of arbitration may be withdrawn from arbitration on notice to that effect signed by the duly accredited representatives of all the parties and served on the board of arbitration;

(g) Shall stipulate that the signatures of a majority of said board of arbitration affixed to their award shall be competent to constitute a valid and binding award;

(h) Shall fix a period from the date of the appointment of the arbitrator or arbitrators necessary to complete the board (as provided for in the agreement) within which the said board shall commence its hearings;

(i) Shall fix a period from the beginning of the hearings within which the said board shall make and file its award: *Provided,* That the parties may agree at any time upon an extension of this period;

(j) Shall provide for the date from which the award shall become effective and shall fix the period during which the award shall continue in force;

(k) Shall provide that the award of the board of arbitration and the evidence of the proceedings before the board relating thereto, when certified under

the hands of at least a majority of the arbitrators, shall be filed in the clerk's office of the district court of the United States for the district wherein the controversy arose or the arbitration was entered into, which district shall be designated in the agreement; and, when so filed, such award and proceedings shall constitute the full and complete record of the arbitration;

(*l*) Shall provide that the award, when so filed, shall be final and conclusive upon the parties as to the facts determined by said award and as to the merits of the controversy decided;

(m) Shall provide that any difference arising as to the meaning, or the application of the provisions, of an award made by a board of arbitration shall be referred back for a ruling to the same board, or, by agreement, to a subcommittee of such board; and that such ruling, when acknowledged in the same manner, and filed in the same district court clerk's office, as the original award, shall be a part of and shall have the same force and effect as such original award; and

(n) Shall provide that the respective parties to the award will each faithfully execute the same.

The said agreement to arbitrate, when properly signed and acknowledged as herein provided, shall not be revoked by a party to such agreement: *Provided, however,* That such agreement to arbitrate may at any time be revoked and canceled by the written agreement of both parties, signed by their duly accredited representatives, and (if no board of arbitration has yet been constituted under the agreement) delivered to the Mediation Board or any member thereof; or, if the board of arbitration has been constituted as provided by this chapter, delivered to such board of arbitration. **(May 20, 1926, ch. 347, § 8, 44 Stat. 584; June 21, 1934, ch. 691, § 7, 48 Stat. 1197; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)**

CHANGE OF NAME

Clause (d) amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "court of appeals" for "circuit court of appeals".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 181, 182, 184, 185 of this title.

§ 159. Award and judgment thereon; effect of chapter on individual employee.

First. Filing of award.

The award of a board of arbitration, having been acknowledged as herein provided, shall be filed in the clerk's office of the district court designated in the agreement to arbitrate.

Second. Conclusiveness of award; judgment.

An award acknowledged and filed as herein provided shall be conclusive on the parties as to the merits and facts of the controversy submitted to arbitration, and unless, within ten days after the filing of the award, a petition to impeach the award, on the grounds hereinafter set forth, shall be filed in the clerk's office of the court in which the award has been filed, the court shall enter judgment on the award, which judgment shall be final and conclusive on the parties.

Third. Impeachment of award; grounds.

Such petition for the impeachment or contesting of any award so filed shall be entertained by the court only on one or more of the following grounds:

(a) That the award plainly does not conform to the substantive requirements laid down by this chapter for such awards, or that the proceedings were not substantially in conformity with this chapter;

(b) That the award does not conform, nor confine itself, to the stipulations of the agreement to arbitrate; or

(c) That a member of the board of arbitration rendering the award was guilty of fraud or corruption; or that a party to the arbitration practiced fraud or corruption which fraud or corruption affected the result of the arbitration: *Provided, however,* That no court shall entertain any such petition on the ground that an award is invalid for uncertainty; in such case the proper remedy shall be a submission of such award to a reconvened board, or subcommittee thereof, for interpretation, as provided by this chapter: *Provided further,* That an award contested as herein provided shall be construed liberally by the court, with a view to favoring its validity, and that no award shall be set aside for trivial irregularity or clerical error, going only to form and not to substance.

Fourth. Effect of partial invalidity of award.

If the court shall determine that a part of the award is invalid on some ground or grounds designated in this section as a ground of invalidity, but shall determine that a part of the award is valid, the court shall set aside the entire award: *Provided, however,* That, if the parties shall agree thereto, and if such valid and invalid parts are separable, the court shall set aside the invalid part, and order judgment to stand as to the valid part.

Fifth. Appeal; record.

At the expiration of 10 days from the decision of the district court upon the petition filed as aforesaid, final judgment shall be entered in accordance with said decision, unless during said 10 days either party shall appeal therefrom to the court of appeals. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said petition and to be decided.

Sixth. Finality of decision of court of appeals.

The determination of said court of appeals upon said questions shall be final, and, being certified by the clerk thereof to said district court, judgment pursuant thereto shall thereupon be entered by said district court.

Seventh. Judgment where petitioner's contentions are sustained.

If the petitioner's contentions are finally sustained, judgment shall be entered setting aside the award in whole or, if the parties so agree, in part; but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment when entered shall have the same force and effect as judgment entered upon an award.

Eighth. Duty of employee to render service without consent; right to quit.

Nothing in this chapter shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this chapter be construed to make the quitting of his labor or service by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent. (May 20, 1926, ch. 347, § 9, 44 Stat. 585; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

FEDERAL RULES OF CIVIL PROCEDURE

Application of rules, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 181, 182, 184, 185 of this title.

§ 160. Emergency Board.

If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this chapter and should, in the judgment of the Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Mediation Board shall notify the President, who may thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fixed by the President. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within thirty days from the date of its creation.

There is authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose. (May 20, 1926, ch. 347, § 10, 44 Stat. 586; June 21, 1934, ch. 691, § 7, 48 Stat. 1197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 181, 182, 184, 185 of this title.

§ 161. Effect of partial invalidity of chapter.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. All Acts or parts of Acts inconsistent with the provisions of this chapter are repealed. (May 20, 1926, ch. 347, § 11, 44 Stat. 587; June 21, 1934, ch. 691, § 8, 48 Stat. 1197.)

CODIFICATION

Section is from act June 21, 1934. Provisions on this subject formerly constituting section read as follows: "If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 181, 182, 184, 185 of this title.

§ 162. Appropriation.

There is authorized to be appropriated such sums as may be necessary for expenditure by the Mediation Board in carrying out the provisions of this chapter. (May 20, 1926, ch. 347, § 12, 44 Stat. 587; June 21, 1934, ch. 691, § 7, 48 Stat. 1197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 181, 182, 184, 185 of this title.

§ 163. Repeal of prior legislation; exception.

Chapters 6 and 7 of this title, providing for mediation, conciliation, and arbitration, and all Acts and parts of Acts in conflict with the provisions of this chapter are repealed, except that the members, secretary, officers, employees, and agents of the Railroad Labor Board, in office on May 20, 1926, shall receive their salaries for a period of 30 days from such date, in the same manner as though this chapter had not been passed. (May 20, 1926, ch. 347, § 14, 44 Stat. 587.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 181, 182, 184, 185 of this title.

§ 164. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111.

Section, act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1072, related to advertisements for proposals for purchases or services rendered for Board of Mediation, including arbitration boards, and is covered by section 5 of Title 41, Public Contracts.

CARRIERS BY AIR

§ 181. Application of sections 151 to 152 and 154 to 163 to carriers by air.

All of the provisions of sections 151 to 152 and 154 to 163 of this title are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service. (May 20, 1926, ch. 347, § 201, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 184, 185, 187, 188 of this title; title 29 section 213; title 49 section 1371.

§ 182. Same; duties, penalties, benefits, and privileges.

The duties, requirements, penalties, benefits, and privileges prescribed and established by the provisions of sections 151 to 152 and 154 to 163 of this title shall apply to said carriers by air and their employees in the same manner and to the same extent as though such carriers and their employees were specifically included within the definition of "carrier" and "employee", respectively, in section 151 of this title. (May 20, 1926, ch. 347, § 202, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 184, 185, 187, 188 of this title; title 29 section 213; title 49 section 1371.

§ 183. Disputes within jurisdiction of Mediation Board.

The parties or either party to a dispute between an employee or a group of employees and a carrier or carriers by air may invoke the services of the National Mediation Board and the jurisdiction of said Mediation Board is extended to any of the following cases:

(a) A dispute concerning changes in rates of pay, rules, or working conditions not adjusted by the parties in conference.

(b) Any other dispute not referable to an adjustment board, as hereinafter provided, and not adjusted in conference between the parties, or where conferences are refused.

The National Mediation Board may proffer its services in case any labor emergency is found by it to exist at any time.

The services of the Mediation Board may be invoked in a case under sections 181 to 188 of this title in the same manner and to the same extent as are the disputes covered by section 155 of this title. (May 20, 1926, ch. 347, § 203, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

REFERENCES IN TEXT

Section 186 of this title, included within the reference to sections 181 to 188 of this title, has been omitted from this Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 185, 187, 188 of this title; title 29 section 213; title 49 section 1371.

§ 184. System, group, or regional boards of adjustment.

The disputes between an employee or group of employees and a carrier or carriers by air growing out of grievances, or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on April 10, 1936 before the National Labor Relations Board, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to an appropriate adjustment board, as hereinafter provided, with a full statement of the facts and supporting data bearing upon the disputes.

It shall be the duty of every carrier and of its employees, acting through their representatives, selected in accordance with the provisions of sections 181 to 188 of this title, to establish a board of adjustment of jurisdiction not exceeding the jurisdiction which may be lawfully exercised by system, group, or regional boards of adjustment, under the authority of section 153 of this title.

Such boards of adjustment may be established by agreement between employees and carriers either on any individual carrier, or system, or group of carriers by air and any class or classes of its or their employees; or pending the establishment of a permanent National Board of Adjustment as hereinafter provided. Nothing in sections 151 to 163 and 181—188 of this title shall prevent said carriers by air, or any class or classes of their employees, both acting through their representatives selected in accordance with provisions of sections 181 to 188 of this title, from mutually agreeing to the establishment of a National Board of Adjustment of temporary duration and of similarly limited jurisdiction. (May 20, 1926, ch. 347, § 204, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

REFERENCES IN TEXT

Section 186 of this title, included within the reference to sections 181 to 188 of this title, has been omitted from this Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 184, 185, 187, 188 of this title; title 29 section 213; title 49 section 1371.

§ 185. National Air Transport Adjustment Board.

When, in the judgment of the National Mediation Board, it shall be necessary to have a permanent national board of adjustment in order to provide for the prompt and orderly settlement of disputes between said carriers by air, or any of them, and its or their employees, growing out of grievances or out of the interpretation or application of agreements between said carriers by air or any of them, and any class or classes of its or their employees, covering rates of pay, rules, or working conditions, the National Mediation Board is empowered and directed, by its order duly made, published, and served, to direct the said carriers by air and such labor organizations of their employees, national in scope, as have been or may be recognized in accordance with the provisions of section 151 to 163 and 181 to 188 of this title, to select and designate four representatives who shall constitute a board which shall be known as the "National Air Transport Adjustment Board." Two members of said National Air Transport Adjustment Board shall be selected by said carriers by air and two members by the said labor organizations of the employees, within thirty days after the date of the order of the National Mediation Board, in the manner and by the procedure prescribed by section 153 of this title for the selection and designation of members of the National Railroad Adjustment Board. The National Air Transport Adjustment Board shall meet within forty days after the date of the order of the National Mediation Board directing the selection and designation of its members and shall organize and adopt rules for conducting its proceedings, in the manner prescribed in section 153 of this title. Vacancies in membership or office shall be filled, members shall be appointed in case of failure of the carriers or of labor organizations of the employees to select and designate representatives, members of the

National Air Transport Adjustment Board shall be compensated, hearings shall be held, findings and awards made, stated, served, and enforced, and the number and compensation of any necessary assistants shall be determined and the compensation of such employees shall be paid, all in the same manner and to the same extent as provided with reference to the National Railroad Adjustment Board by section 153 of this title. The powers and duties prescribed and established by the provisions of section 153 of this title with reference to the National Railroad Adjustment Board and the several divisions thereof are conferred upon and shall be exercised and performed in like manner and to the same extent by the said National Air Transport Adjustment Board, not exceeding, however, the jurisdiction conferred upon said National Air Transport Adjustment Board by the provisions of sections 181 to 188 of this title. From and after the organization of the National Air Transport Adjustment Board, if any system, group, or regional board of adjustment established by any carrier or carriers by air and any class or classes of its or their employees is not satisfactory to either party thereto, the said party, upon ninety days' notice to the other party, may elect to come under the jurisdiction of the National Air Transport Adjustment Board. (May 20, 1926, ch. 347, § 205, as added Apr. 10, 1936, ch. 166, 49 Stat. 1190.)

REFERENCES IN TEXT

Section 186 of this title, included within the reference to sections 181 to 188 of this title, has been omitted from this Code as executed.

FEDERAL RULES OF CIVIL PROCEDURE

Application of rules, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of rules on this section, see note by Advisory Committee under rule 81.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 184, 187, 188 of this title; title 29 section 213; title 49 section 1371.

§ 186. Pending cases before Labor Relations Board transferred to Mediation Board.

CODIFICATION

Section, act May 20, 1926, ch. 347, § 206, as added Apr. 10, 1936, ch. 166, 49 Stat. 1191, which transferred certain pending cases before the National Labor Relations Board to the Mediation Board, was omitted as executed.

§ 187. Separability of provisions.

If any provision of sections 181 to 188 of this title or application thereof to any person or circumstance is held invalid, the remainder of such sections and the application of such provision to other persons or circumstances shall not be affected thereby. (May 20, 1926, ch. 347, § 207, as added Apr. 10, 1936, ch. 166, 49 Stat. 1191.)

REFERENCES IN TEXT

Section 186 of this title, included within the reference to sections 181 to 188 of this title, has been omitted from this Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections, 183, 184, 185, 188 of this title; title 29 section 213; title 49 section 1371.

§ 188. Appropriation authorized.

There is authorized to be appropriated such sums as may be necessary for expenditure by the Mediation Board in carrying out the provisions of sections 181 to 187 of this title. (May 20, 1926, ch. 347, § 208, as added Apr. 10, 1936, ch. 166, 49 Stat. 1191.)

REFERENCES IN TEXT

Section 186 of this title, included within the reference to sections 181 to 188 of this title, has been omitted from this Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 184, 185, 187 of this title; title 29 section 213; title 49 section 1371.

Chapter 9.—RETIREMENT OF RAILROAD EMPLOYEES

RAILROAD RETIREMENT ACT OF 1934

Sec.
201 to 208. Omitted.
209. Repealed.
210 to 214. Omitted.

RAILROAD RETIREMENT ACT OF 1935

215 to 228. Omitted.

RAILROAD RETIREMENT ACT OF 1937

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228b. Eligibility for annuities; time of accrual; spouse's annuity.
228c. Computation of annuities.
228c–1. Military service.
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228e. Annuities and lump sums for survivors.
(a) Widow's and widower's insurance annuities.
(b) Widow's current insurance annuity.
(c) Child's insurance annuity.
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(f) Lump-sum payment.
(g) Correlation of payments; Social Security benefits.
(h) Maximum and minimum annuity totals; reduction of amount
(i) Deductions from annuities.
(j) When annuities begin and end.
(k) Crediting railroad industry service under Social Security Act in certain cases; adjustment of funds.
(l) Definitions.
(m) Reduction of annuities.
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(a) Establishment; appointment.
(b) Duties.
228k. Court jurisdiction.
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228n. Separability of provisions.
228o. Railroad Retirement Account.
(a) Establishment; appropriation; budget estimate.
(b) Railroad Retirement Supplement Account; appropriations.
(c) Investment in Government obligations.
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(e) Annual report.
228p. Appropriation.
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Sec.
228s-2. Hospital insurance benefits for the aged.
(a) Authority of Board to determine rights to payments; determination considered a decision with respect to an annuity.
(b) Certification as qualified railroad retirement beneficiary.
(c) Reciprocal exchange of information, records, and documents for administration of provisions.
(d) Entitlement to annuity or pension under Railroad Retirement Act of 1937 as including entitlement under Railroad Retirement Act of 1935.
(e) Beneficiary's rights to payments for services in Canada; administration of subsection in light of other provisions and certain references; payments from Railroad Retirement Account where amount exceeds amount payable under law in Canada; overpayment of annuity.
228t. Applicability of 1951 amendments to prior annuities where service was less than ten years.
228u. Determination of entitlement to survivor's annuity.
228v. Law governing awards of annuities; right of election; revocation; increase; date of commencement of accrual.
228w. Increase in pensions due in months following November 30, 1951.
228x. Applicability of increase in retirement annuities to awards under Railroad Retirement Act of 1935; scope of term "spouse".
228y. Amount of annuity of spouse of individual in receipt of reduced annuity under provisions prior to 1946 amendment.
228z. Increase in pensions, joint and survivor annuities awarded before July 1, 1956, and annuities under 1935 Act.
228z-1. Additional increase in pensions, joint and survivor annuities, widows' and widowers' insurance annuities, and annuities under 1935 Act.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 5108; title 42 sections 405, 415.

RAILROAD RETIREMENT ACT OF 1934

§§ 201 to 208. Omitted.

Sections, act June 27, 1934, ch. 868, §§ 1 to 8, 48 Stat. 1283, formed part of the Railroad Retirement Act of 1934, and were declared unconstitutional in the case of *Railroad Retirement Board* v. *Alton R. Co.* (Dist. of Col. 1935), 295 U. S. 330, 55 S. Ct. 758, 79 L. Ed. 1468.

Provisions relating to refund of sums paid by railroads and other carriers of the United States under Railroad Retirement Act of 1934 were contained in act June 1, 1938, ch. 315, §§ 1, 2, 52 Stat. 608.

§ 209. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section, act June 27, 1934, ch. 868 § 9, 48 Stat. 1287, established a Railroad Retirement Board and set out its functions.

§§ 210 to 214. Omitted.

Sections, act June 27, 1934, ch. 868, §§ 10 to 14, 48 Stat. 1283, formed part of the Railroad Retirement Act of 1934, and were declared unconsitutional in the case of Railroad Retirement Board v. Alton R. Co. (Dist. of Col. 1935), 295 U.S. 330, 55 S.Ct. 758, 79 L.Ed. 1468.

Provisions relating to refund of sums paid by railroads and other carriers of the United States under Railroad Retirement Act of 1934 were contained in act June 1, 1938, ch, 315, §§ 1, 2, 52 Stat. 608.

RAILROAD RETIREMENT ACT OF 1935

§§ 215 to 228. Omitted

Sections, act Aug. 29, 1935, ch. 812, §§ 1—14, 49 Stat. 967—973, constituted the Railroad Retirement Act of 1935.

This act was amended by, and incorporated in, the Railroad Retirement Act of 1937 and continued in effect with respect to individuals granted annuities prior to enactment of the Railroad Retirement Act of 1937, by section 204 of that act. It was specifically amended by act June 11, 1940, ch. 307, § 2, 54 Stat. 264, and by act Aug. 13, 1940, ch. 664, §§ 2, 3, 54 Stat. 785. The Railroad Retirement Act of 1935, as amended and formerly set out in sections 215—228 of this title, provided as follows:

§ 215. *Definitions.* For the purposes of this chapter—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to Chapter 1 of Title 49, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "carrier" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to a carrier where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term "employee" means any person (1) who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the service of a carrier, or who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the employment relation to a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative" who before or after the enactment hereof has performed service for a carrier, who at the enactment hereof or at any time after the enactment is or shall be duly designated and authorized to represent employees in accordance with Chapter 8 of this title and who, during or immediately following employment by a carrier, is, shall be, or shall have been engaged in such representative service in behalf of such employees.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation: *Provided, however,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of a carrier when rendering service outside the United States to a carrier conducting the principal part of its business in the United States if such carrier is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(d) A person is in the employment relation to a carrier when furloughed or on leave of absence, and subject to call for service and ready and willing to serve, all in accordance with the established rules and practices usually in effect on railroads: *Provided, however,* That an individual shall not be deemed to be in the employment

relation to a carrier unless during the last pay-roll period in which he rendered service to it he was with respect to that service in the service of a carrier in accordance with subsection (c) of this section.

(e) The term "service period" means the total service of a person for one or more carriers whether or not continuously performed either before or after the effective date, and includes as one month every calendar month during which such person has rendered service to a carrier for compensation and includes as one year every twelve such months. An ultimate fraction of six months or more shall be computed as one year.

(f) The term "annuity" means a fixed sum payable at the beginning of each month during retirement, ceasing at death except as otherwise provided in section 219 of this title or at resumption of service for which an employee receives compensation.

(g) The term "compensation" means any form of money remuneration for service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, pensions, or other form of relief.

(h) The term "retirement" means the status of cessation of compensated service with the right to receive an annuity.

(i) The term "age" means age at the latest attained birthday.

(j) The term "Board" means the Railroad Retirement Board.

(k) The term "effective date" means the 1st day of March 1936.

(*l*) The term "enactment" means the date on which this chapter shall become a law. (Aug. 29, 1935, ch. 812, § 1, 49 Stat. 967; June 11, 1940, ch. 307, § 2, 54 Stat. 264; Aug. 13, 1940, ch. 664, §§ 2, 3, 54 Stat. 780.)

§ 216. *Retirement.* Upon the attainment of sixty-five years of age and continuance in service by the employee (but not before March 1, 1936), the annuity of such employee shall be reduced one-fifteenth for every year of such continued service beyond the age of sixty-five years; except that such reduction shall not apply during any period, beginning at the age of sixty-five and not extending beyond the age of seventy, while the employee is continued in employment under an agreement in writing between the carrier and employee filed with the Board, which agreement may provide for extension of employment for one year and thereafter in like manner for successive periods of one year each. Such reduction of annuity shall not apply to an employee who occupies an official position in the service of a carrier or to employees' representatives. (Aug. 29, 1935, ch. 812, § 2, 49 Stat. 968.)

§ 217. *Annuities to employees.* The following-described employees, after retirement, whether or not then in the service of a carrier, shall be paid annuities:

(a) A person (without regard to the period of service and whether rendered before or after the enactment hereof) who either at the enactment hereof or thereafter shall be sixty-five years of age or over.

(b) A person who either at the enactment hereof or who thereafter shall be fifty years of age or over and who shall have completed a service period of thirty years. An annuity paid under this subdivision shall be reduced by one-fifteenth of such annuity for each year such employee may be less than sixty-five years of age at the time of the first annuity payment.

(c) A person who either before or after August 29, 1935, shall have completed a service period of thirty years and who shall be after the enactment hereof retired by the carrier on account of mental or physical disability. An annuity paid under this subdivision shall not be subject to the deduction specified in subdivision (b) of this section.

The annuities hereinbefore mentioned shall be paid out of any money in the Treasury which may be appropriated for that purpose. An annuity shall begin as of a date to be specified in a written application to be signed by the employee entitled thereto, and approved by the Board, which date shall not be more than sixty days before the filing of the application, nor before the date on which the first annuity shall have become due and payable. An annuity shall not be due and payable until ninety days after the effective date hereof. The annuity shall be payable on the 1st day of the month during the lifetime of the annuitant. Such annuity shall be based upon the service period of the employee and shall be the sum of the amounts determined by multiplying the total number of years of service not exceeding thirty years by the following percentages of the monthly compensation: 2 per centum of the first $50; 1½ per centum of the next $100; and 1 per centum of the compensation in excess of $150. The "monthly compensation" shall be the average of the monthly compensation paid to the employee by the carrier, except that where applicable for service before March 1, 1936, the monthly compensation shall be the average of the monthly compensation for all pay-roll periods for which the employee shall have received compensation from any carrier out of eight consecutive calendar years of such services ended December 31, 1931. No part of any monthly compensation in excess of $300 shall be recognized in determining any annuity. Any employee who shall be entitled to an annuity with a commuted value determined by the Board of less than $300 shall be paid such value in a lump sum. (Aug. 29, 1935, ch. 812, § 3, 49 Stat. 969.)

§ 218. *Annuities to representatives.* The annuity of a representative shall be determined according to such rules and regulations as the Board shall deem just and reasonable and, as near as may be, shall be the same annuity as if the representative were still in the employ of his last former carrier. (Aug. 29, 1935, ch. 812, § 4, 49 Stat. 969.)

§ 219. *Payments upon death.* If a person receiving or entitled to receive an annuity shall die, the Board, for one year after the first day of the month in which the death may have occurred, shall pay, as herein provided, an annuity equal to one-half of the annuity which such person so dying may have received or may have been entitled to receive, to the widow or widower of the deceased, or if there be no widow or widower, to the dependent next of kin of the deceased. Any employee may elect, on making application for an annuity, to have the present value of the annuity apply to the payment of a reduced annuity to the employee during life and an annuity during the life of a surviving spouse. The present values and amounts of the annuity payments shall be determined on the basis of the combined annuity tables with interest at 3 per centum per annum. (Aug. 29, 1935, ch. 812, § 5, 49 Stat. 970.)

§ 220. *Railroad Retirement Board*—(a) *Establishment; appointment; compensation.* There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board, to be composed of three membemrs appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and the terms of office of the members first taking office after the date of enactment of this chapter shall expire, as designated by the President, one at the end of two years, one at the end of three years, and one at the end of four years, after the date of enactment of this chapter. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of the carriers, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and carriers concerned. One member, who shall be the chairman of the Board, shall be appointed initially, for a term of two years without recommendation by either carriers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any carrier or organization of employees. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board of whom a majority of those in office shall constitute a quorum for the transaction of business. Each of said members shall receive a salary of $10,000 per year, together with necessary traveling expenses and

subsistence expenses, or per diem allowance in lieu thereof, while away from the principal office of the Board on duties required by this chapter.

(b) *Duties.* The Board shall have and exercise all the duties and powers necessary to administer this chapter. The Board shall take such steps as may be necessary to enforce this chapter and make and certify awards and payments.

The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this chapter, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board.

The Board shall establish and promulgate rules and regulations and provide for the adjustment of all controversial matters, with power as a Board or through any member or subordinate designated thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments, and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such persons and provide for their compensation and expenses, as may be necessary to the proper discharge of its functions. All rules, regulations, or decisions of the Board shall require the approval of at least two members and shall be entered upon the records of the Board which shall be a public record. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary, and at intervals of not more than two years shall cause to be made actuarial surveys and analyses, to determine from time to time the payments to be required to provide for all annuities, other disbursements, and expenses, and to assure proper administration and the adequacy and permanency of the retirement system hereby established. The Board shall have power to require all carriers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this chapter. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. (Aug. 29, 1935, ch. 812, § 6, 49 Stat. 970.)

§ 221. *Special report; existing individual carrier pension plans.* Not later than four years from March 1, 1936, the Board, in a special report to the President of the United States to be submitted to Congress, shall make specific recommendations for such changes in the retirement system hereby created as shall assure the adequacy of said retirement system on the basis of its experience and all information and experience then available. For this purpose the Board shall from time to time make such investigations and actuarial studies as shall provide the fullest information practicable for such report and recommendations. The Board shall in a like special report to be made at the earliest practicable time, make specific recommendations with regard to the desirability and practicability of substituting the provisions for annuities and other benefits to employees under this chapter for any obligation for prior service or for any existing provisions for the voluntary payment of pensions to employees subject to this chapter by a carrier or any employees subject to this chapter, so as to relieve such carrier from its obligations for age retirement benefits under its existing pension systems and transfer such obligations to the retirement system herein established.

It is recognized that existing individual carrier pension plans are wholly at the option of the carriers unless in any case express provision is made otherwise, and no restriction is imposed under this chapter upon such plans; nor is it expected that carriers will modify existing pension plans on account of this chapter beyond a reduction of current pension payments under such existing plans in amounts equal to the annuity payments currently received by the employee under this chapter. (Aug. 29, 1935, ch. 812, § 7, 49 Stat. 971.)

§ 222. *Investigation commission.* (a) That a commission be appointed which shall be composed of three Members of the Senate designated by the President of the Senate; three Members of the House of Representatives designated by the Speaker of the House of Representatives; and three members who shall be designated by the President of the United States. The President shall designate one member to be chairman and another to be vice chairman of the Commission. The Commission is hereby authorized and directed to make, and report through the President to the Congress of the United States not later than January 1, 1936, the results of, a thorough investigation of all pertinent facts relating to a retirement annuity system applicable by law to carriers by railroad engaged in interstate commerce and particularly any and all questions for the investigation of which provision is made under section 221 of this chapter. The Commission is also authorized to hold hearings respecting desirable provisions of a sound retirement and annuity system. In the making of such investigation the Commission may consider the experience of other industries and of governments, as well as of the railroad industry, and may avail itself of the assistance of all agencies of the Federal Government. Until January 1, 1936, the duties and authority of the Board under the preceding section are limited to cooperation with and action under the direction of the Commission. With its report setting forth the results of its investigation, the Commission shall include such recommendations for legislation, if any, as it may deem necessary to give effect to its conclusions.

(b) The Commission, in the performance of its duties, is authorized to sit and act at such times and places either in the District of Columbia or elsewhere during the sessions, recesses, and adjourned periods of the Seventy-fourth Congress, to require by subpena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, records, files, and documents, to have access to such books, papers, records, files, and documents of any corporation or person, to administer such oaths and to take such testimony and to make such expenditures, as it may deem advisable. The several district courts of the United States and the Supreme Court of the District of Columbia shall have jurisdiction upon application by the Commission through its attorneys to compel obedience to any order or subpena of the Commission issued pursuant to this section. The orders, writs, and processes of the Supreme Court of the District of Columbia in such matters may run and be served anywhere in the United States.

(c) The Commission shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and to employ, without regard to the provisions of the Civil Service Act [now, generally, covered by Title 5, Government Organization and Employees] such experts and clerical, stenographic, legal, and other assistance as may be necessary for the proper discharge of its duties, and without respect to the provisions of sections 661 to 674 of Title 5, as amended, [now covered by section 5101 et seq. of Title 5] fix the compensation of any person employed. The President shall fix the compensation to be paid the three members of the Commission to be appointed by the President. All expenses of the Commission for all time in which the Commission shall be actually engaged in this investigation shall be paid out of any funds in the Treasury of the United States, not otherwise appropriated, on a certificate of the chairman of the Commission, and the sum necessary for carrying out the provisions of this resolution is hereby authorized to be appropriated: *Provided,* That the total expense authorized for the purposes of the Commission shall not exceed the sum of $60,000 which shall include the compensation herein authorized. (Aug. 29, 1935, ch. 812, § 8, 49 Stat. 972.)

§ 223. *Court jurisdiction.* The several District Courts of the United States and the Supreme Court of the District of Columbia, respectively, shall have jurisdiction to entertain an application and to grant appropriate relief in the following cases which may arise under the provisions of this chapter:

(a) An application by an employee or other person aggrieved in or to the district court of any district wherein the Board may have established an office, to compel the Board to set aside an action or decision claimed to be in

violation of a legally enforceable right of the applicant, or to take action, or to make a decision necessary for the enforcement of a legal right of the applicant.

(b) The jurisdiction herein specifically conferred upon the said Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by said courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this chapter.

(c) The Railroad Retirement Board, as hereinbefore established, shall be and constitute a body corporate and be capable of suing and being sued as such. (Aug. 29, 1935, ch. 812, § 9, 49 Stat. 973.)

§ 224. *Assignability; exemption from levy.* No annuity payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated. (Aug. 29, 1935, ch. 812, § 10, 49 Stat. 973.)

§ 225. *Penalties.* Any officer or agent of a carrier, as the word "carrier" is hereinbefore defined, or any employee as such word is hereinbefore defined, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this chapter, or who shall knowingly make any false or fraudulent statement or report in response to any report or statement required to be made for the purpose of this chapter, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of receiving any award or payment under this chapter, shall be punished by a fine of not less than $100 nor more than $10,000 or by imprisonment not exceeding one year. (Aug. 29, 1935, ch. 812, § 11, 49 Stat. 973.)

§ 226. *Separability of provisions.* If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter or application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 29, 1935, ch. 812, § 12, 49 Stat. 973.)

§ 227. *Appropriation.* The appropriation of such money from time to time out of the Treasury of the United States as may be necessary to carry this chapter into effect, is hereby authorized. (Aug. 29, 1935, ch. 812, § 13, 49 Stat. 973.)

§ 228. *Short title.* This chapter may be cited as the "Railroad Retirement Act of 1935." (Aug. 29, 1935, ch. 812, § 14, 49 Stat. 973.)

EFFECT OF AMENDMENTS TO FORMER SECTION 215 OF THIS TITLE

Section 2 of act of June 11, 1940, ch. 307, 54 Stat. 264, provided that:

"The amendments in this section shall operate in the same manner and have the same effect as if they had been part of the Railroad Retirement Act of 1935 when that Act was enacted on August 29, 1935."

Operation and effect of act Aug. 13, 1940, amending section 215, see notes under section 151 of this title.

CONTINUATION AND EFFECT OF RAILROAD RETIREMENT ACT OF 1935

Sections 201—205 of Part II of the act of June 24, 1937, ch. 382, 50 Stat. 318, 319, as amended by acts Oct. 8, 1940, ch. 757, title VI, pt. II, 54 Stat. 1014; Apr. 8, 1942, ch. 227 § 10, 56 Stat. 207; Oct. 30, 1966, Pub. L. 89–700, title I, § 111, 80 Stat. 1085, read as follows:

"§ 201. The Act entitled 'An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes,' approved August 29, 1935, as in force prior to its amendment by part I of this Act, may be cited as the 'Railroad Retirement Act of 1935' [former sections 215—228 of this title]; and such Act, as amended by part I of this Act, may be cited as the 'Railroad Retirement Act of 1937.'

"§ 202. The claims of individuals (and the claims of spouses and next of kin of such individuals) who, prior to the date of the enactment of this Act relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be employee representatives as defined therein, and became eligible for annuities under such Act, shall be adjudicated by the Board in the same manner and with the same effect as if this Act had not been enacted: *Provided, however,* That with respect to any such claims no reduction shall be made in any annuity certified after the date of the enactment of this Act because of continuance in service after age sixty-five: *And provided further,* That service rendered prior to August 29, 1935, to a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such company was a carrier as defined in the Railroad Retirement Act of 1935; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall also be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the Railroad Retirement Act of 1935; *And provided further,* That for the purposes of determining eligibility for an annuity and computing an annuity there shall also be included in an individual's service period, subject to and in accordance with the second proviso of subsection (a), subsections (b) to (e), inclusive, and subsections (g) to (k), inclusive, of section 3A of this Act, as amended [section 228c–1 of this title], voluntary or involuntary military service of an individual within or without the United States during any war service period, including such military service prior to the date of enactment of this amendment (April 8, 1942), if, prior to the beginning of his military service in a war service period and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to a carrier, or to a person, service to which is otherwise creditable, or was serving as a representative; but such military service shall be included only subject to and in accordance with the provisions of the Railroad Retirement Act of 1935 (former sections 215—228 of this title), in the same manner as though military service were service rendered as an employee. This proviso, as herein amended (i.e., by act April 8, 1942), shall be effective as of October 8, 1940. No right shall be deemed to have accrued under this proviso which would not have accrued had this amendment thereof (act April 8, 1942) been enacted on October 8, 1940: *And provided further,* That annuity payments due an individual under the Railroad Retirement Act of 1935 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased.

"§ 203. Any individual who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be an employee representative as defined in such Act, and who is not eligible for an annuity under that Act but who would have been eligible for an annuity under the Railroad Retirement Act of 1937 had such Act been in force from an [sic] after August 29, 1935, shall have his right to an annuity adjudicated under the Railroad Retirement Act of 1937: *Provided, however,* That no such annuity shall begin prior to the date of the enactment of this Act.

"§ 204. The Railroad Retirement Act of 1935 shall continue in force and effect with respect to the rights of individuals granted annuities prior to the date of the enactment of this Act.

"§ 205. The enactment of this Act shall have no effect on the status, tenure of office, or compensation of the present members, officers, and employees of the Railroad Retirement Board; except that individuals who have had experience in railroad service shall be retained in the employ of the Board, whether or not qualified under the civil service laws and rules, if in the judgment of the Board they possess the qualifications necessary for the proper discharge of the duties of the positions which they are holding."

RAILROAD RETIREMENT ACT OF 1937

§ 228a. Definitions.

For the purposes of sections 228a to 228c–1, 228e to 228h, 228i to 228s–2 of this title—

(a) The term "employer" means any carrier (as defined in subsection (m) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term "employee" means (1) any individual in the service of one or more employers for compensation, (2) any individual who is in the employment relation to one or more employers, and (3) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) of this section only if he was in the service of or in the employment relation to a carrier on or after the enactment date. The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a) of this section who before or after the enactment date was in the service of an employer as defined in subsection (a) of this section and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(c) An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation, or a method of computing the monthly compensation for such service is provided in section 228c (c) of this title: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such

other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(d) An individual shall be deemed to have been in the employment relation to an employer on the enactment date if (i) he was on that date on leave of absence from his employment, expressly granted to him by the employer by whom he was employed, or by a duly authorized representative of such employer, and the grant of such leave of absence will have been established to the satisfaction of the Board before July 1947; or (ii) he was in the service of an employer after the enactment date and before January 1946 in each of six calendar months, whether or not consecutive; or (iii) before the enactment date he did not retire and was not retired or discharged from the service of the last employer by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before the enactment date to be in the service of such employer and thereafter remained continuously disabled until he attained age sixty-five or until August 1945 or (B) solely for such last stated reason an employer by whom he was employed before the enactment date or an employer who is its successor did not on or after the enactment date and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in clause (ii) of this subsection; or (iv) he was on the enactment date absent from the service of an employer by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the employer, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights: *Provided,* That an individual shall not be deemed to have been on the enactment date in the employment relation to an employer if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 228f of this title, or if during the last pay-roll period before the enactment date in which he rendered service to an employer he was not in the service of an employer, in accordance with subsection (c) of this section, with respect to any service in such pay-roll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after the enactment date in the service of a local lodge or division defined as an employer in subsection (a) of this section.

(e) The term "United States," when used in a geographical sense, means the States and the District of Columbia.

(f) The term "years of service" shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 228c (b) of this title: *Provided, however,* That where service prior to the enactment date may be included in the computation of years of service as provided in subdivision (1) of section 228c (b) of this title, it may be included as to service rendered to a person which was on the enactment date an employer, irrespective of whether, at the time such service was rendered, such person was an employer; and it may also be included as to service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on the enactment date, was a carrier as defined in subsection (m) of this section, irrespective of whether, at the time such service was rendered to such predecessor, it was an employer; it may also be included as to service rendered to a person not an employer in the performance of operations involving the use of standard railroad equipment if such operations were performed by an employer on the enactment date. Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such service or received such wages for time lost, shall constitute a year of service. Ultimate fractions shall be taken at their actual value, except that if the individual will have had not less than one hundred twenty-six months of service, an ultimate fraction of six months or more shall be taken as one year.

(g) The term "annuity" means a monthly sum which is payable on the 1st day of each calendar month for the accrual during the preceding calendar month.

(h) (1) The term "compensation" means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips (except as provided under paragraph (2)), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee. Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 1101(a)(15) of Title 8 and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be. For the purposes of determining monthly compensation and years of service and for the purposes of sections 228b and 228e of this title, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar

month if the amount thereof is less than $3 and (i) such compensation is earned between December 31, 1936, and April 1, 1940, and taxes therein pursuant to sections 262 (a) and 263 (a) of this title or sections 1500 and 1520 of Title 26, Internal Revenue Code of 1939, are not paid prior to July 1, 1940; or (ii) such compensation is earned after March 31, 1940. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 228h of this title, the period during which such compensation will have been earned. In determining the monthly compensation, the average monthly remuneration, and quarters of coverage of any employee, there shall be attributable as compensation paid to him in each calendar month before 1968 in which he is in military service creditable under section 228c–1 of this title the amount of $160 in addition to the compensation, if any, paid to him with respect to such month. In making such a determination there shall be attributable as compensation paid to him for each calendar month after 1967 in which he is in military service so creditable the amount of $260. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an "employer" in subsection (a) of this section shall be disregarded for purposes of determining eligibility for and the amount of benefits pursuant to sections 228a to 228c–1, 228e to 228h, 228i to 228s–2 of this title if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service."

(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b) of this section) the term "compensation" shall (subject to section 228c(c) of this title) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of Title 26, Internal Revenue Code of 1954, or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

(i) The term "Board" means the Railroad Retirement Board.

(j) The term "enactment date" means the 29th day of August 1935.

(k) The term "company" includes corporations, associations, and joint-stock companies.

(*l*) The term "employee" includes an officer of an employer.

(m) The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to chapter 1 of Title 49.

(n) The term "person" means an individual, a partnership, an association, a joint-stock company, or a corporation.

(*o*) An individual shall be deemed to have "a current connection with the railroad industry" at the time an annuity begins to accrue to him and at death if, in any thirty consecutive calendar months before the month in which an annuity under section 228b of this title begins to accrue to him (or the month in which he dies if that first occurs), he will have been in service as an employee in not less than twelve calendar months and, if such thirty calendar months do not immediately precede such month, he will not have been engaged in any regular employment other than employment for an employer in the period before such month and after the end of such thirty months. For the purposes of section 228e of this title only, an individual shall be deemed also to have a "current connection with the railroad industry" if he is in all other respects completely insured but would not be fully insured under the Social Security Act or if he is in all other respects partially insured but would be neither fully nor currently insured under the Social Security Act or if he has no wage quarters of coverage.

(p) The terms "quarter" and "calendar quarter" shall mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(q) The terms "Social Security Act" and "Social Security Act, as amended" shall mean the Social Security Act as amended from time to time. (Aug. 29, 1935, ch. 812, § 1, 49 Stat. 967; June 24, 1937, ch. 382, part I, § 1, 50 Stat. 307; June 11, 1940, ch. 307, § 1, 54 Stat. 264; Aug. 13, 1940, ch. 664, §§ 1, 3, 54 Stat. 785, 786; Oct. 10, 1940, ch. 842, § 25, 54 Stat. 1100; Apr. 8, 1942, ch. 227, § 13, 56 Stat. 209; July 31, 1946, ch. 709, §§ 1, 2, 201—204, 60 Stat. 722, 725—727; Oct. 30, 1951, ch. 632, § 1, 65 Stat. 683; July 18, 1952, ch. 945, § 6 (d) (1), 66 Stat. 777; Aug. 31, 1954, ch. 1164, pt. I, § 1, 68 Stat. 1038; Sept. 1, 1954, ch.

1206, title IV, § 401 (a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title I, § 120 (a), 70 Stat. 836; Aug. 1, 1956, ch. 837, title IV, § 408 (c), 70 Stat. 877; Aug. 30, 1957, Pub. L. 85-238, § 4 (a), 71 Stat. 520; Aug. 28, 1958, Pub. L. 85-840, title VII, § 703, 72 Stat. 1056; Sept. 13, 1960, Pub. L. 86-778, title VII, § 708, 74 Stat. 997; June 30, 1961, Pub. L. 87-64, title III, § 301, 75 Stat. 142; July 30, 1965, Pub. L. 89-97, title III, § 326(a), 79 Stat. 400; Sept. 29, 1965, Pub. L. 89-212, § 2(f), 79 Stat. 860; Oct. 30, 1966, Pub. L. 89-700, title I, § 101, 80 Stat. 1079; Feb. 15, 1968, Pub. L. 90-257, title I, § 101, 82 Stat. 16; Oct. 22, 1968, Pub. L. 90-624, § 2, 82 Stat. 1316.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsecs. (a) and (b), is classified to chapter 8 of this title.

Sections 262(a) and 263(a) of this title, referred to in subsec. (h), were repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1, which enacted Title 26, I.R.C. 1939, and provided that all laws and parts of laws codified into the Internal Revenue Code, to the extent that they re- Section 1500 and 1520 of Title 26, Internal Revenue Code of 1939, also referred to in subsec. (h), were repealed by section 7851 of Title 26, I.R.C. 1954. Subject matter of former sections 262(a) and 263(a) of this title (subsequently contained in sections 1500 and 1520 of Title 26, I.R.C. 1939, is now covered by sections 3201 and 3221 of Title 26. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of Title 26, I.R.C. 1954.

The Social Security Act, referred to in subsecs. (o) and (q), is classified to chapter 7 of Title 42, The Public Health and Welfare.

REFERENCES TO SOCIAL SECURITY ACT

References in the Railroad Retirement Act of 1937, as amended, section 228a et seq. of this title to provisions of the Social Security Act, chapter 7 of Title 42, The Public Health and Welfare, redesignated by act Sept. 1, 1954, ch. 1206, 68 Stat. 1052 as deemed to refer to such provisions as so redesignated, see note set out under section 3101 of Title 26, Internal Revenue Code of 1954.

AMENDMENTS

1968—Subsec. (h)(1). Pub. L. 90-257 increased the amount to be credited for each month of military service after 1967 from $160 to $260.

Pub. L. 90-624 inserted provision excluding remuneration for services performed by non-resident alien individuals temporarily in the United States as participants in a cultural exchange or training program.

1966—Subsec. (e). Pub. L. 89-700, § 101(a), eliminated, "Alaska, Hawaii," which followed "States."

Subsec. (h)(1). Pub. L. 89-700, § 101(b), substituted "sections 228b and 228e of this title" for "subsections (a), (c), and (d) of section 228b and subsection (a) of section 228e of this title", and "(i)" and "(ii)" for "(1)" and "(2)", respectively.

Subsec. (q). Pub. L. 89-700, § 101(c), substituted "as amended from time to time" for "as amended in 1965."

1965—Subsec. (h). Pub. L. 89-212 designated existing provisions as par. (1), inserted "(except as is provided under paragraph (2))", and added pars. (2) and (3).

Subsec. (q). Pub. L. 89-97 substituted "1965" for "1961".

1961—Subsec. (q). Pub. L. 87-64 substituted "1961" for "1960."

1960—Subsec. (q). Pub. L. 86-778 substituted "1960" for "1958."

1958—Subsec. (q). Pub. L. 85-840 substituted "1958" for "1957".

1957—Subsec. (q). Pub. L. 85-238 substituted "1957" for "1956".

1956—Subsec. (q). Acts Aug. 1, 1956, ch. 836, and ch. 837, substituted "1956" for "1954".

1954—Subsec. (h). Act Aug. 31, 1954, provided that compensation for service by an individual as a delegate to a convention of a national railway labor organization shall be disregarded in determining eligibility for benefits, if he has no previous creditable servce.

Subsec. (q). Act Sept. 1, 1954, substituted "1954" for "1952".

1952—Subsec. (q). Act July 18, 1952, substituted "1952" for "1950".

1951—Subsec. (f). Act Oct. 30, 1951, in last sentence, substituted "one hundred twenty-six" for "fifty-four".

Subsec. (q). Act Oct. 30, 1951, added subsec. (q).

1946—Subsec. (c). Act July 31, 1946, § 1, changed opening par. to include professional or technical services when integrated into the staff of the employer and other personal services the rendition of which is integrated into the employer's operations where the service is rendered for compensation or a method of computing compensation is provided in section 228c(c) of this title and added clause a tend of first proviso excluding compensation of less than 10% of remuneration.

Subsec. (d). Act July 31, 1946, § 201, changed the definition of employment relation by stating definitely the circumstances under which it will be deemed to have existed.

Subsec. (f). Act July 31, 1946, § 202, added provision allowing inclusion of service rendered to a person not an employer in operations using standard railroad equipment, if such operations were performed by an employer on the enactment date, and changed the rule for counting fractions so that six months or more can be counted as a year only if the individual will have had 54 months of service.

Subsec. (h). Act July 31, 1946, § 2, changed first sentence to define compensation as remuneration "paid to" instead of "earned by" an employee and added provisions relating to presumption that a payment is compensation; payments for time lost and with respect to personal injury; payments after the end of a calendar year earned during that year; and compensation during military service.

Subsecs. (o), (p). Act July 31, 1946, §§ 203, 204, added subsecs. (o) and (p).

1942—Subsec. (c). Act Apr. 8, 1942, amended first proviso.

1940—Subsec. (a). Act Aug. 13, 1940, § 1, added last sentence.

Subsec. (b). Act Aug. 13, 1940, § 3, added last par.

Subsec. (c). Act June 11, 1940, added second proviso.

Subsec. (d). Act June 11, 1940, amended second proviso.

Subsec. (h). Act Oct. 10, 1940, added last sentence.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90-624 applicable with respect to service performed after December 31, 1961, see section 4(a) of Pub. L. 90-624, set out as a note under section 3231 of Title 26, Internal Revenue Code.

Section 108(a) of Pub. L. 90-257 provided that: "Except as otherwise provided, the amendments made by this title, other than section 102, subsections (f) and (g) of section 105, and section 106 [amending subsec. (h) of this section and sections 228b (e), (i), 228c (a), (e), 228e (a), (h), (i)(1)(ii), (j), (l)(1), and (m) and enacting provisions set out as notes under this section and sections 228c and 228e of this title], shall be effective with respect to annuities accruing for months beginning with the month with respect to which the increase in benefits under title II of the Social Security Act [section 401 et seq. of Title 42] provided for by the Social Security Amendments of 1967 [Pub. L. 90-248] is effective, and with respect to pensions due in calendar months next following the month with respect to which the increase in benefits under title II of the Social Security Act [section 401 et seq. of Title 42] provided for by the Social Security Amendments of 1967 [Pub. L. 90-248] is effective. The amendments made by section 102 [amending section 228b(d) of this title] shall be effective with respect to annuities accruing for months in calendar years after 1967. The amendments made by section 105 (f) and (g) [amending section 228e (l)(9) and (l)(10)(i)] shall be effective with respect to benefits payable on deaths occurring on or after the date of enactment of this Act [Feb. 15, 1968]. The amendments made by section 106 [amending section 228j(a) of this title] shall be effective on the enactment date of this Act [Feb. 15, 1968]."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 112 of Pub. L. 89-700 provided that:

"(a) The amendments made by the several sections of this title [amending this section and sections 228b, 228c, 228c-1, 228e, 228h, 228i, 228j, 228s and 228s-1 of this title, and note set out under former sections 215—228 of this title] shall be effective on the enactment date of this Act [Oct. 30, 1966] except as otherwise provided herein.

"(b) The amendments made by sections 102(a) and 105(h) [amending sections 228b(a) and 228e(j) of this title] shall be effective with respect to determinations of recovery from disability made on or after the enactment date of this Act [Oct. 30, 1966].

"(c) The amendments made by sections 102(b) and 102(c) [amending subsections (e) and (g) of section 228b of this title] shall be effective with respect to months after the month of enactment [Oct. 1966].

"(d) The amendments made by section 102(d) [adding subsec. (j) of section 228b of this title] shall be effective with respect to recomputations made, or changes in law enacted, on or after the enactment date of this Act [Oct. 30, 1966].

"(e) The amendments made by sections 103(b) and 105(k) [amending section 228c(c) of this title relative to claims of employees for credit for months of service rendered within two years prior to his retirement, and section 228e(*l*)(9) of this title] shall be effective with respect to annuities awarded on or after the enactment date of this Act [Oct. 30, 1966].

"(f) The amendments made by section 103(c)(1) [amending section 228c(e) of this title by substituting "is less than the total amount, or the additional amount, plus 10 per centum of the total amount" for "is less than 110 per centum of the amount or 110 per centum of the additional amount", and "shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount" for "shall be increased proportionately to a total of 110 per centum of such amount or 110 per centum of such additional amount"] shall be effective with respect to annuities accruing in or after the month of enactment [Oct. 1966].

"(g) The amendments made by sections 103(c)(2), 103(f), and 105(f) [amending section 228c(e) of this title by adding proviso requiring that if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the first proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month, and amending sections 228c(i) and 228e(i)(3)—(5) of this title] shall be effective with respect to awards made on or after the enactment date of this Act [Oct. 30, 1966].

"(h) The amendments made by section 103(e) [amending section 228c(g) of this title] shall be effective with respect to months after the month in which this Act is enacted [Oct. 1966].

"(i) The amendments made by sections 105(a), 105(b)(1), and 105(j)(2) [amending section 228e(b) of this title, and section 228e(*l*)(1) of this title to include within the definition of "child" a person less than twenty-two years of age and a full-time student at an educational institution] shall be effective with respect to annuities accruing for months after 1964 where, pursuant to the next sentence, no application for the annuity is required or, if required, such application is filed within one year after the enactment of this Act [Oct. 30, 1966]; otherwise, the twelve-month limitation on retroactivity, provided for in section 5(j) of the Railroad Retirement Act of 1937 [section 228e(j) of this title], shall apply. In the case of an individual who is not entitled to a child's insurance annuity under section 5(c) of the Railroad Retirement Act of 1937 [section 228e(c) of this title] for the month in which this Act is enacted [Oct. 1966], such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1966]; except that no application shall be required of a child age eighteen to twenty-one, inclusive, with respect to whom the Board has information on the date of enactment of this Act [Oct. 30, 1966] of his eligibility for an annuity under the amendments made by section 105(j)(2) of this Act through the application of section 3(e) of the Railroad Retirement Act of 1937 [section 228c(e) of this title].

"(j) The amendments made by section 105(c)(1) [amending section 228e(f)(1) of this title] shall be effective with respect to lump-sum payments awarded on or after the enactment date of this Act [Oct. 30, 1966].

"(k) The amendments made by section 105(c)(2) [amending section 228e(f)(1) of this tile by substituting "this paragraph to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum" for "this paragraph to the person (or, if more than one, in equal shares of the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section"] shall be effective with respect to deaths occurring in or after the twelfth month preceding the month of enactment [Oct. 1966].

"(*l*) The amendments made by section 105(d)(1) [amending section 228e(f)(2) of this title] shall be effective with respect to deaths occurring on or after the enactment date of this Act [Oct. 30, 1966].

"(m) The amendments made by section 105(g) [amending section 228e(i)(1) of this title] shall be effective with respect to deductions made in the calendar year 1966 and thereafter.

"(n) The amendments made by section 105(j)(1) [amending section 228e(*l*)(1) of this title to permit adoption by a brother or sister] shall be effective with respect to annuities under section 5(c) of the Railroad Retirement Act [section 228e(c) of this title] for months after the month in which this Act is enacted [Oct. 1966]; except that in the case of an individual who was not entitled to an annuity under section 5(c) of such Act [section 228e(c) of this title] for the month in which this Act was enacted [Oct. 1966], such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted [Oct. 1966].

"(o) The amendment made by section 105(j)(3)(i) [amending section 228e(*l*)(1) of this title by inserting ", or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under sections 228a to 228c-1, 228e—228h, 228i—228p and 228r to 228s-2 of this title"] shall be effective with respect to annuities for months after the month of enactment of this Act [Oct. 1966]. No lump sum benefit under section 5(f)(2) of the Railroad Retirement Act of 1937 [section 228e(f)(2) of this title] shall be awarded after the date of enactment of this Act [Oct. 30, 1966] in any case in which an individual survives who would be entitled to an annuity under the amendment made by this section unless such individual executes an election in accordance with such section 5(f)(2) [section 228e(f)(2) of this title] before attainment of age 60 to have such benefit paid in lieu of other benefits."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89-212 effective only with respect to tips received after 1965, see note under section 3201 of Title 26, Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

EFFECTIVE DATE OF 1954 AMENDMENT

Sections 401, 402, and 403 of act Aug. 31, 1954, provided that:

"Sec. 401. The amendments made by this Act [amending subsec. (h) of this section and sections 228b (a), (d), 228c (a), (b) (1), (c), (e), 228e (a), (d), (f) (2), (g), (i) (1) (ii) (iii) (iv), (*l*) (1), (*l*) (9), (*l*) (10) (i), 351 (g), (i), (k), 352 (a), (c), 353 and 358 (a), (b) of this title, enacting section 228s-1 of this title, amending sections 1500, 1501 (a), 1510, 1520 and 1532 (e) of Title 26 (Internal Revenue Code of 1939), and amending sections 3201, 3202 (a), 3211, 3221 and 3231 (e) (1) of Title 26 (Internal Revenue Code of 1954)] shall be effective July 1, 1954, except as otherwise provided.

"Sec. 402. The provisions of sections 1, 205, and 301 of this Act [subsec. (h) of this section, section 1532 (e) of Title 26 (Internal Revenue Code of 1939), and section 351 (g) of this title] shall be effective with respect to compensation paid on and after April 1, 1954.

"Sec. 403. The provisions of sections 2, 3, 7, 8, 9, 11, 12, and 15 of this Act [sections 228b (a), (d), 228c (e), 228e (a), (d), (f) (2), (i), (*l*), and 228s-1 of this title] shall be effective as of the first day of the first calendar month following the month in which this Act is enacted [Aug. 31, 1954]."

For effective date of amendments to sections 228b, 228c (c), and 228e (g) (2) of this title, see notes under those sections.

For effective date of amendments to Internal Revenue Code of 1954 by section 206 of act Aug. 31, 1954, see note under section 3201 of Title 26, Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1951 AMENDMENT

Section 25 (a)—(c) of act Oct. 30, 1951, provided that:

"(a) Except as otherwise specifically provided, the amendments made by this Act [to sections 228a, 228b, 228c, 228c-1, 228e and 228q of this title] shall take effect with respect to benefits accruing under the Railroad Retirement Acts [this chapter] and the Social Security Act [chapter 7 of Title 42] after the last day of the month in which this Act is enacted [October 30, 1951], irrespective of when service or employment occurred or compensation or wages were earned: *Provided, however,* That, in the recomputation pursuant to this Act of survivor annuities heretofore awarded, the basic amount shall not be recomputed.

"(b) The amendments made by sections 3, 4, and 21 of this Act [to sections 228b (c), 228c-1 (k), and 228e (j) of this title] shall apply to benefits awarded in whole or in part on or after the date of enactment of this Act [October 30, 1951].

"(c) The amendments made by sections 16 and 17 of this Act [to section 228e (f) (1) and 228e (f) (2) of this title] shall take effect with respect to deaths occurring on or after the date of enactment of this Act [October 30, 1951]".

Section 9 of act Oct. 30, 1951, referred to in the above quoted provisions, amended section 228c of this title by striking out subsec. (h) thereof. For distribution of other provisions of the act, see note under section 228x of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

Section 401 of act July 31, 1946, which affected sections 228a—228e, 228h, 228k, 351—356, 358, 362, and 363 of this title and sections 1500, 1501, 1510, 1520, 1532, and 1538 of Title 26, I. R. C. 1939 provided that except as otherwise provided in that act, the provisions thereof shall become effective July 31, 1946. Exceptions to this effective date are set out in notes under sections to which they apply.

Section 402 of act July 31, 1946, provided in part that sections 203, 205, 206, 207, 210, 211, 213, and 318 of that act, which added subsec. (*o*) to this section and amended sections 228b (a, b), 228c (b), (e), (f), 228e, and 358 (a, h) of this title, shall become effective on January 1, 1947.

EFFECTIVE DATE OF 1942 AMENDMENT

Act Apr. 8, 1942, besides amending this section, contained the following paragraph: "The amendment in this section shall operate in the same manner and have the same effect as if it had been part of the Railroad Retirement Act of 1937 [sections 228a to 228c-1, 228e—228h and 228i to 228s-2 of this title] when that Act was enacted on June 24, 1937."

EFFECTIVE DATE OF 1940 AMENDMENTS

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

Act June 11, 1940, provided, in part, as follows: "The amendments in this section [affecting subsecs. (c) and (d) of this section] shall operate in the same manner and have the same effect as if they had been part of the Railroad Retirement Act of 1937 [sections 228a to 228c-1, 228e—228h and 228i to 228s-2 of this title] when that act was enacted on June 24, 1937."

RECERTIFICATIONS

All recertifications required by reason of the amendments made by sections 101—108 of Pub. L. 90-257 to be made by the Railroad Retirement Board without an application therefor, see section 108(c) of Pub. L. 90-257, set out as a note under section 228c of this title.

RECERTIFICATION BY BOARD UNDER ACT OCT. 30, 1951

Section 25 (j) of act Oct. 30, 1951, provided that: "All recertifications by the Railroad Retirement Board required by reason of the provisions of this Act other than section 9 shall be made without application therefor. Recertifications pursuant to section 9 of this Act shall be made only upon application therefor in such manner and form and filed within such time as the Railroad Retirement Board may prescribe."

EFFECT OF 1946 AMENDMENT ON EXISTING ANNUITIES, PENSIONS, AND JOINT AND SURVIVOR ANNUITY ELECTIONS

Sections 404—407 of act July 31, 1946, provided:

"SEC. 404. Except as hereinafter provided, the rights of persons to whom pensions or annuities were awarded before the date of approval of this Act [July 31, 1946] shall continue to be governed by the provisions of law applicable thereto prior to the approval of this Act [July 31, 1946]. In the award of annuities or increases in annuities after the date of approval of this Act [July 31, 1946] on applications on which no award or a partial award has been made prior to said date, service prior to 1937 (and the compensation therefor) shall be credited only if such service is creditable under the amendments made by section 201 [of this act to section 228a (d) of this title]. No annuity or increase in annuity so awarded crediting such service shall begin to accrue prior to the date of approval of this Act [July 31, 1946].

"SEC. 405. The election of a joint and survivor annuity made before the date of approval of this Act [July 31, 1946] by an individual to whom an annuity accrues before January 1, 1947, shall be given effect as though the provisions of law under which the election was made had continued to be operative unless no annuity was awarded to such individual prior to the date of approval of this Act [July 31, 1946] and, within one year after the approval of this Act [July 31, 1946], he revokes the election in such form and manner as the Board may prescribe. Such election by an individual to whom no annuity accrues before January 1, 1947, shall also be given such effect if the individual, before January 1, 1948, reaffirms the election in such form and manner as the Board may prescribe.

"SEC. 406. Payments upon death as provided in sections 5 of the Railroad Retirement Acts of 1935 and 1937 [former section 219 of this title and section 228e of this title before amendment], other than survivor annuities pursuant to an election, shall be made only with respect to deaths occurring before January 1, 1947.

"SEC. 407. An individual to whom an annuity accrued prior to January 1, 1947, and who would as of the date of initial accrual have been entitled to an annuity in a greater amount by reason of the amendments made by sections 201, 202, 205, or 210 [of this act to sections 228a (d), (f), 228b (a) and 228c (e) of this title] had such amendments been in effect at the date of initial accrual (or, in the case of a survivor annuity, at the date of initial accrual of the annuity from which it derives), shall, without further application therefor other than a statement of any service claimed under section 202 [of this act, amending section 228a (f) of this title], be awarded an annuity in such greater amount beginning as of the date the applicable amendment shall have become operative: *Provided, however,* That, in such award service before 1937 (and the compensation therefor) shall not be credited if such service would not be creditable upon application of all the amendments made by this Act [act July 31, 1946]. In determinations made pursuant to this section any individual to whom an annuity based on not less than five years of service accrues before January 1, 1947, shall be deemed to have a 'current connection with the railroad industry'. If an annuity increased pursuant to this section is a joint and survivor annuity, the increase shall be in the same form, the actuarial value being computed as of the date the increase begins, unless on that date there is no spouse living for whom the election was made, in which

case the increase shall be awarded on a single life basis. If the increase herein provided effects a survivor annuity only, the increase shall be so determined as to bear the same ratio to the survivor annuity, as the increase in the basic annuity would bear to such basic annuity, if the employee annuitant were living and had made no joint and survivor election."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228b, 228c, 228c–1, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228q, 228r, 228s, 228s–1, 228s–2, 352 of this title; title 42 section 402.

§ 228b. Eligibility for annuities; time of accrual; spouse's annuity.

(a) The following-described individuals, if they shall have been employees on or after the enactment date, and shall have completed ten years of service, shall, subject to the conditions set forth in subsections (b)—(d) of this section, be eligible for annuities after they shall have ceased to render compensated service to any person, whether or not an employer as defined in section 228a (a) of this title (but with the right to engage in other employment to the extent not prohibited by subsection (d) of this section):

1. Individuals who on or after the enactment date shall be sixty-five years of age or over.

2. Women who will have attained the age of sixty and will have completed thirty years of service.

3. Men who will have attained the age of sixty and will have completed thirty years of service, or individuals who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such men or such individuals shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.

4. Individuals having a current connection with the railroad industry, and whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (i) will have completed twenty years of service or (ii) will have attained the age of sixty. The Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer because of disability for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For the purposes of this section, an employee's "regular occupation" shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation; or

5. Individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph 4 or 5 of this subsection and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his rights to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled. If before attaining the age of sixty-five an employee in receipt of an annuity under paragraph 4 or 5 of this subsection is found by the Board to be no longer disabled as provided in said paragraphs his annuity shall cease upon the last day of the second month following the month in which he ceases to be so disabled. If after cessation of his disability annuity the employee will have acquired additional years of service, such additional years of service may be credited to him with the same effect as if no annuity had previously been awarded to him.

(b) An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivisions 4 and 5 of subsection (a) of this section prior to attaining age sixty-five.

(c) An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but—

(1) not before the date following the last day of compensated service of the applicant, and

(2) not more than twelve months before the filing of the application.

(d) No annuity shall be paid with respect to any month in which an individual in receipt of an annuity hereunder shall render compensated service to an employer or to the last person by whom he

was employed prior to the date on which the annuity began to accrue. Individuals receiving annuities shall report to the Board immediately all such compensated service.

No annuity under paragraph 4 or 5 of subsection (a) of this section shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than $200 in earnings from employment or self-employment of any form: *Provided,* That for purposes of this paragraph, if a payment in any one calendar month is for accurals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed $2,400, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of $2,400, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each $200 of such excess, treating the last $100 or more of such excess as $200; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

(e) The spouse of an individual, if—

(i) such individual has been awarded an annuity under subsection (a) of this section or a pension under section 228f of this title and has attained the age of 65, and

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who meets the qualifications prescribed in section 228e(*l*)(1) of this title (without regard to the provisions of clause (ii)(B) thereof),

shall be entitled to a spouse's annuity equal to one-half of such individual's annuity without regard to section 228c(a)(3) of this title or pension as in effect before 1970, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 402(b) of title 42 as amended: *Provided, however,* That if the annuity of the individual is awarded under subdivision (3) of subsection (a) of this section, the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under subdivision (1) of said subsection: *Provided further,* That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further,* That the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reductions in the individual's annuity under the first two provisos in section 228c(a)(2) of this title.

The spouse's annuity computed under other provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5. The two preceding sentences shall not operate to increase the annuity to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection.

(f) For the purposes of sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title, the term "spouse" shall mean the wife or husband of a retirement annuitant or pensioner who (i) was married to such annuitant or pensioner for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed or in the month prior to her or his marriage to such annuitant or pensioner was eligible for an annuity under subsection (a) or (d) of section 228e of this title or, on the basis of disability, under subsection (c) thereof, or is the parent of such annuitant's or pensioner's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant or pensioner were members of the same household, or such wife or husband was receiving regular contributions from such annuitant or pensioner toward her or his support, or such annuitant or pensioner has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's retirement annuity or pension began.

(g) The spouse's annuity provided in subsection (e) of this section shall, with respect to any month,

be subjected to the same provisions of subsection (d) of this section as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of subsection (d) of this section. Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iii), in the case of a wife under age 65 (other than a wife who is receiving such annuity by reason of an election under subsection (h) of this section), she no longer has in her care a child who meets the qualifications prescribed in section 228e(*l*) (1) of this title (without regard to the provisions of clause (ii) (B) thereof).

(h) A spouse who would be entitled to an annuity under subsection (e) of this section if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

(i) The spouse's annuity provided under subsections (e) and (h) of this section without regard to the last paragraph of such subsection (e) shall (before any reduction on account of age) be reduced in accordance with the second proviso in section 228c (a) (2) of this title, except that, notwithstanding other provisions of this subsection, the spouse's annuity shall (before any reduction on account of age) not be less than one-half of the amount computed in section 228c(a) (1) of this title increased by $5 or, if the spouse is entitled to benefits under title II of the Social Security Act, by the excess of $5 over 5.8 per centum of the lesser of (i) any benefit to which such spouse is entitled under title II of the Social Security Act, or (ii) the spouse's annuity to which such spouse would be entitled without regard to section 228c(a) (2) of this title and before any reduction on account of age, but in no case shall such an annuity (before any reduction on account of age) be more than the maximum amount of a spouse's annuity as provided in subsection (e) of this section.

(j) In cases where an annuity awarded under subsection (a) (3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective. (Aug. 29, 1935, ch. 812, § 2, 49 Stat. 968; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 309; July 31, 1946, ch. 709, §§ 205, 206, 60 Stat. 727, 728; Oct. 30, 1951, ch. 632, §§ 2, 3, 5, 65 Stat. 683; Aug. 31, 1954, ch. 1164, pt. I, §§ 2, 3, 68 Stat. 1038; Sept. 1, 1954, ch. 1206, title IV, § 401(b), 68 Stat. 1097; Aug. 12, 1955, ch. 869, § 1, 69 Stat. 715; May 19, 1959, Pub. L. 86-28, pt. I, § 1, 73 Stat. 25; Sept. 22, 1961, Pub. L. 87-285, §§ 1, 2, 75 Stat. 585; Sept. 29, 1965, Pub. L. 89-212, § 1, 79 Stat. 858; Oct. 30, 1966, Pub. L. 89-699, title II, § 201(a), 80 Stat. 1075; Oct. 30, 1966, Pub. L. 89-700, title I, § 102, 80 Stat. 1079; Feb. 15, 1968, Pub. L. 90-257, title I, §§ 102, 103, 82 Stat. 16; Aug. 12, 1970, Pub. L. 91-377, § 2, 84 Stat. 791.)

REFERENCES IN TEXT

Title II of the Social Security Act, referred to in subsecs. (e) and (i), is title II of act Aug. 14, 1935, ch. 531, 49 Stat. 622, as amended, which is classified to section 401 et seq. of Title 42, The Public Health and Welfare.

The Social Security Amendments of 1969, referred to in subsec. (e), is title X of Pub. L. 91-172, which was approved Dec. 30, 1969. For classification of such title X, see Short Title of 1969 Amendments note under section 401 of Title 42.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91-377, § 2(a), added "without regard to section 228c(a) (3) of this title" following "of such individual's annuity", "as in effect before 1970" following "or pension", and the provisions increasing the spouse's annuity computed under other provisions of this section by 15 per centum but not by more than $25.

Subsec. (i). Pub. L. 91-377, § 2(b), added "without regard to the last paragraph of such subsection (e)" following "subsections (e) and (h) of this section".

1968—Subsec. (d). Pub. L. 90-257, § 102, increased from $1,200 to $2,400 the amount that an employee entitled to a disability annuity can earn in a year without losing an annuity payment for any month in the year, increased from $100 to $200 the amount which an employee entitled to a disability annuity can earn in a month without losing his annuity for the month regardless of his total earnings for the year, and increased from $50 to $100 the amount into which the final increment is divided for purposes of determining what months in which an annuity is not payable when earnings during the year exceed $2,400.

Subsec. (e). Pub. L. 90-257, § 103(a), substituted reference to the reductions in an individual's annuity under the first two provisos in section 228c(a) (2) of this title for reference to the reduction in an individual's annuity under the first two provisos in section 228c(a) (1) of this title without regard to the effect of section 228c (a) (2) of this title on the annuity of the individual from whom such spouse's annuity derives.

Subsec. (i). Pub. L. 90-257, § 103(b), provided for a reduction of the increase under Pub. L. 90-257 in the spouse's annuity by the amount of any increases under Pub. L. 90-248 in social security benefits to which the spouse is entitled, provided for a $5 minimum increase in a spouse's annuity notwithstanding any reduction requirements because of the spouse's right to social security benefits, and provided that the increases would be before any reduction on account of age.

1966—Subsec. (a). Pub. L. 89-700, § 102(a), substituted, in the last paragraph, "the last day of the second month" for "the last day of the month."

Subsec. (e). Pub. L. 89-700, § 102(b), in cl. (ii), substituted "who meets the qualifications prescribed in section 228e(*l*) (1) of this title (without regard to the provisions of clause (ii) (B) thereof)" for "who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 228e of this title," and eliminated words "from time to time" which followed "as amended."

Pub. L. 89-699, § 201(a) (1), inserted proviso requiring the spouse's annuity provided for in subsecs. (e) and (h) of this section to be computed without regard to the reduction in the individuals annuity under the first two provisos in section 228c(a) (1) of this title and without regard to the effect of section 228c(a) (2) of this title on the annuity of the individual from whom such spouse's annuity derives.

Subsec. (g). Pub. L. 89-700, § 102(c), substituted "who meets the qualifications prescribed in section 228e(*l*) (1) of this title (without regard to the provisions of clause (ii) (B) thereof)" for "who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 228e of this title."

Subsec. (i). Pub. L. 89-699, § 201(a) (2), added subsec. (i).

Subsec. (j). Pub. L. 89-700, § 102(d), added subsec. (j).

1965—Subsec. (e). Pub. L. 89-212 struck out the proviso which required any spouse's annuity to be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsec. (a) of this section or section 228e(d) of this title or section 402 of Title 42, and, if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of section 402(k) of Title 42, limited such reduction to the amount by which such spouse's monthly insurance benefit under the Social Security Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for section 402(k) of Title 42.

1961—Subsec. (a). Pub. L. 87-285, § 1, amended par. 3 to permit men attaining age 62 and who completed less than 30 years' service, to qualify for a reduced annuity.

Subsec. (f). Pub. L. 87-285, § 2, reduced from 3 years to 1 year the period after marriage which must elapse before a wife or husband can qualify as a "spouse", and enabled wives or husbands eligible in the month before marriage for a widow's, widower's, parent's or a child's annuity based on disability to receive a spouse's annuity.

1959—Subsec. (a). Pub. L. 86-28, § 1(a), included within par. 3, women who have attained the age of 62 and have completed less than 30 years of service.

Subsec. (d). Pub. L. 86-28, § 1(b), authorized payment of annuities which have been withheld pursuant to the third sentence of subsec. (d) where the total amount of the individual's earnings for the year did not exceed $1,200, limited the number of months for which an annuity will not be payable to such an individual who earned more than $1,200 during the year to not more than one month for each $100 of the excess, and required, in cases where the amount of an annuity has been changed during the year, payments of annuities which become payable solely by reason of the earnings limitation to be made first with respect to the month or months for which the annuity is larger.

Subsec. (e). Pub. L. 86-28, § 1(c), substituted "than 110 per centum of an amount" for "than an amount."

Subsec. (g). Pub. L. 86-28, § 1(d), inserted "(other than a wife who is receiving such annuity by reason of an election under subsection (h) of this section)" following "wife under age 65."

Subsec. (h). Pub. L. 86-28, § 1(e), added subsec. (h).

1955—Subsec. (e). Act Aug. 12, 1955, raised the maximum payable as a spouse's annuity from $40, to the amount that would be payable under section 402 of title 42.

1954—Subsec. (a). Act Aug. 31, 1954, § 2, eliminated provision relating to presumption of recovery from disability when disability annuitant earns more than $75 in each of six consecutive months.

Subsec. (c). Act Sept. 1, 1954, § 401(b), substituted "twelve" for "six."

Subsec. (d). Act Aug. 31, 1954, § 3, added new par. at the end thereof providing a month-to-month work clause under which a disability annuitant would lose his annuity for any month in which he earned more than $100.

1951—Subsec. (a). Act Oct. 30, 1951, § 2, after "enactment date," in opening par., inserted "and shall have completed ten years of service," and, in par. 5, after "regular employment" in first sentence, struck out "and who (i) have completed ten years of service, or (ii) have attained the age of sixty".

Subsec. (c). Act Oct. 30, 1951, § 3, in cl. (2), substituted "six months" for "sixty days".

Subsecs. (e)—(g). Act Oct. 30, 1951, § 5, added subsecs. (e)—(g).

1946—Subsec. (a). Act July 31, 1946, § 205, changed annuity requirements to allow women to retire on full annuity at age of 60 with 30 years' service, to allow persons disabled for work in their regular occupation to retire on full annuity if they have 20 years' service or are 60 years of age, to allow persons permanently and totally disabled to retire on full annuity if they have 10 years' service or are 60 years of age, and to change provisions for determining disability.

Subsec. (b). Act July 31, 1946, § 206, changed references to subdivisions of subsec. (a).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-377 effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970, see section 4(a) of Pub. L. 91-377, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (d) of this section by section 102 of Pub. L. 90-257 effective with respect to annuities accruing for months in calendar years after 1967, see section 108(a) of Pub. L. 90-257, set out as a note under section 228a of this title.

Amendment of subsecs. (e) and (i) of this section by sections 103(a) and (b) of Pub. L. 90-257 effective with respect to annuities accruing for months beginning with the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendments of 1967 was effective and with respect to pensions due in calendar months next following the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendments of 1967 was effective, see section 108(a) of Pub. L. 90-257, set out as a note under section 228a of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 202(a) of Pub. L. 89-699 provided that: "The amendments made by section 201 of this title [amending this section and sections 228c and 228e of this title] shall be effective with respect to annuities accruing for months after the month in which this Act is enacted, [October 1966], and with respect to pensions due in calendar months after the month next following the month in which this Act is enacted [October 1966]. The amendments made by subsection (e) of section 201 of this title [amending section 228e(*l*) of this title] shall be effective as to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act of 1937 [section 228e(f)(1) of this title] with respect to deaths occurring on or after the date of enactment of this Act [October 1966]."

Amendment of subsec. (a) of this section by Pub. L. 89-700 effective with respect to determinations of recovery from disability made on or after Oct. 30, 1966, see section 112(b) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsecs. (e) and (g) of this section by Pub. L. 89-700 effective with respect to months after Oct. 1966, see section 112(c) of Pub. L. 89-700, set out as a note under section 228a of this title.

Subsec. (j) of this section effective with respect to recomputations made, or changes in law enacted, on or after Oct. 30, 1966, see section 112(d) of Pub. L. 89-700, set out as a note under section 228a of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89-212 effective with respect to annuities accruing and deaths occurring in months after the month in which Pub. L. 89-212 was enacted, see note under section 3201 of Title 26, Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of Pub. L. 87-285 provided that: "The amendments made by this Act [amending subsecs. (a) and (f) of this section and subsec. (*l*) of section 228e of this title] shall be effective with respect to annuities beginning to accrue in calendar months after the calendar month of enactment thereof [Sept. 1961]."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 6(a) of Pub. L. 86-28 provided that: "The amendments made by section 1 (other than subsection (b) thereof) [to subsecs. (a)3, (e), (g) and (h) of this section], by subsections (a) and (c) of section 2 [to subsecs. (a) and (e) of section 228c of this title], and by subsection (b) of section 3 [to section 228e(h) of this title] shall be effective only with respect to annuities (not including annuities to which section 5 [section 228e of this title] applies) accruing for months after the month of enactment of this Act [May, 1959]. The amendment made by subsection (b) of section 1 [to subsec. (d) of this section] and by subsection (c) of section 3 [to section 228e (i)(1) (ii) of this title] shall be effective with respect to

annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 [to section 228e(f)(2) of this title] shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937 [section 228e(f)(2) of this title]) in the case of deaths occurring after the month of enactment of this Act [May, 1959]. The amendments made by subsection (f) of section 3 [to section 228e(*l*)(10) of this title] shall be effective only with respect to annuities accruing for months after the month of enactment of this Act [May, 1959] and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937 [section 228e(f)(1) of this title]) in the case of deaths occurring after the month of enactment of this Act [May, 1959]. Sections 4 and 5 [amending section 228s-1 of this title and adding section 228z-1 of this title] shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act [May, 1959] and annuities accruing for months after the month of enactment of this Act [May, 1959]."

EFFECTIVE DATE OF 1955 AMENDMENT

Section 1 of act Aug. 12, 1955, provided in part that amendment to subsec. (e) by the section shall be effective with respect to annuities accruing in months following August, 1955.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 401 (b) of act Sept. 1, 1954, provided in part that the amendments to subsec. (c) made by section 401 (b) shall be applicable only in the case of applications for annuities under sections 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title filed after August 1954; except that no individual shall, by reason of the amendment, be entitled to any annuity for any month prior to February 1954.

Section 404 of act Aug. 31, 1954, provided that: "The annuity awarded under paragraph 4 or 5 of section 2 (a) of the Railroad Retirement Act [subsec. (a) of this section] to any person who has been deemed to have recovered from his disability, pursuant to the provisions of the last paragraph of section 2 (a) as in effect prior to the enactment of this Act [on Aug. 31, 1954], shall be reinstated to begin the first day of the first calendar month following the month in which this Act is enacted [August, 1954] and deemed, for purposes of section 2 (d) only [subsec. (d) of this section], never to have ceased: *Provided,* That such proof is made of the continuance of such disability as is required in accordance with the provisions of such paragraph which are not amended by this Act."

See, also, notes under section 228a of this title.

EFFECTIVE DATE OF 1951 AMENDMENT

Effective date of amendments by act Oct. 30, 1951, see note under section 228a of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to subsecs. (a) and (b) of this section by act July 31, 1946, effective Jan. 1, 1947, see note under section 228a of this title.

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

TERMINATION DATE OF 1970 AMENDMENT

Amendment of section by Pub. L. 91-377 to cease to apply as of the close of June 30, 1972, and annuities accruing for months after June 30, 1972, and pensions due in calendar months after June 30, 1972, to be computed as if such amendment had not been made, see section 6 of Pub. L. 91-377, set out as a note under section 228c of this title.

RECERTIFICATIONS

All recertifications required by reason of the amendments made by Pub. 91-377 to be made by the Railroad Retirement Board without application therefor, see section 4(b)(2) of Pub. L. 91-377, set out as a note under section 228c of this title.

All recertifications required by reason of the amendments made by sections 101-108 of Pub. L. 90-257 to be made by the Railroad Retirement Board without an application therefor, see section 108(c) of Pub. L. 90-257, set out as a note under section 228c of this title.

Section 202(b) of Pub. L. 89-699 provided that: "All recertifications required by reason of the amendments made by this title [amending this section and sections 228c and 228e of this title] shall be made by the Railroad Retirement Board without application therefore."

Section 6(b) of Pub. L. 86-28 provided that: "All recertifications required by reason of the amendments made by this part [adding sections 228z-1 of this title and amending this section and sections 228c, 228e and 228s-1 of this title] shall be made by the Railroad Retirement Board without application therefor."

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

REDUCTION OF ANNUITY BECAUSE OF PRIOR DISABILITY ANNUITY TERMINATED BY RECOVERY

Section 408 of act July 31, 1946, provided: "No annuities accruing after the month in which this Act is approved [July 1946] shall be reduced under section 2 (a), 3 of the Railroad Retirement Act of 1937 [subsec. (a) 3 of this section prior to amendment] to compensate for an annuity terminated by recovery from disability."

CROSS REFERENCES

Twenty per cent. increase in annuities, see note set out under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228c, 228c-1, 228e, 228f, 228g, 228i, 228j, 228h, 228m, 228n, 228o, 228p, 228r, 228s-1, 228s-2, 228v, 228y, 228z, 228z-1, 360 of this title; title 5 section 8311.

§ 228c. Computation of annuities.

(a) (1) The annuity of an individual shall be computed by multiplying his "years of service" by the following percentages of his "monthly compensation": 3.58 per centum of the first $50; 2.69 per centum of the next $100; and 1.79 per centum of the remainder up to a total of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum and taxable "wages" as defined in section 3121 of Title 26, whichever is greater.

(2) The annuity of the individual (as computed under paragraph (1) of this subsection, or under that part of subsection (e) of this section preceding the first proviso) shall be increased in an amount determined from his monthly compensation by use of the following table:

Monthly compensation	Increase
Up to $100	$9.13
$101 to $150	11.22
$151 to $200	12.87
$201 to $250	14.63
$251 to $300	16.17
$301 to $350	17.82
$351 to $400	19.47
$401 to $450	20.90
$451 to $500	22.55
$501 to $550	24.09
$551 to $600	27.83
$601 and over	31.46

The amount of the increase shall be the amount on the same line as that in which the range of monthly compensation includes his monthly compensation: *Provided, however,* That, for months with respect to which the individual is entitled to a supplemental annuity under subsection (j) of this section, the increase provided in this paragraph shall be reduced by 6.55 per centum of the amount determined under paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso, which

is based on the first $450 of the monthly compensation or an amount equal to the amount of the supplemental annuity payable to him, whichever is less: *Provided further,* That for months with respect to which the individual is entitled to a benefit under title II of the Social Security Act, the increase shall be reduced by (i) 17.3 per centum of such social security benefit if the increase has not been reduced pursuant to the preceding proviso or (ii) 11.5 per centum of such social security benefit if the increase has been reduced pursuant to the preceding proviso (disregarding for the purpose of this and the following proviso any increase in such benefit based on recomputations other than for the correction of errors after the first adjustment and any increases derived from legislation enacted after the Social Security Amendments of 1967): *And provided further,* That the amount computed under this subsection for any month shall not be less than the amount computed in accordance with paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso, plus (i) $10 minus any reduction made pursuant to the first proviso of this paragraph or (ii) if the individual is entitled to a benefit under title II of the Social Security Act and no reduction is made pursuant to the first proviso of this paragraph, $10 minus 5.8 per centum of the lesser of the amount of such social security benefit, or of the amount computed in accordance with paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso.

(3) The annuity computed under paragraphs (1) and (2) of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 15 per centum but not by more than $50. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $10.

(b) The "years of service" of an individual shall be determined as follows:

(1) In the case of an individual who was an employee on the enactment date, the years of service shall include all his service subsequent to December 31, 1936, and if the total number of such years is less than thirty, then the years of service shall also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however,* That with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on the enactment date was not an employee of an employer conducting the principal part of its business in the United States no greater proportion of his service rendered prior to January 1, 1937, shall be included in his "years of service" than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (including compensation in any month in excess of $300) for service rendered anywhere to an employer subsequent to December 31, 1936.

(2) In all other cases, the years of service shall include only the service subsequent to December 31, 1936.

(3) Where the years of service include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

(c) The "monthly compensation" shall be the average compensation paid to an employee with respect to calendar months included in his "years of service," except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation earned by an employee in calendar months included in his years of service in the years 1924—1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the form of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940—August 1941: *Provided, however,* That where service in the period 1924—1931 in the one case, or in the period September 1940—August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before June 1, 1959, or in excess of $400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the "monthly compensation" computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1. Where an employee claims credit

for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 228h of this title has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

(d) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 228b(a)(3) of this title, be whichever of the following is the least: (1) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation; *Provided, however,* That if for any month in which an annuity accrues and is payable under sections 228 to 228c–1, 228e to 228h, and 228i to 228s–2 of this title the annuity to which an employee is entitled under said sections (or would have been entitled except for a reduction pursuant to section 228b(a)(3) of this title or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title deriving from the same employee, is less than the total amount, or the additional amount, plus 10 per centum of the total amount, which would have been payable to all persons for such month under the Social Security Act if such employee's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act and quarters of coverage were determined in accordance with section 228e(*l*)(4) of this title, such annuity or annuities shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount: *Provided further,* That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month.

For the purposes of the first proviso in the first paragraph of this subsection, (i) completely and partially insured individuals shall be deemed to be fully and currently insured, respectively; (ii) individuals entitled to insurance annuities under subsections (a)(1) and (d) of section 228e of this title shall be deemed to have attained age 62 (the provisions of this clause shall not apply to individuals who, though entitled to insurance annuities under section 228e(a)(1) of this title, were entitled to an annuity under section 228e(a)(2) of this title for the month before the month in which they attained age 60); (iii) individuals entitled to insurance annuities under section 228e(a)(2) of this title shall be deemed to be entitled to insurance benefits under section 402 (e) or (f) of Title 42 on the basis of disability; (iv) individuals entitled to insurance annuities under section 228e(c) of this title on the basis of disability shall be deemed to be entitled to insurance benefits under section 402(d) of Title 42 on the basis of disability; and (v) women entitled to spouses' annuities pursuant to elections made under section 228b(h) of this title shall be deemed to be entitled to wives' insurance benefits determined under section 402(q) of Title 42, and, for the purposes of this subsection, any possible deductions under subsections (g) and (h)(2) of section 403 of Title 42 shall be disregarded.

Notwithstanding the provisions of section 402(q) of Title 42, the amount determined under the proviso in the first paragraph of this subsection for a widow or widower who is or has been entitled to an annuity under section 228e(a)(2) of this title, shall be equal to 90.75 per centum of the primary insurance amount (reduced in accordance with section 403(a) of Title 42) of the employee as determined under this subsection, and the amount so determined shall be reduced by three-tenths of 1 per centum for each month the annuity would be subject to a reduction under section 228e(a)(2) of this title (adjusted upon attainment of age 60 in the same manner as an annuity under section 228e(a)(1) of this title which, before attainment of age 60, had been payable under section 228e(a)(2) of this title); and the amount so determined shall be reduced by the amount of any benefit under title II of the Social Security Act to which she or he is, or on application would be, entitled.

In cases where an annuity under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title is not payable under the first proviso in the first paragraph of this subsection on January 2, 1968, the primary insurance amount used in determining the applicability of such proviso shall, except in cases where the employee died before 1939, be derived after deeming the individual on whose service and compensation the annuity is based (i) to have become entitled to social security benefits, or (ii) to have died without being entitled to such benefits, after January 2, 1968. For this purpose, the provision of section 415(b)(3) of Title 42 that the employee must have reached age 65 (62 in the case of a woman) after 1960 shall be disregarded and there shall be substituted for the nine-year period prescribed in section 415(d)(1)(B)(i) of Title 42, the number of years elapsing after 1936 and up to the year of death if the employee died before 1946.

(f) (1) Annuities under section 228b (a) of this title which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such

widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 228e (f) (1) of this title for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 228e (f) (2) of this title.

(2) Insurance annuities under section 228e of this title which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 228e (f) (2) of this title.

(3) Annuities under section 228b (e) of this title which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 228b (a) of this title to an individual but unpaid at the time of such individual's death.

(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

(5) For the purposes of this subsection and paragraphs (1) and (2) of section 228e (f) of this title, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 416 (h) (2) or (3) of Title 42, as in effect before 1957, are fulfilled.

(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account.

(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies. In cases where an individual entitled to an annuity under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 228b (a) of this title for such individual and under section 228b(e) of this title for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 228e of this title, to have died in the month in which he disappeared and to have been completely insured: *Provided, however,* That if he is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of his compensation under section 228e of this title for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 228i of this title.

(h) If an annuity is less than $5, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its computed value as determined by the Board.

(i) If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 228b of this title (other than a spouse's annuity payable in the maximum amount), and under section 228e of this title, does not, after any adjustment, end in a digit denoting 5 cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title (other than an annuity ending in a digit denoting 5 cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

(j) (1) An individual who is entitled to the payment of an annuity under section 228b of this title (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $70: *Provided, however,* That in cases where an individual's annuity under section 228b of this title begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 228b of this title. The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 228b of this title as the individual's annuity under such section 228b. Except as provided in subsection (a) (2) of this sec-

tion, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title.

(2) The supplemental annuity provided by this subsection for an individual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

(3) The provisions of section 228*l* of this title shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of Title 26.

(4) Notwithstanding any other provision of sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title, no individual shall be entitled to a supplemental annuity provided by this subsection for any period after he renders any service as an employee for compensation after his supplemental annuity closing date determined as follows:

(A) Such closing date for an employee who attains age 68 before 1971 shall be January 31, 1971. Such closing date for an employee who attains age 68 during 1971 shall be the last day of the month following the month in which he attains age 68.

(B) Such closing date for an employee who attains age 67 during 1972 shall be the last day of the month following the month in which he attains age 67. Such closing date for an employee who attains age 67 during 1971 shall be January 31, 1972.

(C) Such closing date for an employee who attains age 66 during 1973 shall be the last day of the month following the month in which he attains age 66. Such closing date for an employee who attains age 66 during 1972 shall be January 31, 1973.

(D) Such closing date for an employee who attains age 65 after 1973 shall be the last day of the month following the month in which he attains age 65. Such closing date for an employee who attains age 65 during 1973 shall be January 31, 1974.

(5) For an employee whose supplemental annuity closing date (determined under paragraph (4)) occurs after he has completed at least 23 years of service and before he has completed 25 years of service and before he is entitled (or on application would be entitled) to monthly insurance benefits under section 402(a) of Title 42, such date shall be extended to whichever of the following first occurs:

(A) the day before the first day of the first month for which he is entitled (or on application would be entitled) to monthly insurance benefits under section 402(a) of Title 42, or

(B) the last day of the first month for which he qualifies for a supplemental annuity under this subsection.

(6) The provisions of paragraphs (4) and (5) shall not supersede the provisions of any agreement reached through collective bargaining between an employer and its employees which provides for mandatory retirement at an age less than the applicable supplemental annuity closing date determined under paragraphs (4) and (5). (Aug. 29, 1935, ch. 812, § 3, 49 Stat. 969; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 310; July 31, 1946, ch. 709, §§ 207—211, 60 Stat. 728, 729; June 23, 1948, ch. 608, § 1, 62 Stat. 576; Oct. 30, 1951, ch. 632; §§ 6—10, 65 Stat. 684; June 16, 1954, ch. 300, § 1, 68 Stat. 250; Aug. 31, 1954, ch. 1164, pt. I, §§ 4—7, 68 Stat. 1038, 1039; Aug. 7, 1956, ch. 1022, § 1, 70 Stat. 1076; Sept. 6, 1958, Pub. L. 85–927, pt. I, § 1, 72 Stat. 1778; May 19, 1959, Pub. L. 86–28, pt. I, § 2, 73 Stat. 26; Sept. 13, 1960, Pub. L. 86–778, title II, § 211(*o*)(1), 74 Stat. 958; Oct. 5, 1963, Pub. L. 88–133, title I, §§ 1, 2, 77 Stat. 219; Sept. 29, 1965, Pub. L. 89–212, § 3(a), (b), 79 Stat. 860; Oct. 30, 1966, Pub. L. 89–699, title I, § 1, title II, § 201(b), (c), 80 Stat. 1073, 1075, 1076; Oct. 30, 1966, Pub. L. 89–700, title I, § 103, title III, § 301(i), (iv)(a), 80 Stat. 1080, 1088; Feb. 15, 1968, Pub. L. 90–257, title I, § 104, 82 Stat. 17; Mar. 17, 1970, Pub. L. 91–215, §§ 1, 2, 84 Stat. 70; Aug. 12, 1970, Pub. L. 91–377, § 1, 84 Stat. 791.)

REFERENCES IN TEXT

The Social Security Amendments of 1967, referred to in text, means Pub. L. 90–248, which was approved on Jan. 2, 1968.

Title II of the Social Security Act, referred to in text, is classified to section 401 et seq. of Title 42, The Public Health and Welfare.

"That Act", referred to in text, refers to the Social Security Act.

The Social Security Act, referred to in text, is classified to chapter 7 of Title 42, The Public Health and Welfare. Subchapter II of such chapter relates to Federal old-age and survivors insurance benefits.

The Social Security Amendments of 1969, referred to in subsec. (a)(3), is Title X of Pub. L. 91–172, which was approved Dec. 30, 1969. For classification of such Title X, see Short Title of 1969 Amendments note under section 401 of Title 42.

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–377 added subsec. (a)(3).

Subsec. (j). Pub. L. 91–215 redesignated former par. (4) as par. (3) and added pars. (4) to (6). Former par. (3), relating to the termination of supplemental annuity, was stricken.

1968—Subsec. (a). Pub. L. 90–257, § 104(a), completely reorganized and amended subsec. (a) to increase annuities while at the same time simplifying the adjudication process, removed from the par. (1) computation of retirement annuities the fourth factor which had consisted of the application of a 1.67 per centum applied to the individual's monthly compensation in excess of $450, and, in par. (2), added to the amount determined in par. (1) 110 percent of the increase that the individual would have received in social security benefits through Pub. L. 90–248 if his railroad service were employment under the Social Security Act, implemented through the use of a table, and added provisos to reduce the amounts determined where the individual has rights to supplemental annuity or benefits under title II of the Social Security Act or both.

Subsec. (e). Pub. L. 90–257, § 104(b), struck out provisions covering the reduction of the minimum annuity in accordance with the first two provisos in subsection (a)(1) of this section but not less than would have been without the 1966 amendments, added paragraphs reducing from 65 to 63, with certain exceptions, the age which widows, widowers, and parents would be deemed to have attained for purposes of applying the guarantee

provisions of subsec. (e), providing that reductions in annuities for disabled widows and widowers payable under social security guarantee provisions be made in the same way as are reductions for such annuities payable under the regular railroad retirement formula, and enabling the Board to ascertain wages and compensation before 1951 in applying the social security guarantee provision with exceptions, and transferred from former provisions to the newly added paragraphs the "deeming provisions" covering the age attainment areas.

1966—Subsec. (a). Pub. L. 89–699, § 201(b), redesignated former subsec. (a) as (a)(1), and as so designated increased the factors of the formula used in calculating the amount of the annuity, with certain provisos to be considered in determining the final annuity amount, and added par. (2).

Subsec. (b)(1). Pub. L. 89–700, § 103(a), substituted "subsequent to December 31, 1936" for "after January 1, 1937" in three instances in the proviso.

Subsec. (c). Pub. L. 89–700, §§ 103(b), 301(i), (iv)(a), authorized the Board, where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, to include such months in the computation of the annuity without further verification and to consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board, and substituted "before June 1, 1959" for "before the calendar month next following the month in which this Act was amended in 1959", and "$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965" for "$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, or in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) $50, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any calendar month after the month in which this Act was so amended."

Subsec. (e). Pub. L. 89–700, § 103(c), substituted in the first proviso "if for any month" for "if for any entire month", "is less than the total amount, or the additional amount, plus 10 per centum of the total amount" for "is less than 110 per centum of the amount, or 110 per centum of the additional amount", and "shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount" for ", shall be increased proportionately to a total of 110 per centum of such amount or 110 per centum of such additional amount", eliminated words "and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than 18 years of age" preceding "and disregarding", and added proviso requiring that if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the first proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month.

Pub. L. 89–699, § 201(c), increased the applicable figure used in the computation of the minimum annuity payable, and in item (3) provided that the increase in the annuity payable under this minimum figure would be subject to an adjustment based on the annuitant's entitlement to social security benefits, but in no case shall the amount of the annuity be less than it would have been had the annuity provisions not been amended in 1966.

Subsec. (f)(5). Pub. L. 89–700, § 103(d), inserted phrase ", as in effect before 1957," following "Title 42."

Subsec. (g). Pub. L. 89–700, § 103(e), inserted sentences providing that in cases where an individual entitled to an annuity disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month, and that where an annuity would accrue for months under section 228b(a) of this title for such individual, and under section 228b(e) of this title for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 228e of this title, to have died in the month in which he disappeared and to have been completely insured, provided, however, if he is later determined to be alive recovery of benefits paid shall be made.

Subsec. (i). Pub. L. 89–700, § 103(f), directed, in those cases where the amount of any annuity computed under this section (other than the proviso of subsec. (e)), under section 228b of this title (other than a spouse's annuity payable in the maximum amount), and under section 228e of this title, does not, after any adjustment, end in a digit denoting 5 cents, that it shall be raised so that it will end in such a digit.

Subsec. (j). Pub. L. 89–699, § 1, added subsec. (j).

1965—Subsec. (a). Pub. L. 89–212, § 3(a), substituted "the remainder up to a total of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater" for "the next $300."

Subsec (c). Pub. L. 89–212, § 3(b), inserted "and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any calendar month after the month in which this Act was so amended."

1963—Subsec. (a). Pub. L. 88–133, § 1, increased from $250 to $300 the part of the monthly compensation subject to 1.67 per centum.

Subsec. (c). Pub. L. 88–133, § 2, limited the recognition of monthly compensation to $400 for any month after May 1959 and before Nov. 1963 and increased such sum to $450 for any month after Oct. 1963.

1960—Subsec. (e). Pub. L. 86–778 substituted "subsections (g) and (h)(2) of section 403 of Title 42" for "subsections (f) and (g)(2) of section 403 of Title 42."

1959—Subsec. (a). Pub. L. 86–28, § 2(a), substituted "3.35" for "3.04", "2.51" for "2.28", "1.67" for "1.52", and "$250" for "$200".

Subsec. (c). Pub. L. 86–28, § 2(b), inserted "and before the calendar month next following the month in which this Act was amended in 1959, or in excess of $400 for any month after the month in which this Act was so amended," following "any month after June 30, 1954,".

Subsec. (e). Pub. L. 86–28, § 2(c), substituted "$5.00" for "$4.55", "$83.50" for "$75.90", "110 per centum of his monthly compensation" for "his monthly compensation", "is less than 110 per centum of the amount, or 110 per centum of the additional amount" for "is less than the amount, or the additional amount", and "110 per centum of such amount or 110 per centum of such additional amount" for "such amount or such additional amount", and inserted "women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 228b of this title to be entitled to wife's insurance benefits determined under section 402(q) of Title 42," following "age sixty-five,".

1958—Subsec. (c). Pub. L. 85–927, § 1(a), added sentence providing that if monthly compensation is not a multiple of $1, it shall be rounded to next lower multiple of $1.

Subsec. (e). Pub. L. 85–927, § 1(b), added paragraph authorizing Board to determine period of disability.

Subsec. (f). Pub. L. 85–927, § 1(c), provided that retirement annuities which are due but not paid at time of employee's death be payable to person determined by Board to be employee's widow or widower and living with employee at time of employee's death, and, if there should be no such widow or widower, payable to

other persons entitled thereto for burial expenses, and, if there be no persons so entitled, or if total of annuities exceeds reimbursed expenses, to children, grandchildren, parents, or brothers and sisters, made provision for payment of accrued annuities due to survivor of employee but not paid at time of survivor's death, provided that annuity accrued to spouse of employee but not paid at time of spouse's death be payable to employee, to provide that application for accrued and unpaid dividends be filed within 2 years after death, and provided, under specified conditions, that widow or widower of employee be presumed to be living with employee at time of death.

Subsec. (h). Pub. L. 85-927, § 1(d), substituted "$5" for "$2.50".

Subsec. (i). Pub. L. 85-927, § 1(e), added subsec. (i).

1956—Subsec. (a). Act Aug. 7, 1956, § 1(a), substituted "3.04" for "2.76", "2.28" for "2.07", and "1.52" for "1.38".

Subsec. (e). Act Aug. 7, 1956, § 1(b), eliminated "or the last paragraph of subsection (b) of said section" following "section 228b(a)(3) of this title", and substituted "$4.55" for "$4.14" and "$75.90" for "$69".

1954—Subsec. (a). Act Aug. 31, 1954, § 4, increased, after June 30, 1954, from $300 to $350 the maximum amount of monthly compensation which may be used in the computation of annuities.

Subsec. (b). Act June 16, 1954, struck out the last paragraph (the dual benefit provision) reducing annuities or pensions of individuals entitled to receive social security benefits.

Subsec. (b)(1). Act Aug. 31, 1954, § 5, increased, after June 30, 1954, from $300 to $350 the maximum amount of monthly compensation which may be used in the computation of annuities.

Subsec. (c). Act Aug. 31, 1954, § 6, added a new sentence at the end thereof to exclude, in determining average monthly compensation, earnings and service acquired after the calendar year in which an individual attains age 65, if it would result in a large monthly compensation, and increased, after June 30, 1954, from $300 to $350 the maximum amount of monthly compensation which may be used in the computation of annuities.

Subsec. (e). Act Aug. 31, 1954, § 7, inserted following the word "respectively", the words "individuals entitled to insurance annuities under subsections (a) and (d) of section 228e of this title to have attained age sixty-five, and individuals entitled to insurance annuities under subsection (c) of said section on the basis of disability to be less than eighteen years of age."

1951—Subsec. (a). Act Oct. 30, 1951, § 6, substituted "2.76" for "2.40", "2.07" for "1.80", and "1.38" for "1.20".

Subsec. (b). Act Oct. 30, 1951, § 7, struck out former par. (4) excluding from years of service any service rendered after June 30, 1937, and after the end of the calendar year in which the individual attained the age of sixty-five, and added the paragraph following par. (3).

Subsec. (e). Act Oct. 30, 1951, § 8, after "industry", struck out "and not less than five years of service"; substituted "section 228b(a)3 of this title or the last paragraph of subsection (b) of said section" for "section 228b(a)(3) of this title"; substituted "$4.14" for "3.60", and "$69" for "$60"; and added proviso.

Subsec. (h). Act Oct. 30, 1951, § 9, deleted former subsec. (h), which provided that after an annuity had begun to accrue, it should not be subject to recomputation on account of service rendered thereafter to an employer, except as provided in subdivision 3 of section 228b (a) of this title. Former subsec. (i) redesignated (h) by Act Oct. 30, 1951, § 10.

Subsec. (i). Act Oct. 30, 1951, § 10, redesignated former subsec. (i) as (h).

1948—Subsec. (a). Act June 23, 1948, § 1, increased the percentage computations by 20 per cent.

Subsec. (e). Act June 23, 1948, § 1, increased the amounts by 20 per cent.

1946—Subsec. (b). Act July 31, 1946, § 207, provided in cl. (4) that years of service shall not include service after the end of the calendar year in which the individual attains the age of 65.

Subsec. (c). Act July 31, 1946, §§ 208, 209, changed definition of monthly compensation to compensation paid to an employee with respect to calendar months included in his years of service and changed cl. (2) to include a method for determining compensation of red caps whose remuneration was in tips.

Subsec. (e). Act July 31, 1946, § 210, liberalized provision for a minimum annuity.

Subsec. (f). Act July 31, 1946, § 211, changed method of payment of annuity benefits due and unpaid at the time of death to conform to the new survivor-benefit provisions of section 228e of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 4(a) of Pub. L. 91-377 provided that: "The provisions of this Act [amending this section and sections 228b, 228e, and 228o of this title, and enacting provisions set out as notes under this section and sections 228e and 228j of this title] shall be effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970. For the purposes of this Act, (i) any increase in an individual's social security benefit based on recomputations other than for the correction of errors after the first adjustment, or derived from legislation enacted after the Social Security Amendments of 1969 [Pub. L. 91-172], shall be disregarded, and (ii) the increases, offsets and reductions provided for herein, shall apply before any reduction in an annuity on account of age."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a) and (e) of this section by section 104 (a) and (b) of Pub. L. 90-257 effective with respect to annuities accruing for months beginning with the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendments of 1967 was effective and with respect to pensions due in calendar months next following the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendments of 1967 was effective, see section 108(a) of Pub. L. 90-257, set out as a note under section 228a of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment of subsecs. (a) and (e) of this section by Pub. L. 89-699 effective with respect to annuities accruing for months after October 1966, and with respect to pensions due in calendar months after November 1966, see section 202(a) of Pub. L. 89-699, set out as a note under section 228b of this title.

Amendment of subsec. (c) of this section by section 103(b) of Pub. L. 89-700 effective with respect to annuities awarded on or after October 30, 1966, see section 112(e) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (e) of this section by section 103(c)(1) of Pub. L. 89-700 effective with respect to annuities accruing in or after October 1966, see section 112(f) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (e) of this section by section 103(c)(2) of Pub. L. 89-700 effective with respect to awards made on or after October 30, 1966, see section 112(g) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (g) of this section by Pub. L. 89-700 effective with respect to months after October 1966, see section 112(h) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (i) of this section effective with respect to awards made on or after October 30, 1966, see section 112(g) of Pub. L. 89-700, set out as a note under section 228a of this title.

Section 3(a) of Pub. L. 89-699 provided that: "The amendment made by section 1 of this title [enacting subsec. (j) of this section] shall be effective with respect to individuals whose annuities under section 2 of the Railroad Retirement Act of 1937 [section 228b of this title] are first awarded on or after July 1, 1966, provided that no supplemental annuity shall accrue for months before the calendar month following the month in which this Act is enacted [October 1966]: *Provided, however,* That if before July 1, 1966, an annuity was awarded to an individual under section 2(a) 4 or 5 of the Railroad Retirement Act of 1937 [section 228b(a), 228c-1 or 228e

of this title], and such individual had recovered from disability and returned to the service of an employer before July 1, 1966, following which he was awarded an annuity after June 30, 1966, the annuity last awarded him shall be deemed to be an annuity first awarded within the meaning of this subsection but only if he would have a current connection with the railroad industry at the time the annuity last awarded begins to accrue, disregarding his earlier entitlement to an annuity."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89–212 effective with respect to annuities accruing and deaths occurring in months after the month in which Pub. L. 89–212 was enacted, see note under section 3201 of Title 26, Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 8 of Pub. L. 88–133 provided that: "The provisions of sections 1, 2, 5, and 6 of this Act [amending sections 228c(a), 228c(c), 228e(f)(2), and 228e(*l*) (9), (10) of this title, respectively] shall be effective with respect to annuities accruing and deaths occurring after the month in which this Act is enacted [Oct. 1963]. The provisions of section 3 [amending section 228c–1(k) of this title] shall be effective with respect to annuities awarded on or after the date of enactment of this Act [Oct. 5, 1963]. The provisions of section 7(a) [amending section 228o(a) of this title] shall be effective on the date of the enactment of this Act [Oct. 5, 1963]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (e) of this section by Pub. L. 86–778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86–778, see note under section 403 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsecs. (a) and (e) of this section by Pub. L. 86–28 effective only with respect to annuities (not including annuities to which section 228e of this title applies) accruing for months after May 1959, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 5 of Pub. L. 85–927 provided that:

"(a) The amendments made by sections 1 (a), 1 (d), 1 (e) [amending subsecs. (c) and (h), and adding subsec. (i) of this section], and 2 (i) [amending section 228e (*l*) (9) of this title] shall be effective with respect to annuities awarded under the Railroad Retirement Act of 1937 [sections 228a to 228c–1, 228e—228h, and 228i to 228s–2 of this title] on or after the date of the enactment of this Act [September 6, 1958].

"(b) The amendments made by sections 2 (g) and 2 (h) [amending section 228e (*l*) (7) (ii) and (8) of this title] shall be effective (1) with respect to deaths occurring on or after the date of the enactment of this Act [September 6, 1958] and (2) with respect to any death occurring before such date if none of the survivors of the deceased individual became entitled before such date to monthly benefits, by reason of the individual's death, under title II of the Social Security Act [sections 401, 402—410, 411—418, 420—423, and 425 of Title 42, The Public Health and Welfare].

"(c) The amendments made by section 1 (b) [amending subsec. (e) of this section] shall be effective with respect to determinations of periods of disability, within the meaning of section 216 (i) of the Social Security Act [section 416 (i) of Title 42, The Public Health and Welfare], made on or after the date of the enactment of this Act [September 6, 1958].

"(d) The amendments made by sections 1 (c), 2 (a), and 2 (b) [amending subsection (f) (1) of this section and section 228e (f) (1) and (2) of this title] shall be effective with respect to deaths occurring in months after the month in which this Act is enacted [September, 1958].

"(e) The amendments made by sections 2 (c), 2 (d), and (2) (f) [amending section 228e (h), (i), (3) (i)—(iv), and (*l*) (6) of this title] shall be effective with respect to annuities accruing for months after the month in which this Act is enacted [September, 1958].

"(f) The amendments made by sections 2 (e) and 3 [amending sections 228e (k) (3) and 228j (b) (4) of this title] shall be effective on the date of the enactment of this Act [September 6, 1958].

"(g) The amendment made by clause (3) of section 4 [adding subsection (b) to section 228m of this title] shall be effective with respect to offenses committed on or after the date of the enactment of this Act [September 6, 1958]; and the other amendments made by section 4 [amending section 228m of this title] shall be effective with respect to fines and penalties imposed on or after such date."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act Aug. 7, 1956, provided that: "The amendments made by the first section of this Act [to subsec. (a) and (e) of this section] and by subsection (a) of section 2 [amending section 228e (h) of this title] shall be effective only with respect to annuities (not including annuities to which section 3 [enacting section 228z of this title] applies) accruing for months after June 1956. The amendments made by subsection (b) of section 2 [to section 228e(*l*) of this title] shall be effective only with respect to annuities accruing for months after June 1956 and lump-sum payments (under section 5 (f) (1) of the Railroad Retirement Act of 1937 [section 228e (f) (1) of this title]) in the case of deaths occurring after June 1956. Section 3 [enacting section 228z of this title] shall be effective only with respect to pensions due in calendar months after July 1956 and annuities accruing for months after June 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 405 of act Aug. 31, 1954, provided that: "The provisions of section 6 of this Act amending subsection (c) of section 3 of the Railroad Retirement Act [subsec. (c) of this section], by adding a sentence at the end of the subsection, shall be effective as of November 1, 1951: *Provided, however,* That no increase in any annuity heretofore awarded shall be granted pursuant to the amendments made by such section except upon application therefor by the person to whom the annuity was awarded."

See, also, notes under section 228a of this title.

Act June 16, 1954 provided in part that the amendment to subsec. (b) shall be effective October 30, 1951.

EFFECTIVE DATE OF 1951 AMENDMENT

Effective date of amendments by act Oct. 30, 1951, see note under section 228a of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to subsecs. (b), (e), and (f) of this section by act July 31, 1946, effective Jan. 1, 1947, amendment to subsec. (c) effective July 31, 1946, see notes under section 228a of this title.

EFFECTIVE DATE OF INCREASES IN ANNUITIES AND PENSIONS: RECERTIFICATIONS

Section 3 of act June 23, 1948, provided that: "The provisions of section 1 hereof [section 228c (a), (e), of this title] shall apply to all annuities under section 2 of the Railroad Retirement Act of 1937, as amended [section 228b of this title], accruing during calendar months following the month of enactment hereof other than joint and survivor annuities heretofore awarded and survivor annuities deriving from joint and survivor annuities heretofore awarded; and the provisions of section 2 hereof [section 228e (f) (1), (2) of this title] shall be effective as of January 1, 1947. All annuities under the Railroad Retirement Act of 1935 [former sections 215—228 of this title] and all joint and survivor annuities heretofore awarded and survivor annuities deriving from joint and survivor annuities heretofore awarded, accruing during the calendar months following the month of enactment hereof [June 1948], and all pensions due in months following the first calendar month after the enactment hereof, shall be increased by 20 per centum. All recertifications required by reason of the provisions of this Act [sections 228c (a), (e), 228e (f), (1) (2), 358 (a), (b), and 361 (a) (1) of this title] shall be made by the Railroad Retirement Board without application therefor."

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

TERMINATION DATE OF 1970 AMENDMENT

Section 6 of Pub. L. 91-377 provided that: "The first four sections of this Act, and the amendments made by such sections [amending this section and sections 228b and 228e of this title, and enacting provisions set out as notes under this section and section 228e of this title], shall cease to apply as of the close of June 30, 1972. Annuities accruing for months after June 30, 1972, and pensions due in calendar months after June 30, 1972, shall be computed as if the first four sections of this Act, and the amendment made thereby, had not been enacted."

SEPARABILITY OF PROVISIONS

Section 9 of Pub. L. 91-215 provided that: "If any provision of this Act [amending this section and section 228o of this title and sections 3211, 3211 note, and 3221 of Title 26, and enacting provisions set out as notes under this section, section 228o of this title and section 3221 of Title 26] or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

RESTRICTION ON ESTABLISHMENT OF NEW ANNUITIES OR PENSIONS

Section 7 of Pub. L. 91-215 provided that: "No carrier and no representative of employees, as defined in section 1 of the Railway Labor Act [section 151 of this title], shall, before April 1, 1974, utilize any of the procedures of such Act [section 151 et seq. of this title] to seek to make any changes in the provisions of the Railroad Retirement Act of 1937 [sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of this title] for supplemental annuities or to establish any new class of pensions or annuities, other than annuities payable out of the Railroad Retirement Account provided under section 15(a) of the Railroad Retirement Act of 1937 [subsection (a) of section 228o of this title], to become effective prior to July 1, 1974; nor shall any such carrier or representative of employees until July 1, 1974, engage in any strike or lockout to seek to make any such changes or to establish any such new class of pensions or annuities: *Provided,* That nothing in this section shall inhibit any carrier or representative of employees from seeking any change with respect to benefits payable out of the Railroad Retirement Account provided under section 15(a) of the Railroad Retirement Act of 1937 [subsection (a) of section 228o of this title]."

DUAL BENEFIT PROVISION; RETROACTIVE PAYMENT TO SURVIVORS

Section 2 of act June 16, 1954, provided that:

"In the case of any deceased individual whose death occurred before the first day of the first month following the month in which this Act is enacted [June, 1954], so much of any annuity or pension payment as is due such individual by reason of the enactment of the first section of this Act [subsec. (b) of this section] shall be paid only—

"(1) to the widow or widower of the deceased, if such widow or widower is living on such first day; or

"(2) if there is no such widow or widower, to the child or children of the deceased if such child or children are living on such first day.

"For the purposes of this section, the terms 'widow', 'widower', and 'child' have the same meanings as those assigned to such terms by section 5 (*l*) (1) of the Railroad Retirement Act of 1937, as amended [section 228e (*l*) (1) of this title]."

RECERTIFICATIONS

Section 4(b)(2) of Pub. L. 91-377 provided that: "All recertifications required by reason of the amendments made by this title [amending this section and sections 228b, 228e, and 228o of this title] shall be made by the Railroad Retirement Board without application therefor."

Section 108(c) of Pub. L. 90-257 provided that: "All recertifications required by reason of the amendments made by this title [amending this section and sections 228a, 228b, 228e, and 228j of this title] shall be made by the Railroad Retirement Board without application therefor."

Recertifications required by reason of the amendments made by Pub. L. 86-28 to be made by the Railroad Retirement Board without application therefor, see section 6(b) of Pub. L. 86-28, set out as a note under section 228b of this title.

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

CROSS REFERENCES

Joint and survivor annuities awarded before July 1, 1956, increased 10 percent, see section 228z of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c-1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s-1, 228s-2, 228z, 228z-1, 352 of this title; title 5 section 8311; title 26 section 3221.

§ 228c-1. Military service.

(a) For the purposes of determining eligibility for an annuity and computing an annuity, including a minimum annuity, there shall also be included in an individual's years of service, within the limitations hereinafter provided in this section, voluntary or involuntary military service of an individual within or without the United States during any war service period, including such military service prior to April 8, 1942: *Provided, however,* That such military service shall be included only subject to and in accordance with the provisions of subsection (b) of section 228c of this title, in the same manner as though military service were service rendered as an employee: *Provided further,* That an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.

(b) For the purpose of this section and section 202 of the Act of June 24, 1937, chapter 382, as amended, an individual shall be deemed to have been in "military service" when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

(c) For the purpose of this section and section 202 of the Act of June 24, 1937, chapter 382, as amended, a "war service period" shall mean (1) any war period, or (2) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (3) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

(d) For the purpose of this section, a "war period" shall be deemed to have begun on whichever of the following dates is the earliest: (1) the date on which the Congress of the United States declared

war; or (2) the date as of which the Congress of the United States declared that a state of war has existed; or (3) the date on which war was declared by one or more foreign states against the United States; or (4) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (5) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

(e) For the purpose of this section, a "war period" shall be deemed to have ended on the date on which hostilities ceased.

(f) Military service shall not be included in the years of service of an individual unless, prior to the beginning of his military service in a war service period and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title, or lost time as an employee for which he received remuneration, or was serving as an employee representative.

(g) A calendar month in which an individual was in military service which may be included in the individual's years of service or service period, as the case may be, shall be counted as a month of service: *Provided, however,* That no calendar month shall be counted as more than one month of service.

(h) In the event military service is or has been used as the basis or as a partial basis for a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other Act of Congress, any annuity under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, which is based in part on such military service and is with respect to a calendar month for all or part of which such pension or other benefit is also payable, shall be reduced with respect to that month by the proportion which the number of years of service by which such military service increases the years of service, or the service period, as the case may be, bears to the total years of service, or by the aggregate amount of such pension or other benefit with respect to that month, whichever would result in the smaller reduction.

(i) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subsection shall be conclusive on the Board: *Provided,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertification, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

(j) No person shall be entitled to an annuity, or to an increase in an annuity, based on military service unless a specific claim for credit for military service is filed with the Board, and in no case shall an annuity, or an increase in an annuity, based on military service begin to accrue earlier than twelve months prior to the date on which such claim for credit for military service was filed with the Board nor before October 8, 1940: *Provided,* That this subsection shall not be construed to prevent payment of annuities with respect to accruals, not based on military service, prior to the date on which an annuity based on military service began to accrue.

(k) An individual who, before the ninety-first day after April 8, 1942, was awarded an annuity under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, but who had rendered military service which, if credited, would have resulted in an increase in his annuity, may, notwithstanding the previous award of an annuity, file with the Board an application for an increase in such annity[1] based on his military service. Upon the filing of such application, if the Board finds that the military service thus claimed is creditable and would result in an increase in the annuity, the Board, notwithstanding the previous award, shall recertify the annuity on an increased basis in the same manner as though the provisions making military service creditable had been in effect at the time of the original certification subject, however, to the provisions of subsection (j) of this section. If the annuity previously awarded is a joint and survivor annuity, the increased annuity shall be a joint and survivor annuity of the same type, the actuarial value of the increase to be computed as of the effective date of the increase: *Provided, however,* That if on the date the increase begins to accrue the individual has no spouse for whom the election of the joint and survivor annuity was made, the increase on a single life basis shall be added to the individual's annuity.

(*l*) In addition to the amount authorized to be appropriated in subsection (a) of section 228o of this title, there is hereby authorized to be appropriated to the Railroad Retirement Account for each

[1] So in original.

fiscal year, beginning with the fiscal year ending June 30, 1941, (1) an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and after June 30, 1963, and (2) an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, and prior to January 1, 1957, if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar month, and (3) an amount found by the Board to be equal to (A) the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under chapter 22 of the Internal Revenue Code of 1954 with respect to the compensation, as defined in such chapter, of all individuals entitled (without regard to subsection (n)(1) of this section) to credit under sections 228a to 228c-1, 228e to 228h and 228i to 228s-2 of this title for military service after December 31, 1956, and before July 1, 1963, if each of such individuals, in addition to compensation actually paid, had been paid such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount paid to any individual in any one calendar month, less (B) the amount of the taxes which were paid with respect to such military service under sections 3101 and 3111 of the Internal Revenue Code of 1954. The additional cost of crediting military service rendered prior to January 1, 1937, and after June 30, 1963, shall be determined as follows: (i) determine the difference between the actuarial value of the benefit payable under sections 228a to 228c-1, 228e to 228h and 228i to 228s-2 of this title based in part on military service and the actuarial value of the benefit which would be payable to the same individual without regard to military service; (ii) with respect to military service rendered after June 30, 1963, adjust such difference by applying thereto the ratio of the total net level cost of all benefits under sections 228a to 228c-1, 228e to 228h and 228i to 228s-2 of this title to the portion thereof remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability after taking into account the effects of section 228e(k)(2) of this title; and (iii) subtract the actuarial value of such benefit based on the individual's military service as is includible in determinations made pursuant to section 228e(k)(2) of this title. In calculating these actuarial values, the Board shall use such mortality tables and actuarial factors as it finds appropriate; the ratio referred to in clause (ii) of the preceding sentence shall be determined from time to time by the Board on the basis of actuarial estimates made in accordance with section 228o of this title; and all actuarial values shall be calculated as of the date on which the benefit based on military service begins to accrue and shall not thereafter be subject to change. All actuarial calculations in this subsection shall take into account interest at the rate used in the actuarial estimates referred to in the preceding sentence. The Railroad Retirement Board, as promptly as practicable after April 8, 1942, and thereafter annually, shall submit to the Bureau of the Budget estimates of such military service appropriations to be made to the account, in addition to the annual estimate by the Board, in accordance with subsection (a) of section 228o of this title, of the appropriation to be made to the account to provide for the payment of annuities, pensions and death benefits not based on military service. The estimate made in any year with respect to military service rendered prior to January 1, 1937, and after June 30, 1963, shall be based on the cost, as determined in accordance with the above provisions, of annuities awarded or increased on the basis of such military service up to the close of the preceding fiscal year and not previously appropriated for, and shall take into account interest from the date the annuity began to accrue or was increased to the date or dates on which the amount appropriated is to be credited to the Railroad Retirement Account. In making the estimate for the appropriation for military service rendered after December 31, 1936, the Board shall take into account any excess or deficiency in the appropriation or appropriations for such service in any preceding fiscal year or years, with interest thereon. In determining pursuant to section 228e(k)(2) of this title for any fiscal year the total amount to be credited from the Railroad Retirement Account to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, credit shall be given such Account for the amount of the taxes described in clause (3)(B) of the first sentence of this subsection and the amount of such taxes with respect to military service after June 30, 1963. The amount authorized to be appropriated to the Railroad Retirement Account pursuant to clause (2) of the first sentence of this subsection shall be reduced by the amounts credited to such Account pursuant to section 228e(k)(2) of this title for military service rendered before January 1, 1957, and the amounts so credited shall be considered as additional costs within the meaning of section 417(g) of Title 42. In any determination made pursuant to section 228e(k)(2) of this title, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of this subsection shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken into account in making any such determination.

(m) Transferred.

(n) (1) Military service rendered by an individual after December 1956 shall be creditable under this section only if the number of such individual's years of service is ten or more (including, in such years of service, military service which, but for this subsection, would be creditable under this section).

(2) In any case where an individual has completed ten or more years of service and such years of service include any military service rendered after December 1956, the Board shall as promptly as is practicable (A) notify the Secretary of Health, Education, and Welfare that such military service is creditable under this section and (B) specify the period or periods of the military service rendered after December 1956 which is so creditable.

(o) Notwithstanding the provisions of this section and section 228b (c) (2) of this title, military service rendered by an individual after December 1956 shall not be used in determining eligibility for, or computing the amount of, any annuity accruing under section 228b of this title for any month if (1) any benefits are payable for that month under title II of the Social Security Act on the basis of such individual's wages and self-employment income, (2) such military service was included in the computation of such benefits, and (3) the inclusion of such service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable.

(p) The Secretary concerned (as defined in section 102(9) of the Servicemen's and Veterans' Survivor Benefits Act) shall maintain such records, and furnish the Board upon its request with such information, regarding the months of any individual's military service and the remuneration paid therefor, as may be necessary to enable the Board to carry out its duties under this section and sections 228b and 228e of this title. (Aug. 29, 1935, ch. 812, § 4, 49 Stat. 969; June 24, 1937, ch. 382, pt. I, § 1, as added Oct. 8, 1940, ch. 757, title VI, pt. II, § 625, 54 Stat. 1014, and amended Apr. 8, 1942, ch. 227, §§ 1—8, 56 Stat. 204—206; July 31, 1946, ch. 709, § 212, 60 Stat. 729; Oct. 30, 1951, ch. 632, § 4, 65 Stat. 683; Aug. 1, 1956, ch. 837, title IV, § 408 (a), (b), 70 Stat. 876; Oct. 5, 1963, Pub. L. 88-133, title I, §§ 3, 4, 77 Stat. 219; Oct. 30, 1966, Pub. L. 89-700, title I, § 104, 80 Stat. 1081.)

References in Text

Section 202 of act June 24, 1937, ch. 382, referred to in subsecs. (b) and (c), is set out under former sections 215-228 of this title in note relating to continuation and effect of Railroad Retirement Act of 1935.

The Railroad Retirement Act of 1935, referred to in subsecs. (i) and (*l*), was formerly classified to sections 215-228 of this title, and is set out as a note under the former sections.

Subchapter B of chapter 9 of the Internal Revenue Code, as amended, referred to in subsec. (n), is a reference to subchapter B of chapter 9 of the Internal Revenue Code, 1939, which was repealed by section 7851 of Title 26, I.R.C. 1954, and is covered by chapter 22 of Title 26, Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of Title 26.

The Railroad Retirement Acts, as amended, referred to in subsec. (n), refers to the Railroad Retirement Act of 1935, which was formerly classified to sections 215—228 of this title, and is set out as a note thereunder, and to the Railroad Retirement Act of 1937, which is classified to sections 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title.

Title II of the Social Security Act, referred to in subsecs. (n) and (q), is classified to sections 401, 402—410, 411—418, 420—423, and 425 of Title 42, The Public Health and Welfare.

Section 102(9) of the Servicemen's and Veterans' Survivor Benefits Act, referred to in subsec. (r), was classified to section 1101(9) of former Title 38, Pensions, Bonuses and Veteran's Relief. See section 101(25) of Title 38, Veterans' Benefits.

Codification

A subsec. (o) was added to act Aug. 29, 1935, by section 9 of act Apr. 8, 1942. It is set out in note under this section relating to Effective Date of 1942 Amendment.

Amendments

1966—Subsec. (h). Pub. L. 89-700 redesignated former subsec. (i) as (h). A prior subsec. (h) was repealed by Act July 31, 1946, c. 709, § 212, 60 Stat. 729.

Subsecs. (i), (j). Pub. L. 89-700 redesignated former subsecs. (j) and (k) as (i) and (j), respectively. Former subsec. (i) redesignated (h).

Subsec. (k). Pub. L. 89-700 redesignated former subsec. (*l*) as (k) and substituted therein "subsection (j)" for "subsection (k)."

Subsec. (*l*). Pub. L. 89-700 redesignated former subsec. (n) as (*l*) and substituted therein "subsection (n)(1)" for "subsection (p)(1)."

Subsecs. (m)—(p). Pub. L. 89-700 redesignated former subsecs. (o)—(r) as (m)—(p), respectively.

1963—Subsec. (k). Pub. L. 88-133, § 3, deleted "by the individual who rendered such military service" following "filed with the Board" and substituted "twelve months" for "six months."

Subsec. (n). Pub. L. 88-133, § 4(1), inserted in the first and sixth sentences "and after June 30, 1963," following "January 1, 1937,"; § 4(2), substituted in the first sentence "after December 31, 1956, and before July 1, 1963," for "after December 1956"; § 4(3), made the second sentence applicable to military service rendered after June 30, 1963, incorporated existing provisions in clause (i) and added clauses (ii) and (iii) to such second sentence; substituted in the third sentence provision requiring the Board in calculating actuarial value to use such mortality tables and actuarial factors as it finds appropriate for former provision that "(1) whenever the annuity based in part on military service begins to accrue before age 60, the annuity without regard to military service shall be valued upon the assumption of deferment to age 60, and whenever the annuity based in part on military service is awarded under subsection 2(a) of section 228b(a) of this title, the annuity without regard to military service shall be valued on the assumption of deferment to age 65"; inserted in such third sentence provision for determination of ratio on basis of actuarial estimates; and incorporated in such third sentence former provision (2) for date of calculation of actuarial value; and substituted fourth sentence providing for taking into account interest at rate used in actuarial estimates in making actuarial calculations for former provision basing actuarial calculations on the Combined Annuity Table of Mortality and taking into account interest at rate of 3 per centum per annum compounded annually; § 4(4), struck out from the seventh sentence, "resulting from an overestimate or underestimate of the number of individuals in creditable military service or the months of military service" following "thereon"; § 4(5), inserted in the eighth sentence "Federal" preceding "Old-Age" and reference to Federal Disability Insurance Trust Fund and added "and the amount of such taxes with respect to military service after June 30, 1963" following "of this subsection"; and § 4(6), added provisions for reduction of amount authorized to be appropriated to the Railroad Retirement Account by amounts credited to such Account for military service rendered before Jan. 1, 1957, considered such credits as additional costs within meaning of section 417(g) of Title 42 and prohibited further charges to be made against the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund for military service rendered before Jan. 1, 1957.

1956—Subsec. (n). Act Aug. 1, 1956, § 408(b), redesignated cls. (i) and (ii) as (1) and (2), respectively, substituted "for military service after December 31, 1936, and prior to January 1, 1957" for "for military service after December 31, 1936", authorized appropriations of an amount equal to the amount of the total additional excise and income taxes payable under chapter 22 of Title 26, less the amount of taxes which were paid under sections 3101 and 3111 of Title 26, and provided for crediting the Old-Age and Survivors Insurance Trust Fund with the amount of taxes paid under sections 3101 and 3111.

Subsecs. (p)—(r). Act Aug. 1, 1956, § 408(a), added subsecs. (p)—(r).

1951—Subsec. (k). Act Oct. 30, 1951, in the matter preceding the proviso, substituted "six months" for "sixty days".

1946—Act July 31, 1946, amended credit by renumbering section 3A of act Aug. 29, 1935, to be section 4 of act Aug. 29, 1935.

Subsecs. (h), (m). Act July 31, 1946, repealed subsecs. (h) and (m).

1942—Subsecs. (a)—(c), (f), (k), and (*l*). Act Apr. 8, 1942, §§ 1—6, amended subsecs. (a)—(c), (f), (k), and (*l*) generally.

Subsec. (m). Act Apr. 8, 1942, § 7, added subsec. (m). Former subsec. (m) redesignated (n).

Subsec. (n). Act Apr. 8, 1942, § 8, redesignated former subsec. (m) as (n) and amended said subsection generally.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment of subsec. (k) of this section by Pub. L. 88-133 effective with respect to annuities awarded on or after Oct. 5, 1963, see section 8 of Pub. L. 88-133, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 1, 1956, effective Jan. 1, 1957.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment of subsec. (k) of this section, by act Oct. 30, 1951, to apply to benefits awarded in whole or in part on or after October 30, 1951, see note under section 228a of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Section 9 of act Apr. 8, 1942, added a subsec. (*o*) to act Aug. 29, 1935, which subsection read as follows: "(*o*) Section 3A, as herein amended (section 228c-1 (a)—(c), (f), (k), (*l*), (m), and (n) of this title), shall be effective as of October 8, 1940. No rights shall be deemed to have accrued under section 3A which would not have accrued had this act amending section 3A been enacted on October 8, 1940."

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

CROSS REFERENCES

Compensation during military service, see section 228a (h) of this title.

Twenty per cent increase in annuities, see not set out under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228*o*, 228p, 228r, 228s, 228s-1, 228s-2, 228z, 228z-1 of this title; title 5 section 8311; title 42 section 410.

§ 228d. Repealed. July 31, 1946, ch. 709, § 212, 60 Stat. 729.

Section 4 of act Aug. 29, 1935, ch. 812, as amended June 24, 1937, ch. 382, part I, § 1, 50 Stat. 311, which constituted this section, and related to joint and survivor annuity, was repealed, and section 3A of act Aug. 29, 1935, set out as section 4 of act Aug. 29, 1935, by act July 31, 1946, ch. 709, § 212, 60 Stat. 729.

§ 228e. Annuities and lump sums for survivors.

(a) Widow's and widower's insurance annuities.

(1) A widow or widower or a completely insured employee, who will have attained the age of sixty, shall be entitled during the remainder of her or his life or, if she or he remarries, then until remarriage to an annuity for each month equal to such employee's basic amount, except that if the widow or widower will have been paid an annuity under paragraph (2) of this subsection the annuity for a month under this paragraph shall be in an amount equal to the amount calculated under such paragraph (2) except that, in such calculation, any month with respect to which an annuity under paragraph (2) is not paid shall be disregarded: *Provided, however,* That if in the month preceding the employee's death the spouse of such employee was entitled to a spouse's annuity under section 228b of this title in an amount greater than the widow's or widower's insurance annuity, the widow's or widower's insurance annuity shall be increased to such greater amount.

(2) A widow or widower of a completely insured employee who will have attained the age of fifty but will not have attained age sixty and is under a disability, as defined in this paragraph, and such disability began before the end of the period prescribed in the last sentence of this paragraph, shall be entitled to an annuity for each month, unless she or he has remarried in or before such month, equal to such employee's basic amount but subject to a reduction by three-tenths of 1 per centum for each calendar month she or he is under age sixty when the annuity begins. A widow or widower shall be under a disability within the meaning of this paragraph if her or his permanent physical or mental condition is such that she or he is unable to engage in any regular employment. The provisions of section 228b(a) of this title as to the proof of disability shall apply with regard to determinations with respect to disability under this paragraph. The annuity of a widow or widower under this paragraph shall cease upon the last day of the second month following the month in which she or he ceases to be under a disability unless such annuity is otherwise terminated on an earlier date. The period referred to in the first sentence of this paragraph is the period beginning with the latest of (i) the month of the employee's death, (ii) the last month for which she was entitled to an annuity under subsection (b) as the widow of such employee, or (iii) the month in which her or his previous entitlement to an annuity as the widow or widower of such employee terminated because her or his disability had ceased and ending with the month before the month in which she or he attains age sixty, or, if earlier with the close of the eighty-fourth month following the month with which such period began.

(b) Widow's current insurance annuity.

A widow of a completely or partially insured employee, who is not entitled to an annuity under subsection (a) of this section and who at the time of filing an application for an annuity under this

subsection will have in her care a child of such employee, which child (without regard to the provisions of subsection (*l*)(1)(ii)(B) of this section) is entitled to receive an annuity under subsection (c) of this section shall be entitled to an annuity for each month equal to the employee's basic amount. Such annuity shall cease upon her death, upon her remarriage, when she becomes entitled to an annuity under subsection (a) of this section, or when no child of the deceased employee (without regard to the provisions of (*l*)(1)(ii)(B) of this section) is entitled to receive an annuity under subsection (c) of this section, whichever occurs first: *Provided, however,* That if in the month preceding the employee's death the spouse of such employee was entitled to a spouse's annuity under section 228b of this title in an amount greater than the widow's current insurance annuity, the widow's current insurance annuity shall be increased to such greater amount.

(c) Child's insurance annuity.

Every child of an employee who will have died completely or partially insured shall be entitled, for so long as such child lives and meets the qualifications set forth in paragraph (1) of subsection (*l*) of this section, to an annuity for each month equal to two-thirds of the employee's basic amount.

(d) Parent's insurance annuity.

Each parent, sixty years of age or over, of a completely insured employee, who will have died leaving no widow, no widower, and no child, shall be entitled, for life, or, if such parent remarries after the employee's death, then until such remarriage, to an annuity for each month equal to two-thirds of the employee's basic amount.

(e) Parent or child of more than one employee.

When there is more than one employee with respect to whose death a parent or child is entitled to an annuity for a month, such annuity shall be two-thirds of whichever employee's basic amount is greatest.

(f) Lump-sum payment.

(1) Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who, will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid—

(i) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least ninety days have elapsed after the date of death of such insured individual and prior to the expiration of such ninety days no person has assumed responsibility for the payment of any of such burial expenses;

(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

If a lump sum would be payable to a widow or widower under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) of this section will have been made, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum. No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 1002 of Appendix to Title 50 is applicable such two years shall run from the date on which the deceased employee, pursuant to sections 1001 to 1012 and 1013 to 1017 of Appendix to Title 50, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said sections to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than

benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining the age of eligibility at a future date, will be payable under title II of the Social Security Act, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

(ii) if there be no such widow or widower, to any child or children of such employee; or

(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee.

a lump sum in an amount equal to the sum of 4 per centum of his compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after December 31, 1965, under the provisions of section 3201 of Title 26, plus one-half of 1 per centum of the compensation on which such taxes are payable, deeming the compensation attributable to creditable military service rendered after June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of Title 26 to be employee taxes payable under section 3201 of Title 26 (exclusive of compensation in excess of $300 for any month before July 1, 1954, and in excess of $350 for any month after June 30, 1954, and before June 1, 1959, and in excess of $400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess over (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965), minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title and, pursuant to subsection (k) of this section, under title II of the Social Security Act (for this purpose, payments to providers of services under section 228s of this title and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of Title 26, shall be disregarded: *Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section, or pursuant to subsection (k) of this section, upon attaining the age of eligibility be entitled to further benefits under title II of the Social Security Act, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term "benefits" as used in this paragraph includes all annuities payable under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k)(1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her shall be limited to such portions of such benefits as are payable solely by reason of the inclusion of service as an employee in "employment" pursuant to subsection (k)(1) of this section.

(g) Correlation of payments; Social Security benefits.

(1) An individual, entitled on applying therefor to receive for a month before January 1, 1947, an insurance benefit under the Social Security Act on the basis of an employee's wages, which benefit is greater in amount than would be an annuity for such individual under this section with respect to the death of such employee, shall not be entitled to such annuity. An individual, entitled on applying therefor to any annuity or lump sum under this section with respect to the death of an employee, shall not be entitled to a lump-sum death payment or, for a month beginning on or after January 1, 1947, to any insurance benefits under the Social Security Act on the basis of the wages of the same employee.

(2) If an individual is entitled to more than one annuity for a month under this section, such individual shall be entitled only to that one of such annuities for a month which is equal to or exceeds any other such annuity.

(h) Maximum and minimum annuity totals; reduction of amount.

Whenever according to the provisions of this section as to annuities payable for a month with respect to the death of an employee, the total annuities is more than $38.84 and exceeds either (a) $207.15, or (b) an amount equal to two and two-thirds times such employee's basic amount, whichever of such amounts is the lesser, such total of annuities shall, after any deductions under subsection (i) of this section, be reduced to such lesser amount or to $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i) of this section, be increased to $18.14.

(i) Deductions from annuities.

(1) Deductions shall be made from any payments under this section to which an individual is entitled, until the total of such deductions equals such individual's annuity or annuities under this section for any month in which such individual—

(i) will have rendered compensated service within or without the United States to an employer;

(ii) will have been under the age of seventy-two and for which month he is charged with any excess earnings under section 403(f) of Title 42 or, having engaged in any activity outside the United States, would be charged under such section 403 (f) with any excess earnings derived from such activity if it had been an activity within the United States, deeming such an individual who is entitled to an annuity under subsection (a)(1) of this section to have attained age sixty-two unless such individual will have been entitled to an annuity under subsection (a)(2) of this section for the month before the month in which he attained age sixty; and for purposes of this subdivision the Board shall have the authority to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to do so under section 403 (h)(3) of Title 42 if the individuals to whom this subdivision applies were entitled to benefits under section 402 of Title 42: *Provided, however,* That in determining an individual's excess earnings for a year for the purposes of this section and section 228c(e) of this title there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 228c(e) of this title; or

(iii) if a widow otherwise entitled to an annuity under subsection (b) of this section will not have had in her care a child of the deceased employee entitled to receive an annuity under subsection (c) of this section;

(2) The total of deductions for all events described in paragraph (1) of this subsection occurring in the same month shall be limited to the amount of such individual's annuity or annuities for that month. Such individual (or anyone in receipt of an annuity in his behalf) shall report to the Board the occurrence of any event described in paragraph (1) of this subsection.

(3) Deductions shall also be made from any payments under this section with respect to the death of an employee until such deductions total—

(i) any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts as in effect before 1947 (other than a survivor annuity pursuant to an election);

(ii) any lump sum paid, with respect to the death of such employee before 1947, under title II of the Social Security Act; and

(iii) any lump-sum benefit, paid to the same person, with respect to the death of such employee under subsection (f)(2) of this section.

(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

(5) The deductions provided in this subsection shall be made in such amounts and at such time or times as the Board shall determine. Decreases or increases in the total of annuities payable for a month with respect to the death of an employee shall be equally apportioned among all annuities in such total. An annuity under this section which is not in excess of $5 may, in the discretion of the Board, be paid in a lump sum equal to its commuted value as the Board shall determine.

(j) When annuities begin and end.

No individual shall be entitled to receive an annuity under this section for any month before January 1, 1947. An application for any payment under this section shall be made and filed in such manner and form as the Board prescribes. An annuity under this section for an individual otherwise entitled thereto shall begin with the month in which eligibility therefore was otherwise acquired, but not earlier than the first day of the twelfth month before the month in which the application was filed. No application for an annuity under this section filed prior to three months before the first month for which the applicant becomes otherwise entitled to receive such annuity shall be accepted. No annuity shall be payable for the month in which the recipient thereof ceases to be qualified therefor: *Provided, however,* That the annuity of a child, qualified under subsection (*l*)(1)(ii)(C) of this section, shall cease upon the last day of the second month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in such second month he qualifies for an annuity under one of the other provisions of sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title and unless his annuity is otherwise terminated on an earlier date.

(k) Crediting railroad industry service under Social Security Act in certain cases; adjustment of funds.

(1) For the purpose of determining (i) insurance benefits under title II of the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and with respect to his or

her death, and lump-sum death payments with respect to the death of such employee, and (ii) insurance benefits with respect to the death of an employee who will have completed ten years of service which would begin to accrue on or after January 1, 1947, and with respect to lump-sum death payments under such title payable in relation to a death of such an employee occurring on or after such date and for the purposes of sections 403 and 416(i)(3) of Title 42, section 15 of the Railroad Retirement Act of 1935, section 410(a)(9) of Title 42, and section 228q of this title shall not operate to exclude from "employment", under title II of the Social Security Act, service which would otherwise be included in such "employment" but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this paragraph to service as an employee, all service as defined in section 228a(c) of this title shall be deemed to have been performed within the United States.

(2) (A) (i) At the close of the fiscal year ending June 30, 1953, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Old-Age and Survivors Insurance Trust Fund, the board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account (hereinafter termed "Retirement Account") to the Federal Old-Age and Survivors Insurance Trust Fund; if such amount is to be subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Old-Age and Survivors Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (B) of this paragraph for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(ii) At the close of the fiscal year ending June 30, 1958, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which, if added to or substracted from the Federal Disability Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Disability Insurance Trust Fund the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Disability Insurance Trust Fund; if such amount is to be subtracted from the Federal Disability Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Disability Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (B) of this paragraph for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(iii) At the close of the fiscal year ending June 30, 1966, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare, shall determine the amount, if any, which, if added to or subtracted from the Federal Hospital Insurance Trust Fund, would place such fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15 following the close of the fiscal year. If such amount is to be added to the Federal Hospital Insurance Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Hospital Insurance Trust Fund; and if such amount is to be subtracted from the Federal Hospital Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Hospital Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined under subparagraph (B) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(B) For the purposes of subparagraph (A) of this paragraph, for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year borne by all interest-bearing obligations of the United States than forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(C) The Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund from the Retirement

Account or to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of subparagraph (A), and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from the Retirement Account or from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund.

(*l*) Definitions.

For the purposes of this section the term "employee" includes an individual who will have been an "employee", and—

(1) The qualifications for "widow", "widower", "child", and "parent" shall be, except for the purposes of subsection (f) of this section, those set forth in section 416(c), (e) and (g), and section 402(h)(3) of Title 42, respectively; and in addition—

(i) a "widow" or "widower" shall have been living with the employee at the time of the employee's death; a widower shall have received at least one-half of his support from his wife employee at the time of her death or he shall have received at least one-half of his support from his wife employee at the time her retirement annuity or pension began;

(ii) a "child" shall have been dependent upon its parent employee at the time of his death; shall not be adopted after such death by other than a stepparent, grandparent, aunt, uncle, brother or sister; and—

(A) shall be less than eighteen years of age; or

(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or

(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which disability began before he attained age eighteen, and

(iii) a "parent" shall have received, at the time of the death of the employee to whom the relationship of parent is claimed, at least one-half of his support from such employee.

A "widow" or "widower" shall be deemed to have been living with the employee if the conditions set forth in section 416(h)(2) or (3), whichever is applicable, of Title 42, as in effect prior to 1957, are fulfilled, or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title. A "child" shall be deemed to have been dependent upon a parent if the conditions set forth in section 402(d)(3) or (4) of Title 42 are fulfilled (a partially insured mother being deemed currently insured). In determining, for purposes of this section and subsection (f) of section 228b and subsection (f) of section 228c of this title whether an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 416(h) of Title 42 shall be applied deeming, for this purpose, individuals entitled to an annuity under section 228b (e) or (h) of this title to be entitled to benefits under subsection (b) or (c) of section 402 of Title 42 and individuals entitled to an annuity under subsection (a) or (b) of this section to be entitled to a benefit under subsection (e), (f), or (g) of section 402 of Title 42. In determining for purposes of this section and subsection (f) of section 228c of this title whether an applicant is the grandchild, brother, or sister of an employee as claimed, the rules set forth in section 416(h)(1) of Title 42, as in effect prior to 1957, shall be applied the same as if such persons were included in such section 416(h)(1). Such satisfactory proof shall be made from time to time, as prescribed by the Board, of the disability provided in clause (ii) of this paragraph and of the continuance, in accordance with regulations prescribed by the Board, of such disability. If the individual fails to comply with the requirements prescribed by the Board as to the proof of the continuance of the disability his right to an annuity shall, except for good cause shown to the Board, cease. Where a woman has qualified for an annuity under this section as a widow, and marries another employee who dies within one year after the marriage, she shall not be disqualified for an annuity under this section as the widow of the second employee by reason of not having been married to the employee for one year. The provisions of paragraph (7) of section 402(d) of Title 42 (defining the terms "full-time student" and "educational institution") shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's insurance annuity only on the basis of being a full-time student described in clause (ii)(B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age 22, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement.

(2) The term "retirement annuity" shall mean an annuity under section 228b of this title awarded before or after its amendment but not including an annuity to a survivor pursuant to an election of a joint and survivor annuity; and the term "pension" shall mean a pension under section 228f of this title.

(3) The term "quarter of coverage" shall mean a compensation quarter of coverage or a wage quarter of coverage, and the term "quarters of

coverage" shall mean compensation quarters of coverage, or wage quarters of coverage, or both: *Provided,* That there shall be for a single employee no more than four quarters of coverage for a single calendar year.

(4) The term "compensation quarter of coverage" shall mean any quarter of coverage computed with respect to compensation paid to an employee after 1936 in accordance with the following table:

Months of service in a calendar year	Total compensation paid in the calendar year				
	Less than $50	$50 but less than $100	$100 but less than $150	$150 but less than $200	$200 or more
1-3	0	1	1	1	1
4-6	0	1	2	2	2
7-9	0	1	2	3	3
10-12	0	1	2	3	4

If upon computation of the compensation quarters of coverage in accordance with the above table an employee is found to lack a completely or partially insured status which he would have if compensation paid in a calendar year were presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee, such presumption shall be made.

(5) The term "wage quarter of coverage" shall mean any quarter of coverage determined in accordance with the provisions of title II of the Social Security Act.

(6) The term "wages" shall mean wages as defined in section 409 of Title 42. In addition, the term shall include (i) "self-employment income" as defined in section 411 (b) of Title 42, and (ii) wages deemed to have been paid under section 417 (a) or (e) of said title on account of military service which is not creditable under section 228c-1 of this title. Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act.

(7) An employee will have been "completely insured" if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have completed ten years of service and will have had the qualifications set forth in any one of the following paragraphs:

(i) a current connection with the railroad industry; and a number of quarters of coverage, not less than six, and at least equal to one-half of the number of quarters, elapsing in the period after 1936, or after the quarter in which he will have attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he will have attained the age of sixty-five years or died, whichever will first have occurred (excluding from the elapsed quarters any quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him); and if the number of such elapsed quarters is an odd number such number shall be reduced by one; or

(ii) a current connection with the railroad industry; and either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act; or

(iii) a pension will have been payable to him; or a retirement annuity based on service of not less than ten years (as computed in awarding the annuity) will have begun to accrue to him before 1948.

(8) An employee will have been "partially insured" at the time of his death, whether before or after October 30, 1951, if it appears to the satisfaction of the Board that he will have completed ten years of service and (i) will have had a current connection with the railroad industry; and (ii) either will have had six or more quarters of coverage in the period ending with the quarter in which he will have died or in which a retirement annuity will have begun to accrue to him and beginning with the third calendar year next preceding the year in which such event occurs, or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act.

(9) An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date, or January 1, 1951, whichever is later, eliminating any excess over $300 for any calendar month before July 1, 1954, any excess over $350 for any calendar month after June 30, 1954, and before June 1, 1959, any excess over $400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965 and (ii) if such compensation in the period before 1951 is less than $50,400, or for any calendar year after 1950 and before 1955 is less than $3,600 or for any calendar year after 1954 and before 1959 is less than $4,200, or for any calendar year after 1958 and before 1966 is less than $4,800, or for any calendar year after 1965 is less than an amount equal to the current maximum taxable "wages" as defined in section 3121 of Title 26, and the average monthly remuneration computed on compensation alone is less than (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, and the employee has earned in such period or such calendar year "wages" as defined in paragraph (6) of this subsection, such wages, in an amount not to exceed the difference between the compensation for such period and $50,400, and between the compensation for such year and $3,600 for years after 1950 and before 1955, $4,200 for years after 1954 and before 1959, and $4,800 for years after 1958

and before 1966, and an amount equal to the current maximum annual taxable "wages" as defined in section 3121 of Title 26 for years after 1965, by (B) three times the number of quarters elapsing after 1936 and before the employee's closing date or January 1, 1951, whichever is later: *Provided,* That for the period after 1950 but prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided further,* That there shall be excluded from the divisor any calendar quarter after 1950 which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him, any calendar quarter before 1951 in which a retirement annuity will have been payable to him and any calendar quarter before 1951 and before the year in which he will have attained the age of 20. An employee's "closing date" shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest "average monthly remuneration" as defined in the preceding sentence. If the amount of the "average monthly remuneration" as computed under this paragraph is not a multiple of $1, it shall be rounded to the next lower multiple of $1. In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 228h of this title has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee.

With respect to an employee who will have been awarded a retirement annuity, the term "compensation" shall, for the purposes of this paragraph, mean the compensation on which such annuity will have been based.

(10) The term "basic amount" shall mean—

(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7)(i) or (7)(ii), or both: the sum of (A) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of Title 26, whichever is greater, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1950 in each of which the compensation, wages, or both, paid to him will have been equal to $200 or more plus, for the years after 1936 and before 1951, a number of years determined in accordance with regulations prescribed by the Board; if the basic amount thus computed is less than $18.14, it shall be increased to $18.14;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7)(iii) of this subsection: the sum of 52.4 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, 52.4 per centum of the average monthly earnings on which such pension was computed, up to and including $75, plus 12.8 per centum of such compensation or earnings exceeding $75 and up to and including $300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be $43.15, except that if the pension payable to him was less than $32.37, such amount shall be four-thirds of the amount of the pension or $17.26, whichever is greater. The term "monthly compensation" shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

(iii) for an employee who will have been completely insured under paragraph (7) (iii) and either (7) (i) or (7) (ii) of this subsection: the higher of the two amounts computed in accordance with subdivisions (i) and (ii) of this paragraph.

(m) Reduction of annuities.

The amount of an individual's annuity calculated under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased in the amount of 82.5 per centum in the case of a widow, widower, or parent and 75 per centum in the case of a child of the increases shown in the table in section 228c(a)(2) of this title on the same line on which the range of monthly compensation includes an amount equal to the average monthly wage determined for the purposes of section 228c(e) of this title (except that for cases involving earnings before 1951 and for cases on the Board's rolls on February 15, 1968, an amount equal to the highest average monthly wage that can be found on the same line of the table in section 415(a) of Title 42 as is the primary insurance amount recorded in the records of the Railroad Retirement Board shall be used, and if such an average monthly wage cannot be determined, the employee's monthly compensation on which his annuity was computed shall be used; and in the case of a pensioner, his monthly compensation shall be deemed to be the earnings which are used to compute his basic amount): *Provided, however,* That the increase shall (before any reduction on account of age) be reduced by 17.3 per centum of any benefit under title II of the Social Security Act to which the individual is entitled (disregarding for the purpose of this and the following proviso any

increase in such benefit based on recomputations other than for the correction of errors after the first adjustment and any increases derived from legislation enacted after January 2, 1968): *And provided further,* That the amount computed under this subsection shall (before any reduction on account of age) not be less than $5, or, in the case of an individual entitled to benefits under title II of the Social Security Act, such amount shall not be less than $5 minus 5.8 per centum of the lesser of the social security benefit to which such individual is entitled or the benefit computed under the preceding provisions of this section.

(n) Increase in annuities.

The annuity computed under the preceding provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5. (Aug. 29, 1935, ch. 812, § 5, 49 Stat. 970; June 24, 1937, ch. 382, part I, § 1, 50 Stat. 312; Apr. 8, 1942, ch. 227, § 12, 56 Stat. 208; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946; 11 F.R. 7873, 60 Stat. 1095; July 31, 1946, ch. 709, § 213, 60 Stat. 729; June 23, 1948, ch. 608, § 2, 62 Stat. 577; Oct. 30, 1951, ch. 632, §§ 11—23, 65 Stat. 685; July 18, 1952, ch. 945, § 6 (d) (2), (3), 66 Stat. 777: 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953 18 F. R. 2053, 67 Stat. 631; Aug. 31, 1954, ch. 1164, part I, §§ 8—14, 68 Stat. 1039; Sept. 1, 1954, ch. 1206, title I, § 106 (f), title IV, § 401 (b)—(d), 68 Stat. 1081, 1097; Aug. 12, 1955, ch. 869, §§ 2, 3, 69 Stat. 716; Aug. 1, 1956, ch. 836, title I, § 120 (b), (c), 70 Stat. 836; Aug. 7, 1956, ch. 1022, § 2, 70 Stat. 1076; Aug. 30, 1957, Pub. L. 85–238, § 4 (b), (c), 71 Stat. 520; Sept. 6, 1958, Pub. L. 85–927, § 2, 72 Stat. 1779; May 19, 1959, Pub. L. 86–28, pt. I, § 3, 73 Stat 27; Sept. 13, 1960, Pub. L. 86–778, title II, § 211(*o*)(2), 74 Stat. 958; Sept. 22, 1961, Pub. L. 87–285, § 3, 75 Stat. 585; Oct. 5, 1963, Pub. L. 88–133, title I, §§ 5, 6, 77 Stat. 220; July 30, 1965, Pub. L. 89–97, title I, § 111(b)(2), title III, § 326(b), 79 Stat. 341, 400; Sept. 29, 1965, Pub. L. 89–212, § 3 (c), (d), (e), 79 Stat. 860; Oct. 30, 1966, Pub. L. 89–699, title II, § 201 (d), (e), (f), 80 Stat. 1076; Oct. 30, 1966, Pub. L. 89–700, title I, § 105, title III, § 301 (i), (iv) (b), (c), 80 Stat. 1082, 1088; Jan. 2, 1968, Pub. L. 90–248, title I, § 151(d)(3), 81 Stat. 860; Feb. 15, 1968, Pub. L. 90–257, title I, § 105, 82 Stat. 19; Aug. 12, 1970, Pub. L. 91–377, § 3, 84 Stat. 791.)

REFERENCES IN TEXT

"Month in which this Act is enacted", referred to in subsec. (f) (1), as being September, 1958, see section 5 (d) of Pub. L. 85–927, set out as a note under section 228c of this title.

Sections 1001 to 1012 and 1013 to 1017 of Appendix to Title 50, referred to in subsec. (f)(1), were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

The Social Security Act, referred to in text, is classified to chapter 7 of Title 42, The Public Health and Welfare. Subchapter II of the chapter relates to Federal old-age and survivors insurance benefits.

Title II of the Social Security Act, referred to in text, is classified to section 401 et seq. of Title 42, The Public Health and Welfare.

Sections 5 of the Retirement Acts, referred to in subsec. (i)(3)(i), are this section and former section 219 of this title, set out in note under former sections 215—228 of this title.

Section 15 of the Railroad Retirement Act of 1935 (act Aug. 29, 1935, ch. 812, 49 Stat. 974), referred to in subsec. (k) (1) provided that the term employment, as defined in subsec. (b) of former section 410 of Title 42 should not include service performed in the employ of a carrier as defined in subd. (a) of former section 215 of this title.

The Federal Insurance Contributions Act, referred to in subsec. (k) (2) (A) (i)—(iii) was formerly classified to subchapter A of chapter 9 of Title 26, I. R. C. 1939, and is presently classified to chapter 21 of Title 26, I. R. C. 1954.

"That Act", referred to in subsec. (*l*) (7)(ii), (8), refers to the Social Security Act.

The Social Security Amendments of 1969, referred to in subsec. (n), is title X of Pub. L. 91–172, which was approved Dec. 30, 1969. For classification of such title X, see Short Title of 1969 Amendments note under section 401 of Title 42.

AMENDMENTS

1970—Subsec. (m). Pub. L. 91–377 substituted "preceding provisions" for "other provisions" wherever appearing therein.

Subsec. (n). Pub. L. 91–377 added subsec. (n).

1968—Subsec. (a). Pub. L. 90–257, § 105(a), designated the existing provisions of subsec. (a) as par. (1) thereof, added thereto an exception to be applied if the widow or widower will have been paid an annuity under paragraph (2) of this subsection, and added par. (2).

Subsec. (h). Pub. L. 90–257, § 105(b), struck out proviso for the reduction of an individual's share in accordance with the first two provisions of sections 228c(a)(1) of this title except that the share of such individual could not be less than it would have been had the 1966 amendments not been passed.

Subsec. (i)(1)(ii). Pub. L. 90–257, § 105(c), inserted ", deeming such an individual who is entitled to an annuity under subsection (a)(1) of this section to have attained age sixty-two unless such individual will have been entitled to an annuity under subsection (a)(2) of this section for the month before the month in which he attained age sixty" after "an activity within the United States".

Subsec. (j). Pub. L. 90–257, § 105(d), changed the proviso structurally to improve and clarify the language.

Subsec. (*l*)(1). Pub. L. 90–257, § 105(e), made minor changes in form and substituted "the rules set forth in section 416(h) of Title 42 shall be applied, deeming, for this purpose, individuals entitled to an annuity under section 228b(e) or (h) of this title to be entitled to benefits under subsection (b) or (c) of section 402 of Title 42 and individuals entitled to an annuity under subsection (a) or (b) of this section to be entitled to a benefit under subsection (e), (f), or (g) of section 402 of Title 42" for "the rules set forth in section 416(h)(1) of Title 42, as in effect prior to 1957, shall be applied".

Subsec. (*l*)(1). Pub. L. 90–248 deleted in third sentence reference to par. (5) of section 402(d) of Title 42 and substituted in ninth sentence "paragraph (7)" for "paragraph (8)".

Subsec. (*l*)(9). Pub. L. 90–257, § 105(f), introduced the concept of the total compensation before 1951 and the figure $50,400 into such concept in order to facilitate finding the employee's compensation and wages before 1951 in making determination of the average monthly remuneration needed to calculate the basic amount.

Subsec. (*l*)(10)(i). Pub. L. 90–257, § 105(g), revised the formula for determining the basic amount from which survivor benefit amounts are determined so as to provide for applicability of the 7-percent 1966 increase to average monthly remuneration in excess of $450 and facilitated the determination of increment years before 1961 in arriving at the basic amount.

Subsec. (m). Pub. L. 90–257, § 105(h), generally revised the entire treatment of reductions in annuities so as to provide increases in survivor annuity amounts, including

the addition of provisos requiring a reduction of the increase provided in survivor benefits through the application of a 17.3 percentage of the social security benefit to which the survivor is entitled and mandating a minimum increase of about $5 through an increase of $5 minus 5.8 percent of the lesser of two formula amounts.

1966—Subsec. (a). Pub. L. 89–700, § 105(b)(2), eliminated words "subsection (e) of" which preceded "section 228b."

Subsec. (b). Pub. L. 89–700, § 105(a), (b), substituted "employee, which child (without regard to the provisions of subsection (*l*)(1)(ii)(B) of this section) is entitled to receive an annuity under subsection (c)" for "employee entitled to receive an annuity under subsection (c)", and "no child of the deceased employee (without regard to the provisions of subsection (*l*)(1)(ii)(B) of this section) is entitled" for "no child of the deceased employee is entitled", and eliminated "subsection (e) of" which preceded "section 228b."

Subsec. (f)(1). Pub. L. 89–700, 105(c), authorized, if there be no widow or widower, the payment of the lump sum to the funeral home or funeral homes to the extent of the unpaid expenses, or to the person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the burial expenses, and if any part of the lump sum remains, after payment to the funeral homes and to the person or persons equitably entitled thereto, to the persons who paid the expenses of opening and closing the grave, the expenses of providing the burial plot, and any remaining expenses in connection with the burial, and substituted "this paragraph to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum" for "this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section."

Subsec. (f)(2). Pub. L. 89–700, §§ 105(d), 301(i), (iv)(b), inserted provisions authorizing payment of an amount equal to the total of all employee taxes payable after December 31, 1965, under the provisions of section 3201 of Title 26, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of Title 26 to be employee taxes payable under section 3201 of Title 26, and directing that payments to providers of services under section 228s–2 of this title and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of Title 26 shall be disregarded, and substituted "upon attaining the age of eligibility" for "upon attaining retirement age (as defined in section 416(a) of Title 42" in two instances, "before June 1, 1959" for "before the calendar month next following the month in which this Act was amended in 1959", and "$400 for any month after May 31, 1959; and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965" for "$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, and in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1965, and in excess of "section 410(a)(9) of Title 42" for "section 410(a)(10) of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any month after the month in which this Act was so amended."

Subsec. (g). Pub. L. 89–700, § 105(e), repealed par. (3) which related to individuals receiving or entitled to receive annuities on the day prior to October 30, 1951.

Subsec. (h). Pub. L. 89–699, § 201(d), increased the applicable figures used in the computation of the maximum and minimum annuities payable to a survivor, with the proviso that the share of any such individual in any amount would be reduced by reason of his concurrent entitlement to social security benefits, but in no case shall the share of such individual be less than it would have been had the annuity provisions not been amended in 1966.

Subsec. (i)(1). Pub. L. 89–700, § 105(g), inserted proviso in cl. (ii) requiring, in determining an individual's excess earnings for a year for the purposes of this section and section 228c(e) of this title, that there shall not be included in his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 228c(e) of this title.

Subsec. (i)(3). Pub. L. 89–700, § 105(f), inserted "as in effect before 1947" following "Retirement Acts", and eliminated the word "and" which followed the semicolon, in cl. (i), substituted "such employee before 1947; and" for "such employee.", in cl. (ii), and added cl. (iii).

Subsec. (i)(4). Pub. L. 89–700, § 105(f), added subsec. (i)(4), and redesignated former subsec. (i)(4) as (i)(5).

Subsec. (i)(5). Pub. L. 89–700, § 105(f), redesignated former subsec. (i)(4) as (i)(5).

Subsec. (j). Pub. L. 89–700, § 105(h), inserted proviso directing that the annuity of a child qualified under subsection (*l*) (1)(ii)(C) of this section shall cease to be payable with the month preceding the third month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of sections 228a to 228c–1, 228e—228h, and 228i to 228s–2 of this title.

Subsec. (k)(1). Pub. L. 89–700, § 105(i), substituted "section 410(a)(9) of Title 42" for "section 410(a)(10) of Title 42."

Subsec. (*l*)(1). Pub. L. 89–700, § 105(j)(1)—(3)(iv), permitted adoption of a child by a brother or sister, included within the definition, a person less than twenty-two years of age and a full-time student at an educational institution, deemed a widow or widower to have been living with the employee if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under sections 228a to 228c–1, 228e to 228h, 228i to 228s–2 of this title, required the rules set forth in section 416(h)(1) of Title 42, as in effect prior to 1957, to be applied in determining whether an applicant is the grandchild, brother, or sister of an employee, directed that the provisions of section 402(d)(8) of Title 42 shall be applied in the administration of this section, provided for termination of the annuity of a child entitled only on the basis of being a full-time student, and for reentitlement to an annuity by a child entitled on the basis of the compensation of an insured individual, and inserted "subsection (f)(3) of section 228c of this title" preceding "whether an applicant."

Subsecs. (*l*)(2), (3), (5), (7). Pub. L. 89–700, § 105(j)(3)(v), substituted a period for the semicolon at the end of each paragraph.

Subsec. (*l*)(9). Pub. L. 89–700, §§ 105(j)(3)(v), (k), 301(i), (iv)(c), empowered the Board, in any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, to include the compensation for such months in the computation of the benefit without further verification and to consider the compensation for such months to be the average of the compensation for the months in the last period for which the employer has filed a return of the compensation of such employee, and substituted

a period for a semicolon at the end of the paragraph, "before June 1, 1959" for "before the calendar month next following the month in which this Act was amended in 1959", and "$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any month after September 30, 1965" for "$400 for any calendar month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, any excess of $450 for any calendar month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any calendar month after the month in which this Act was so amended."

Subsec. (*l*)(10). Pub. L. 89–699, § 201(e)(1), (2), in subdivision (i) increased the factors of the formula used to determine "basic amount" by increasing the percentages in clauses (A) and (B), by making former clauses (B)(ii) and (C) clauses (C) and (D) respectively, in clause (D) by providing for the computation in the formula of clause (C), and by increasing the minimum basic amount" determinable, and in subdivision (ii) substituted "52.4 per centum" and "12.8 per centum" for "49 per centum" and "12 per centum" respectively, and provided for increased amounts where the average monthly earnings used in computing a pension are not ascertainable from the records in possession of the Board.

Subsec. (m) Pub. L. 89–699, § 201(f), added subsec. (m).

1965—Subsec. (f)(2). Pub. L. 89–212, § 3(c), inserted "and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any month after the month in which this Act was so amended."

Subsec. (k)(2)(A). Pub. L. 89–97, § 111(b)(2) (A)—(D), struck out former subpar. (A), redesignated former subpar. (C) as (A), struck out from subd. (i) of subpar. (A) the second and last sentences, substituted therein "the Railroad Retirement Account (hereinafer termed 'Retirement Account')", and added thereto subd. (iii), and substituted "subparagraph (B)" for "subparagraph (D)." Former subpar. (A) required the Board and the Secretary to determine, by Jan. 1, 1954 the amount which would place the OASI Trust Fund in the same position in which it would have been at close of fiscal year ending June 30, 1952, if service as an employee after Dec. 31, 1936 had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. The second sentence of subd. (i) had provided that "For the purposes of this subparagraph the amount determined under [former] subparagraph (A) of this paragraph, less such offsets as have heretofore been made under this subdivision of this paragraph, and the amount determined under subparagraph (B) of this paragraph for the fiscal year under consideration shall be deemed to be part of the Federal Old-Age and Survivors Insurance Trust Fund." The last sentence of subd. (i) authorized the Secretary, in lieu of certification of amount to be transferred to the Retirement Account from the OASI Trust Fund, to offset the amount determined under first sentence of subd. (i) against the amount determined under former subpar. (A) as diminished by any prior offsets, the offsets to be effective as of the first day of the fiscal year following the fiscal year under consideration.

Subsec. (k)(2)(B). Pub. L. 89–97, § 111(b)(2) (A), (E), struck out former subpar. (B), redesignated former subpar. (D) as (B), and substituted therein "subparagraph (A)" for "subparagraphs (B) and (C)." Former subpar. (B) required the Board and the Secretary to determine, on Jan. 1, 1954 for fiscal year ending June 30, 1953 and at the close of each fiscal year beginning with fiscal year ending June 30, 1954, and the Board to certify to the Secretary of the Treasury for transfer from the Retirement Account to the OASI Trust Fund interest for such fiscal year at rate specified in former subpar. (D) on amount determined under former subpar. (A) less the sum of all offsets made under former subpar. (C)(i).

Subsec. (k)(2)(C). Pub. L. 89–97, § 111(b)(2) (A), (F), redesignated former subpar. (E) as (C) and authorized transfer of funds to Federal Hospital Insurance Trust Fund from Retirement Account and to Retirement Account from Federal Hospital Insurance Trust Fund, provided for certification for transfers from Federal Hospital Insurance Trust Fund, and substituted "subparagraph (A)" for "subparagraphs (B) and (C)", respectively. Former subpar. (C) redesignated (A).

Subsec. (k)(2) (D), (E). Pub. L. 89–97, § 111(b)(2)(A), redesignated former subpars. (D) and (E) as (B) and (C). See notes under subpars. (B) and (C).

Subsec. (*l*)(9). Pub. L. 89–212, § 3(d), inserted "and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater, for any calendar month after the month in which this Act was so amended", and substituted "an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of Title 26" for "$6,600" in two instances and "(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of Title 26, whichever is greater" for "$450."

Pub. L. 89–97 substituted "after 1958 and before 1966 is less than $4,800, or for any calendar year after 1965 is less than $6,600" for "after 1958 is less than $4,800" and substituted "$4,800 for years after 1958 and before 1966, and $6,600 for years after 1965" for "and $4,800 for years after 1958".

Subsec. (*l*)(10). Pub. L. 89–212, § 3(e), substituted "(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3131 of Title 26, whichever is greater" for "$450."

1963—Subsec. (f)(2). Pub. L. 88–133, § 5, limited the recognition of monthly compensation to $400 for any month after May 1959 and before Nov. 1963 and increased such sum to $450 for any month after Oct. 1963.

Subsec. (*l*)(9)(A) (i) (ii). Pub. L. 88–133, § 6(a), limited, in the definition of "average monthly remuneration" in cl. (A)(i), the recognition of monthly compensation to $400 for any month after May 1959 and before Nov. 1963 and increased such sum to $450 for any month after Oct. 1963, and substituted "$450" for "$400" in cl. (A)(ii).

Subsec. (*l*)(10)(i)(B). Pub. L. 88–133, § 6(b), substituted "$450" for "$400."

1961—Subsec. (*l*)(1). Pub. L. 87–285 provided that if a woman who had qualified as a widow for an annuity remarries, and her new husband dies within one year after the marriage, she is not to be disqualified for an annuity as widow of the second husband.

1960—Subsec. (i)(1). Pub. L. 86–778 substituted "section 403(f) of Title 42" for "section 403(e) of Title 42" in two instances, "section 403(h)(3) of Title 42" for "section 403(g)(3) of Title 42", and "excess earnings" for "earnings" in two instances, in cl. (ii).

1959—Subsec. (f)(2). Pub. L. 86–28, § 3(a), increased the percentage of the compensation used in computing the lump-sum benefit from 7 per centum to 7½ per centum of the compensation paid after Dec. 31, 1958, and before Jan. 1, 1962, and to 8 per centum of the compensation paid after Dec. 31, 1961, and increased the maximum amount of compensation which may be used in the computation from $350 to $400 a month for any month after May 1959.

Subsec. (h). Pub. L. 86–28, § 3(b), substituted "$36.30" for "$33" in two places, "$193.60" for "$176", and "$16.95" for "$15.40" in two places.

Subsec. (i)(1)(ii). Pub. L. 86–28, § 3(c), substituted "or, having engaged in any activity outside the United States, would be charged under such section 403(e) with any earnings derived from such activity if it had been

an activity within the United States" for "or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 403(k) of Title 42)".

Subsec. (*l*)(9). Pub. L. 86–28, § 3 (d), (e), increased the maximum amount of compensation which may be used in deriving the "average monthly remuneration" from $350 to $400 a month for any calendar month after May 1959, and substituted "any calendar year after 1954 and before 1959 is less than $4,200, or for any calendar year after 1958 is less than $4,800, and the average monthly remuneration computed on compensation alone is less than $400 and the employee has earned in such calendar year 'wages' as defined in paragraph (6) of this subsection, such wages, in an amount not to exceed the difference between the compensation for such year and $3,600 for years before 1955, $4,200 for years after 1954 and before 1959, and $4,800 for years after 1958" for "any calendar year after 1954 is less than $4,200 and the average monthly remuneration computed on compensation alone is less than $350 and the employee has earned in such calendar year 'wages' as defined in paragraph (6) of this subsection, such wages, in an amount not to exceed the difference between the compensation for such year and $3,600 for years before 1955 and $4,200 for years after 1954."

Subsec. (*l*)(10). Pub. L. 86–28, § 3(f), substituted "49" for "44" in three places, "12" for "11" in two places, "$400" for "$350", "$16.95" for "$15.40" in two places, "$40.33" for "$36.66", "$30.25" for "$27.50", and "$16.13" for "$14.66".

1958—Subsec. (f)(1). Pub. L. 85–927, § 2(a), provided, among other changes, that lump sum shall be paid to person determined by Board to be widow or widower of deceased employee and to be living with employee at time of employee's death, and if there is no such widow or widower, lump sum shall be paid to persons entitled thereto in proportion to which they paid burial expenses of employee, and provided that if accrued survivor annuities for a year following the employee's death do not equal the amount of the insurance lump sum, the excess shall be paid, in order of preference, to the widow or widower, child, or parent of the employee then entitled to a survivor annuity.

Subsec. (f)(2). Pub. L. 85–927, § 2(b), designated persons in subpars. (i)—(vi), in order of preference, as beneficiaries where employee did not validly designate someone to receive lump sum.

Subsec. (h). Pub. L. 85–927, § 2(c), substituted "after" for "prior to" in first sentence.

Subsec. (i)(3). Pub. L. 85–927, § 2(d), eliminated deduction provisions respecting lump sums paid under sections 403 or 404 of title 42 prior to Aug. 10, 1939, and eliminated deduction provisions for failure to deduct social security taxes for services in 1939 after which services the employee attained age 65.

Subsec. (k)(3). Pub. L. 85–927, § 2(e), inserted "of determinations under section 228c(e) of this title, or section 416(i) of Title 42, of periods of disability within the meaning of such section 416(i) of Title 42" in first sentence, inserted "section 228c(e) of this title" after "this section" in first sentence, and inserted "(except in the case of a determination of disability under section 416(i) of Title 42)" in second sentence.

Subsec. (*l*)(6). Pub. L. 85–927, § 2(f), eliminated "(except that for the purposes of subsection (i)(1)(ii) of this section such wages shall be determined without regard to subsection (a) of section 409 of Title 42)" from the end of the first sentence, eliminated "(and in determining 'self-employment income' the 'net earnings from self-employment' shall be determined as provided in section 411(a) of said title and charged to correspond with the provisions of section 403(e) of said title)" preceding ", and (ii)" in second sentence, and added sentence providing "Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act."

Subsec. (*l*)(7)(ii). Pub. L. 85–927, § 2(g), substituted "either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act" for "forty or more quarters of coverage".

Subsec. (*l*)(8). Pub. L. 85–927, § 2(h), substituted "(i) will have had" for "will have had (i)", inserted "either will have had" following "(ii)", and inserted "or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act".

Subsec. (*l*)(9). Pub. L. 85–927, § 2(i), substituted "employee's closing date" for "quarter in which he will have died" wherever it appeared in clauses (A) and (B), and substituted sentence defining "closing date" for last proviso which excluded quarters, compensation and wages if exclusion from divisor of all quarters beginning with first quarter in which employee was completely insured and had attained age 65 and exclusion from dividend of all compensation and wages with respect to such quarters would result in higher average monthly remuneration.

1957—Subsec. (*l*)(1). Pub. L. 85–238, inserted "as in effect prior to 1957" following "Title 42", in two instances.

1956—Subsec. (f)(2). Act Aug. 1, 1956, § 120(b), substituted "retirement age (as defined in section 416(a) of Title 42)" for "age sixty-five" and "title II of the Social Security Act" for "section 402 of Title 42".

Subsec. (h). Act Aug. 7, 1956, § 2(a), substituted "$33" for "$30" in two places, "$176" for "$160", and "$15.40" for "$14".

Subsec. (k)(2). Act. Aug. 1, 1956, § 120(c), provided for transfer of amounts between the Retirement Account and the Federal Disability Insurance Trust Fund.

Subsec. (*l*)(10). Act Aug. 7, 1956, § 2(b), substituted "44" for "40" in three places, "11" for "10" in two places, "$15.40" for "$14" in two places, "$36.66" for "$33.33", "$27.50" for "$25" and "$14.66" for "$13.33".

1955—Subsec. (g)(2). Act Aug. 12, 1955, § 2, eliminated requirement to reduce the annuity of any survivor for any month by the amount of any benefit to which the survivor is eligible for the month under the Social Security Act and which derives from the employment of some person other than the employee.

Subsec. (*l*)(9). Act Aug. 12, 1955, § 3, changed the method of calculating the "average monthly remuneration" to permit inclusion of "wages" where the average is less than $350, and of "self-employment income" of up to $4,200.

1954—Subsecs. (a), (d), and (f)(2). Act Aug. 31, 1954, §§ 8, 9, reduced the eligibility age from 65 to 60 and to make conforming changes.

Subsec. (g)(2). Act Aug. 31, 1954, § 10, struck out the last sentence thereof in order to permit a widow, widower or parent to receive both a survivor annuity and a railroad retirement annuity if so entitled.

Subsec. (i). Act Aug. 31, 1954, § 11, eliminated requirement of school attendance by children over age 16 and under age 18 as a condition to receiving retirement benefits.

Subsec. (i)(1)(ii). Act Sept. 1, 1954, § 401(d), conformed rules for deductions to those in section 403 of Title 42.

Subsec. (j). Act Sept. 1, 1954, § 401(b), substituted "twelfth" for "sixth."

Subsec. (k). Act. Sept. 1, 1954, § 106(f), substituted "and for the purposes of sections 403 and 416(i)(3) of Title 42" for "and for the purposes of section 403 of Title 42."

Subsec. (*l*) (1), (9) and (10). Act. Aug. 31, 1954, §§ 12, 13, and 14, provided a survivor annuity to a child over age 18 if he is incapable of self-support because of a permanent disability and conformed the formulas for determining "average monthly remuneration" and "basic amount" to the increase effected by other provisions of act Aug. 31, 1954 in the maximum creditable compensation.

Subsec. (*l*)(9). Act Sept. 1, 1954, § 401(c), substituted "$4,200" for "$3,600" the second time it appeared.

1952—Subsec. (i)(1)(ii). Act July 18, 1952, § 6(d)(2), increased from $50 to $75 the work clause.

Subsec. (*l*)(6). Act July 18, 1952, § 6(d), (3), added "or (e)" after "section 417(a)".

1951—Subsec. (a). Act Oct. 30, 1951, § 11, inserted reference to widower, struck out "three-fourths of" after "equal to", and added proviso.

Subsec. (b). Act Oct. 30, 1951, § 12, struck out "three-fourths of" after "equal to" in first sentence, and added proviso.

Subsec. (c). Act Oct. 30, 1951, § 13, substituted "two-thirds" for "one-half".

Subsec. (d). Act Oct. 30, 1951, § 14, inserted ", no widower,", and substituted "two-thirds" for "one-half".

Subsec. (e). Act Oct. 31, 1951, § 15, substituted "two-thirds" for "one-half".

Subsec. (f)(1). Act Oct. 30, 1951, § 16, inserted references to widowers in first and fourth sentences, and increased the lump sum payable under such subsection in case of a completely or partially insured employee from eight times to ten times the employee's basic amount.

Subsec. (f)(2). Act Oct. 30, 1951, § 17, inserted references to "widower"; inserted ", and to others * * * or her life," in first sentence; and, to final sentence, added at end "except that the deductions * * * 'employment' pursuant to subsection (k)(1) of this section".

Subsec. (g)(2). Act Oct. 30, 1951, § 18, amended subsec. (g)(2) generally to substitute "individual" for "widow or child" and "parent", and to prevent duplication of benefits.

Subsec. (g)(3). Act Oct. 30, 1951, § 18, added subsec. (g)(2).

Subsec. (h). Act Oct. 30, 1951, § 19, provided a new formula for determining the maximum and minimum totals.

Subsec. (i)(1)(ii). Act Oct. 30, 1951, § 20, substituted "$50" for "$25".

Subsec. (j). Act Oct. 30, 1951, § 21, extended the period for the beginning of survivor's insurance annuity to the month in which the individual became eligible even though the applcation therefor was not filed for as much as six months after such month.

Subsec. (k)(1). Act Oct. 30, 1951, § 22(a), transferred to the social security system all persons who at retirement or at death have completed less than 10 years of service under sections 228a to 288c-1, 228e—228h, 228i to 228s-2 of this title, the spouses and children of such persons, and their survivors, with the same effect as if the service of such persons were included in the term "employment" in title II of the Social Security Act; and made such amendment applicable to noncitizen employees working outside the United States for an employer conducting the principal part of its business in the United States.

Subsec. (k)(2). Act Oct. 30, 1951, § 22(b), amended subsec. (k)(2) generally to provide that the discharge of liabilities to deceased or retired employees with less than ten years of service will be given appropriate credit in the adjustment; and to otherwise provide, through adjustments, that the social security system will neither gain nor lose from the separate existence of the railroad retirement system.

Subsec. (*l*)(1). Act Oct. 30, 1951, § 23(a), amended subsec. (*l*)(1) generally to include the definition of "widower" among definitions of survivors; to provide the conditions of eligibility both for a widow and a widower for survivor benefits; to include in the term "widow" a former wife divorced, but subject to certain conditions; to dispense with the former requirement of filing proof of support within a specified time; and to provide against forfeiture of a child's annuity if such child is adopted by a stepparent, grandparent, aunt, or uncle.

Subsec. (*l*)(4). Act Oct. 30, 1951, § 23(b), added the paragraph following the table.

Subsec. (*l*)(6). Act Oct. 30, 1951, § 23(c), redefined the term "wages" to include not only wages covered by the Social Security Act (chapter 7 of title 42) but also self-employment income covered by that act as well as amounts deemed wages under section 417(a) of Title 42, on account of military service other than that creditable under section 228c-1 of this title.

Subsec. (*l*)(7). Act Oct. 30, 1951, § 23(d), after "he will have" in opening paragraph, inserted "completed ten years of service and will have"; and, after "any quarter" in the parenthetical phrase in par. (i), inserted "which is not a quarter of coverage and",

Subsec. (*l*)(8). Act Oct. 30, 1951, § 23(e), provided with respect to limiting eligibility for survivor benefits to survivors of employees who have completed ten or more years of service, for the exclusion from the elapsed quarters any quarter during which any part of which a retirement annuity is payable and which is not a quarter of coverage.

Subsec. (*l*)(9). Act Oct. 30, 1951, § 23(f), provided that in determining the average monthly remuneration, "wages" will be included only if (1) the total creditable compensation for any calendar year is less than $3,600, and (2) the average monthly remuneration, if based on compensation alone, would be less than $300; and that, in such case, the amount of wages included will be an amount not to exceed the difference between the compensation for such year and $3,600; and the divisor will not include any quarter during any part of which a retirement annuity is payable and which is not a quarter of coverage.

Subsec. (*l*)(10)(i)(ii). Act Oct. 30, 1951, § 23(g), substituted "$300" for "$250" and "$14" for "$10", wherever "$250" and "$10" appeared therein.

1948—Subsec. (f). Act June 23, 1948, § 2, inserted (1) preceding first paragraph and changed all references in that paragraph from "this subsection" to "this paragraph", and added par. (2) which, in effect, is a guarantee that every employee who contributes to the system will obtain in benefits, either to himself or his survivors or a designated beneficiary, an amount at least equal to the contribution he makes, plus an allowance in lieu of interest.

1946—Act July 31, 1946, amended section generally, changing the former lump-sum benefits to survivor benefits like those provided under the social security system.

1942—Act Apr. 8, 1942, amended section generally.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-377 effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970, see section 4(a) of Pub. L. 91-377, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment of subsecs. (a), (h), (i)(1)(ii), (j), (*l*)(1), and (h) of this section by section 105(a)—(e) and (h) of Pub. L. 90-257 effective with respect to annuities accruing for months beginning with the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendment of 1957 was effective and with respect to pensions due in calendar months next following the month with respect to which the increase in benefits under title II of the Social Security Act provided for by the Social Security Amendment of 1967 was effective, see section 108(a) of Pub. L. 90-257, set out as a note under section 228a of this title.

Amendment of subsecs. (*l*)(9) and (*l*)(10)(i) of this section by section 105(f) and (g) of Pub. L. 90-257 effective with respect to benefits payable on deaths occurring on or after February 15, 1968, see section 108(a) of Pub. L. 90-257, set out as a note under section 228a of this title.

Amendment of subsec. (*l*)(1) of this section by Pub. L. 90-248 applicable with respect to monthly benefits payable under section 401 et seq. of Title 42 (and annuities accruing under section 228a et. seq. of this title) for months after Jan. 1968, but only on the basis of applications filed in or after Jan. 1968, see section 151(e) of Pub. L. 90-248, set out as a note under section 402 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment of subsec. (e) of this section by Pub. L. 89-700 effective with respect to annuities accruing for months after 1964, see section 112(i) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (f)(1) of this section by section 105(c)(1) of Pub. L. 89-700 effective with respect to lump-sum payments awarded on or after October 30, 1966, see section 112(j) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (f)(1) of this section by section 105(c)(2) of Pub. L. 89-700 effective with respect to deaths occurring in or after the twelfth month preceding October 1966, see section 112(k) of Pub. L. 89-700, set out as a note under section 228a of this title.

Amendment of subsec. (f)(2) of this section by Pub. L. 89–700 effective with respect to deaths occurring on or after October 30, 1966, see section 112(*l*) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (h) of this section and enactment of subsec. (m) of this section effective with respect to annuities accruing for months after October 1966, and with respect to pensions due in calendar months after November 1966, see section 202(a) of Pub. L. 89–699, set out as a note under section 228b of this title.

Amendment of subsec (i)(1) of this section by Pub. L. 89–700 effective with respect to deductions made in the calendar year 1966 and thereafter, see section 112(m) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (i)(3)—(5) of this section by Pub. L. 89–700 effective with respect to awards made on or after October 30, 1966, see section 112(g) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (j) of this section by Pub. L. 89–700 effective with respect to determinations of recovery from disability made on or after October 30, 1966, see section 112(b) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec (*l*)(1) of this section by section 105(j)(1) of Pub. L. 89–700 effective with respect to annuities under subsec. (c) of this section for months after October 1966, see section 112(n) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (*l*)(1) of this section by section 105(j)(3)(i) of Pub. L. 89–700 effective with respect to annuities for months after October 1966, see section 112(*o*) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (*l*)(1) of this section by section 105(j)(2) of Pub. L. 89–700 effective with respect to annuities accruing for months after 1964, see section 112(i) of Pub. L. 89–700, set out as a note under section 228a of this title.

Amendment of subsec. (*l*) of this section by Pub. L. 89–699 effective as to lump-sum benefits under subsec. (f)(1) of this section with respect to deaths occurring on or after October 30, 1966, see section 202(a) of Pub. L. 89–699, set out as a note under section 228b of this title.

Amendment of subsec. (*l*)(9) of this section by Pub. L. 89–700 effective with respect to annuities awarded on or after October 30, 1966, see section 112(e) of Pub. L. 89–700, set out as a note under section 228a of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment of section by Pub. L. 89–212 effective with respect to annuities accruing and deaths occurring in months after the month in which Pub. L. 89–212 was enacted, see note under section 3201 of Title 26, Internal Revenue Code of 1954.

Amendment of this section by Pub. L. 89–97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act provides may be counted for such calendar year, see section 111(e) of Pub. L. 89–97, set out as a note under section 228s–2 of this ttile.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment of subsecs. (f)(2) and (*l*) (9), (10) of this section by Pub. L. 88–133 effective with respect to annuities accruing and deaths occurring after Oct. 1963, see section 8 of Pub. L. 88–133, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of this section by Pub. L. 87–285 effective in calendar months after Sept. 1961, see section 4 of Pub. L. 87–285, set out as a note under section 228b of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (i) of this section by Pub. L. 86–778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86–778, see note under section 403 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsec. (f)(2) of this section by Pub. L. 86–28 effective only with respect to lump-sum payments in the case of deaths occurring after May 1959, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

Amendment of subsec. (h) of this section by Pub. L. 86–28 effective only with respect to annuities (not including annuities to which this section applies) accruing for months after May 1959, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

Amendment of subsec. (i)(1)(ii) of this section by Pub. L. 86–28 as effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

Amendment of subsec. (*l*)(10) of this section by Pub. L. 86–28 effective only with respect to annuities accruing for months after May 1959 and lump-sum payments (under subsec. (f)(1) of this section) in the case of deaths occurring after May 1959, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (f) (1) and (2) by Pub. L. 85–927 effective with respect to deaths occurring in months after September, 1958, see section 5 (d) of Pub. L. 85–927, set out as a note under section 228c of this title.

Amendment of subsecs. (h), (i) (3) (i)—(iv), and (*l*) (6) effective with respect to annuities accruing for months after September, 1958, see section 5 (e) of Pub. L. 85–927, set out as a note under section 228c of this title.

Amendment of subsec. (k)(3) effective on Sept. 6, 1958, see section 5 (f) of Pub. L. 85–927, set out as note under section 228c of this title.

Amendment of subsecs. (*l*)(7)(ii) and (*l*)(7)(8) effective with respect to deaths occurring on or after Sept. 6, 1958 and with respect to any death occurring before Sept. 6, 1958 if none of the survivors of deceased became entitled before that date to monthly benefits by reason of individual's death, under sections 401—432, and 425 of Title 42, The Public Health and Welfare, see section 5(b) of Pub. L. 85–927, set out as a note under section 228c of this title.

Amendment of subsec. (*l*)(9) effective September 6, 1958, see section 5(a) of Pub. L. 85–927, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment to subsec. (h) effective only with respect to annuities accruing for months after June 1956, see note set out under section 228c of this title.

Amendment to subsec. (*l*)(10) effective only with respect to annuities accruing for months after June 1956 and lump-sum payments under subsec. (f) (1) in the case of deaths occurring after June 1956, see note set out under section 228c of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Section 2 of act Aug. 12, 1955, provided in part that amendment to subsec. (g)(2) by the section shall be effective with respect to annuities accruing in months following August, 1955.

Section 3 of act Aug. 12, 1955, provided in part that amendment to subsec. (*l*)(9) by the section shall be effective as of Jan. 1, 1955.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) (1) of Title 42, The Public Health and Welfare, the amendment to subsec. (k) made by section 106 (f) of the act should apply with respect to monthly benefits under title II of the Social Security Act, for months after June 1955, and with respect to lump-sum death payments under said title in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of the amendments shall be regarded as a recomputation for purposes of section 415(f) of Title 42, The Public Health and Welfare.

Section 401 (b) of act Sept. 1, 1954, provided in part that the amendments to subsec. (j) made by section 401(b) shall be applicable only in the case of applications for annuities under sections 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title filed after August 1954; except that no individual shall by reason of the amendment, be entitled to any annuity for any month prior to February 1954.

Section 406 of act Aug. 31, 1954, provided that: "The provisions of section 10 of this Act [amending subsec. (g) (2) of this section] shall be effective with respect to annuities accruing and annuities awarded on and after the first day after the enactment of this Act [Sept. 1, 1958]."

See, also, notes under section 228a of this title for effective dates of amendments to other provisions of this section.

EFFECTIVE DATE OF 1951 AMENDMENT

Effective date of amendments by act Oct. 30, 1951, see note under section 228a of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 of act June 23, 1948, provided in part that the amendment of this section by section 2 of act June 23, 1948, shall become effective as of Jan. 1, 1947.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendment to this section by act July 31, 1946, effective Jan. 1, 1947, see note under section 228a of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Section 12 of act Apr. 8, 1942, amended this section generally, "Effective as of June 24, 1937, except as to death benefits certified prior to the date of the enactment of this section (i. e., section 12 of act Apr. 8, 1942)".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

In subsec. (k) (2) of this section, "Federal Security Administrator" was substituted for "Social Security Board" under authority of 1946 Reorg. Plan No. 2, which abolished the Social Security Board and transferred its functions to the Federal Security Administrator. See note under section 902 of Title 42, the Public Health and Welfare.

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

TERMINATION DATE OF 1970 AMENDMENT

Amendment of section by Pub. L. 91-377 and provisions enacted as notes under this section by Pub. L. 91-377 to cease to apply as of the close of June 30, 1972, and annuities accruing for months after June 30, 1972, and pensions due in calendar months after June 30, 1972, to be computed as if such amendment and enactments had not been made, see section 6 of Pub. L. 91-377, set out as a note under section 228c of this title.

DETERMINATION OF AMOUNT OF SOCIAL SECURITY BENEFIT COMPUTED UNDER SOCIAL SECURITY AMENDMENTS OF 1967 AND INCREASE OF SUCH BENEFIT UNDER SOCIAL SECURITY AMENDMENTS OF 1969

Section 4(c) of Pub. L. 91-377 provided that: "For the purposes of this Act [amending this section and sections 228b, 228c, and 228o of this title, and enacting provisions set out as notes under this section and sections 228c and 228j of this title], the amount of a social security benefit computed under the Social Security Amendments of 1967 [Pub. L. 90-248] shall be deemed to be an amount equal to 87 per centum of such benefit computed under the Social Security Amendments of 1969 [Title X of Pub. L. 91-172], and the amount by which an individual's social security benefit was increased by reason of the Social Security Amendments of 1969 shall be deemed to be 13 per centum of such individual's social security benefit as computed under the Social Security Amendments of 1969."

INCREASES IN CERTAIN PENSIONS, JOINT AND SURVIVOR ANNUITIES, AND WIDOWS' AND WIDOWERS' INSURANCE ANNUITIES

Section 4(b)(1) of Pub. L. 91-377 provided that: "All pensions under section 6 of the Railroad Retirement Act of 1937 [section 228f of this title], and all annuities under the Railroad Retirement Act of 1935 shall be increased by 15 per centum; all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 [sections 228a to 228c-1, 228e to 228h, 228i to 228p, and 228r to 228s-2 of this title] and all widows' and widowers' insurance annuities which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937 [subsec. (a) or (b) of this section] are payable in the amount of the spouse's annuity to which the widow or widower was entitled shall, in cases where the employee died in or before the month in which the increases in annuities provided in section 1 [amending section 228c of this title] are effective, be increased by 15 per centum: *Provided, however,* That in cases where the individual entitled to such a pension or annuity is entitled also to a benefit under title II of the Social Security Act [section 401 et seq. of Title 42], the additional amount payable by reason of this subsection shall be reduced by the difference between the amount the individual is entitled to in such a benefit and the amount to which such individual would have been entitled had the Social Security Amendments of 1969 [Title X of Pub. L. 91-172] not been enacted: *And provided further,* That (i) the offset required by this subsection shall not operate to reduce the increase herein provided in an annuity under the Railroad Retirement Act of 1935 or a pension to an amount less than $10, and (ii) the offset required by this section shall not operate to reduce the increase herein provided in such a survivor annuity derived from a joint and survivor annuity and such a widow's or widower's annuity in an amount formerly received as a spouse's annuity to an amount less than $5. Joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act [section 228c (a) of this title] and reduced by the percentage determined in accordance with the election of such annuity."

Section 107 of Pub. L. 90-257 provided that: "All pensions under section 6 of the Railroad Retirement Act of 1937 [section 228f of this title]; and all annuities under the Railroad Retirement Act of 1935, are increased as provided in that part of section 3(a) (2) of the Railroad Retirement Act of 1937 [section 228c(a)(2) of this title] which precedes the provisos (deeming for this purpose (in the case of a pension) the monthly compensation to be the earnings which would be used to compute the basic amount if the pensioner were to die); joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act [section 228c(a) of this title] and reduced by the percentage determined in accordance with the election of such annuity; all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 [section 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title] in cases where the employee died before the month following the month in which the increases in annuities provided by section 104(a) of this Act [amending section 228c(a) of this title] are effective are increased by the same amount they would have been increased by this Act if the employee from whose joint and survivor annuity the survivor annuity is derived had been alive during all of the month in which the increases in annuities provided by section 104(a) of this Act [amending section 228c(a) of this title] are effective; and all widows' and widowers' insurance annuities which began to accrue before the month following the month in which the increases in annuities provided by section 104(a) of this Act [amending section 228c(a) of this title] are effective and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937 [section 228e (a) or (b) of this title]; are payable in the amount of the spouse's annuity to which the widow or widower was entitled are increased by the amount by which the spouse's annuity would have been increased by this Act had the individual from whom the annuity is derived been alive during all of the month in which the increases in annuities provided by section 104(a) of this Act

[amending section 228c(a) of this title] are effective: *Provided, however,* That in cases where the individual entitled to such a pension or annuity (other than an individual who has made a joint and survivor election) is entitled to a benefit under title II of the Social Security Act [section 401 et seq. of Title 42]; the additional amount payable by reason of this subsection shall be reduced by 11.5 per centum of such benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from legislation enacted after the Social Security Amendments of 1967 [Jan. 2, 1968]): *And provided further,* That (i) such an annuity under the Railroad Retirement Act of 1935, or a pension shall be increased by not less than $10, (ii) such a survivor annuity derived from a joint and survivor annuity shall be increased by not less than $5, and (iii) such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall be increased by not less than $5, but not to an amount above the maximum of the spouse's annuity payable in the month in which the increases in annuities provided by section 104(a) of this Act [amending section 228c(a) of this title] are effective."

Section 201(g) of Pub. L. 89-699 provided that: "All pensions under section 6 of the Railroad Retirement Act of 1937 [section 228f of this title], all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before the month following the month of enactment of this Act [October, 1966], all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this Act [October, 1966], and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937 [section 228e(a) or 228e(b) of this title], are payable in the amount of a spouse's annuity to which the widow or widower was entitled (except those of such insurance annuities which are based on a spouse's annuity which was payable in the maximum amount as determined in accordance with the provisions of the Social Security Act [sections 301 et seq. of Title 42], as amended by the Social Security Amendments of 1965 [Pub. L. 89-97], and all annuities under the Railroad Retirement Act of 1935 [sections 215—228 of this title], are increased by 7 per centum, but such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall not be increased to an amount above $74.80; *Provided, however,* That in cases where an individual is entitled to a benefit under title II of the Social Security Act [sections 401—427 of Title 42] the additional amount payable because of this subsection shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965 [Pub. L. 89-97]: *Provided further,* That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only the average monthly wage of $400 shall be used."

PRESUMPTION OF HIGHER INCREASES IN ANNUITIES UNDER PUB. L. 90-257

Section 108(b) of Pub. L. 90-257 provided that: "In cases where an annuity is payable in the month before the month with respect to which increases in benefits under title II of the Social Security Act [section 401 et seq. of Title 42] provided for by the Social Security Amendments of 1967 [Pub. L. 90-248] become effective in an amount determined under the Railroad Retirement Act [sections 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title], other than under the first proviso of section 3(e) of such Act [section 228c(e) of this title], the provisions of this Act shall be presumed, in the absence of claim to the contrary, to provide a higher amount of increase in the annuity than the provisions of the Social Security Amendments of 1967 would provide as an increase in the amount determined under the first proviso of section 3(e) of the Railroad Retirement Act [section 228c(e) of this title]."

RECERTIFICATIONS

All recertifications required by reason of the amendments made by Pub. L. 91-377 to be made by the Railroad Retirement Board without application therefor, see section 4(b)(2) of Pub. L. 91-377, set out as a note under section 228c of this title.

All recertifications required by reason of the amendments made by sections 101—108 of Pub. L. 90-257 to be made by the Railroad Retirement Board without an application therefor, see section 108(c) of Pub. L. 90-257, set out as a note under section 228c of this title.

Recertifications required by reason of the amendments made by Pub. L. 86-28 to be made by the Railroad Retirement Board without application therefor, see section 6(b) of Pub. L. 86-28, set out as a note under section 228b of this title.

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

CROSS REFERENCES

Joint and survivor annuities awarded before July 1, 1956, increased 10 percent, see section 228z of this title.

Twenty per cent. increase in annuities, see note set out under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c-1, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s-1, 228s-2, 228z, 228z-1, 352 of this title; title 5 section 8311; title 42 sections 402, 416, 426a, and 428.

§ 228f. Pensions to individuals on pension or gratuity rolls of employers.

(a) Beginning July 1, 1937, each individual then on the pension or gratuity roll of an employer by reason of his employment, who was on such roll on March 1, 1937, shall be paid on July 1, 1937, and on the 1st day of each calendar month thereafter during his life, a pension at the same rate as the pension or gratuity granted to him by the employer without diminution by reason of a general reduction or readjustment made subsequent to December 31, 1930, and applicable to pensioners of the employer: *Provided, however,* That no pension payable under this section shall exceed $120 monthly: *And provided further,* That no individual on the pension or gratuity roll of an employer not conducting the principal part of its business in the United States shall be paid a pension under this section unless, in the judgment of the Board, he was, on March 1, 1937, carried on the pension or gratuity roll as a United States pensioner.

(b) No individual covered by this section who was on July 1, 1937, eligible for an annuity under sections 228a to 228c-1, 228e to 228h and 228i to 228s-2 of this title or the Railroad Retirement Act of 1935, based in whole or in part on service rendered prior to January 1, 1937, shall receive a pension payment under this section subsequent to the payment due on October 1, 1937, or due on the 1st day of the month in which the application for an annuity of such individual has been awarded and certified by the Board, whichever of the two dates is earlier. The annuity claims of such individuals who receive pension payments under this section shall be adjudicated in the same manner and with the same effect as if no pension payments had been made: *Provided, however,* That no such individual shall be entitled to receive both a pension under this section and an annuity under sections 228a to 228c-1, 228e to 228h and 228i to 228s-2 of this title or the Railroad Retirement Act of 1935, and in the event pension

payments have been made to any such individual in any month in which such individual is entitled to an annuity under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, the difference between the amounts paid as pensions and the amounts due as annuities shall be adjusted in accordance with such rules and regulations as the Board may deem just and reasonable.

(c) The pension paid under this section shall not be considered to be in substitution for that part of the pension or gratuity from the employer which is in excess of a pension or gratuity at the rate of $120 a month. (Aug. 29, 1935, ch. 812, § 6, 49 Stat. 970; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 312.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

APPLICATION TO PERSONS BECOMING EMPLOYEES UNDER 1946 AMENDMENTS

Section 409 of act July 31, 1946, ch. 709, 60 Stat. 743, provided: "In the application of section 6 of the Railroad Retirement Act of 1937 [this section] with respect to persons who were not employers before the enactment of section 1 of this Act [amending sections 228a (c) and 351(e) of this title and section 1532(d) of Title 26, I.R.C. 1939], the dates January 1, 1946, and January 1, 1947, shall be substituted for March 1, 1937, and July 1, 1937, respectively."

CROSS REFERENCES

Pensions under this section increased 10 percent, see section 228z of this title.

Twenty per cent increase in pensions, see note set out under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title; title 26 section 3231.

§ 228g. Additional pensions or gratuities by employers.

Nothing in sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities or pensions paid to such employees under such sections nor shall such sections be taken as terminating any trust heretofore created for the payment of such pensions or gratuities. (Aug. 29, 1935, ch. 812, § 7, 49 Stat. 971; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 313.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

CROSS REFERENCES

Twenty per cent increase in pensions, see note set out under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228h. Returns of compensation; conclusiveness.

Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall be taken as conclusive that no compensation was earned by such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last date on which return of the compensation was required to be made. (Aug. 29, 1935, ch. 812, § 8, 49 Stat. 972; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 313; July 31, 1946, ch. 709, § 214, 60 Stat. 735; Oct. 30, 1966, Pub. L. 89–700, title I, § 106, 80 Stat. 1085.)

AMENDMENTS

1966—Pub. L. 89–700 eliminated provisions which required the return to be under oath, and substituted "claimed to have been paid" for "claimed to will have been paid."

1946—Act July 31, 1946, changed references to months to refer to periods and references to compensation earned by an employee to refer to compensation paid to an employee and gave effect to the Board's records of returns rather than to the original returns themselves.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

RECORDS OF SERVICE AND COMPENSATION PRIOR TO JANUARY 1, 1937

Joint Res. Oct. 9, 1940, ch. 797, 54 Stat. 1088, provided for the collection and recordation of records of service and compensation prior to Jan. 1, 1937, in order that the Board might have a complete record of all employees, and appropriated $9,000,000 to be available until June 30, 1943, to carry out these provisions. Joint Res. June 28, 1944, ch. 305, 58 Stat. 623, extended the period for acquiring records of service and compensation from June 30, 1943, to June 30, 1945, and provided that any unobligated funds remaining should revert to the railroad retirement account.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228h–1. Records of service and compensation prior to January 1, 1937.

CODIFICATION

Section, Joint Res. Oct. 9, 1940, ch. 797, § 4, 54 Stat. 1089, is contained in note following section 228h of this title.

§ 228i. Erroneous payments; adjustment; recovery; liability of officers.

(a) If the Board finds that at any time more than the correct amount of annuities, pensions, or death benefits has been paid to any individual under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935 or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments

in subsequent payments to which such individual or, on the basis of the same compensation, any other individual, is entitled under any Act administered by the Board may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under any Act administered by the Board, to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

(b) Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities, pensions, or death benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

(c) There shall be no recovery in any case in which more than the correct amount of annuities, pensions, or death benefits under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935 has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of the sections or would be against equity or good conscience.

(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section. (Aug. 29, 1935, ch. 812, § 9, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 314; Oct. 10, 1940, ch. 842, § 26, 54 Stat. 1100; Oct. 30, 1966, Pub. L. 89–700, title I, § 107, 80 Stat. 1085.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in subsecs. (a) and (c), was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–700 inserted words "or, on the basis of the same compensation, any other individual," preceding "is entitled under this Act", and substituted "If the individual to whom more than the correct amount has been paid dies" for "If such individual dies."

1940—Act Oct. 10, 1940, amended section generally and added subsecs. (c) and (d).

EFFECTIVE DATE OF 1940 AMENDMENTS

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228j. Railroad Retirement Board.

(a) Establishment; appointment.

There is established as an independent agency in the executive branch of the Government a Railroad Retirement Board, to be composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and the terms of office of the members first taking office after the enactment date shall expire, as designated by the President, one at the end of two years, one at the end of three years, and one at the end of four years after the enactment date. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of carriers, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and carriers concerned. One member, who shall be the chairman of the Board, shall be appointed initially for a term of two years without recommendation by either carriers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum, for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

(b) Duties.

1. The Board shall have and exercise all the duties and powers necessary to administer sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title and the Railroad Retirement Act of 1935. The Board shall take such steps as may be necessary to enforce such sections and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to pensions, annuities, or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

2. If the Board finds that an applicant is entitled to an annuity under the provisions of sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935 then the Board shall make an award fixing the amount of the annuity and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied.

3. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Fiscal Service of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

4. The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of such sections, with power as a Board or through any member or designated subordinate thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. All rules, regulations, or decisions of the Board shall require the approval of at least two members except as provided in subdivision 5 of this subsection and they shall be entered upon the records of the Board, which shall be a public record. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of such sections. Subject to the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account. The Board shall have power to require all employers and employees and any other officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of such sections. The several district courts of the United States shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the United States District Court for the District of Columbia in such suits may run and be served anywhere in the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

5. The Board is authorized to delegate to any of its employees the power to make decisions on applications for annuities or death benefits in accordance with rules and regulations prescribed by the Board: *Provided, however,* That any person aggrieved by a decision so made shall have the right to appeal to the Board.

6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title such of the powers, duties, and remedies provided in subsections (d), (m), and (n) of section 362 of this title as are not inconsistent with the express provisions of sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title. (Aug. 29, 1935, ch. 812, § 10, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 314; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; June 25, 1948, ch. 646, §§ 1, 32 (b), 62 Stat. 875, 895, 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 12, 1955, ch. 869, § 5, 69 Stat. 716; Sept. 6, 1958, Pub. L. 85–927, pt. I. § 3, 72 Stat. 1781; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 660; Oct. 30, 1966, Pub. L. 89–700, title I, § 108, 80 Stat. 1085; Feb. 15, 1968, Pub. L. 90–257, title I, § 106, 82 Stat. 21.)

References In Text

The Railroad Retirement Act of 1935, referred to in subsec. (b) subd. 1 and 2, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

The civil service laws, referred to in subsec. (b) 4, are classified generally to Title 5, Government Organization and Employees.

Amendments

1968—Subsec. (a). Pub. L. 90–257 substituted provisions that a member shall continue to serve upon expiration of his term of office until his successor is appointed and shall have qualified for provisions setting out the salary of members, allowing for travel and subsistence expenses, and per diem.

1966—Subsec. (b)(4). Pub. L. 89–700 empowered the Board to furnish information from records and data upon payment of the cost incurred by reason thereof, and required amounts received therefor to be credited to the Railroad Retirement Account.

Subsec. (b)(6). Pub. L. 89–700 added subsec. (b)(6).

Subsec. (b)(4). Pub. L. 89–554 repealed provisions which authorized the Board to place certain positions in grades GS–16, GS–17 and GS–18 of the General Schedule of the Classification Act of 1949.

1958—Subsec. (b)4. Pub. L. 85–927, authorized Board to place 4 positions in grade GS–16, 4 positions in grade GS–17, and one position in grade GS–18 of General Schedule established by Classification Act of 1949.

1955—Subsec. (b). Act Aug. 12, 1955, specifically provided for employees of the Railroad Retirement Board to be in and under the competitive civil service.

1949—Subsec. (a). Act Oct. 14, 1949, increased members' compensation from $10,000 to $15,000 per annum.

Effective Date of 1968 Amendment

Amendment of subsec. (a) of this section by section 106 of Pub. L. 90–257 effective on February 15, 1968, see section 108(a) of Pub. L. 90–257, set out as a note under section 228a of this title.

Effective Date of 1958 Amendment

Amendment of subsec. (b)4 effective Sept. 6, 1958, see section 5 (f) of Pub. L. 85–927, set out as note under section 228c of this title.

Change of Name

Subsec. (b) 4 amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949 which substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia".

Repeals

Act Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, which was formerly set out in the credit to this section, was repealed by Pub. L. 89–554, § 8(a), Sept 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Fiscal Service of the Treasury Department, referred to in this section, is an agency of the Treasury Department.

"Fiscal Service", as used in subsec. (b) (3), originally read "Division of Disbursements". 1940 Reorg. Plan No. III, consolidated the Division of Disbursement and certain other offices and agencies and their functions into Fiscal Service of Treasury Department.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Railroad Retirement Board, see Parts 1, 24, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

RECERTIFICATIONS

All recertifications required by reason of the amendments made by sections 101–108 of Pub. L. 90–257 to be made by the Railroad Retirement Board without an application therefor, see section 108(c) of Pub. L. 90–257, set out as a note under section 228c of this title.

COMMISSION ON RAILROAD RETIREMENT

Pub. L. 91–377, § 7, Aug. 12, 1970, 84 Stat. 792, provided that:

"(a)(1) There is hereby established a Commission on Railroad Retirement (hereinafter in this section referred to as the 'Commission') which shall be composed as follows:

"(A) Three members shall be appointed by the President in the same manner as provided by section 10(a) of the Railroad Retirement Act of 1937 [subsec. (a) of this section] for the appointment of members of the Railroad Retirement Board: *Provided, however,* That such appointments to the Commission shall not be by and with the advice and consent of the Senate;

"(B) One public member shall be appointed by the Speaker of the House of Representatives, after consultation with the Committee on Interstate and Foreign Commerce of the House of Representatives;

"(C) One public member shall be appointed by the President pro tempore of the Senate, after consultation with the Senate Committee on Labor and Public Welfare.

"(2) The President shall designate one member of the Commission to serve as Chairman thereof and one member of the Commission to serve as Vice Chairman thereof.

"(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(b) Members of the Commission shall each receive a per diem rate equivalent to that authorized for GS–18 by section 5332 of title 5, United States Code, for days when engaged in the actual performance of duties vested in the Commission, and shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Commission shall conduct a study of the railroad retirement system and its financing for the purpose of recommending to the Congress on or before July 1, 1971, changes in such system to provide adequate levels of benefits thereunder on an actuarially sound basis.

"(2) Such study shall take into account—

"(A) the necessity of providing benefit increases in such system commensurate with past and future benefit increases under title II of the Social Security Act [section 401 et seq. of Title 42, The Public Health and Welfare];

"(B) the necessity of revising benefits under the railroad retirement system to meet increases in the cost of living;

"(C) the question of the adequacy of levels of benefits for the various classes of beneficiaries covered under such system;

"(D) the possibility of restructuring benefits under title II of the Social Security Act and under the railroad retirement system so as to provide coverage under such title of various classes of beneficiaries presently covered under the railroad retirement system;

"(E) the necessary changes to provide for a continuation of the increased level of benefits provided under the amendments made by the first four sections of this Act [amending sections 228b, 228c and 228e of this title, and enacting provisions set out as notes under sections 228c and 228e of this title];

"(F) the possibility of changes in the financing system used to fund railroad retirement benefits including, without limitation, adjustment of the rate of tax, adjustment of the tax base, the use of general revenue financing, and revision of the investment policy of the railroad retirement fund;

"(G) the relationship between social security and railroad retirement in the areas of benefits, tax rates, and tax base including, without limitation, the desirability and feasibility of a merger of the two systems; and

"(H) such other matters relating to the railroad retirement system as the Commission considers necessary.

"(d)(1) The Commission shall appoint an Executive Director and such other personnel as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service [section 3301 et seq. of Title 5] and shall fix the compensation of such personnel without regard to the provisions of chapter 51 and subtitle III [subchapter III] of chapter 53 of such title relating to classification and General Schedule pay rates, except that no personnel so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

"(2)(A) The Executive Director, with the approval of the Commission, is authorized to obtain services of experts and consultants on a temporary or intermittent basis in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS–18 by section 5332 of such title.

"(B) The Commission shall employ the services of an actuarial consultant holding membership in the American Academy of Actuaries and qualified in the evaluation of pension plans. Such consultant may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(e) The Railroad Retirement Board and any other department, agency, or instrumentality of the Federal Government is authorized to cooperate with and assist the Commission, at its request, in carrying out its duties by furnishing services, information, data, or other material which the Commission feels will be helpful in carrying out its duties.

"(f) Funds appropriated to the President shall be available to defray the expenses of the Commission, other than expenses incurred pursuant to subparagraph (e) of this section.

"(g) The Commission shall, not later than July 1, 1971, submit to the President and the Congress a full and complete report of the study authorized by this section together with its recommendations for changes in the railroad retirement system designed to provide adequate levels of benefits thereunder on an actuarially sound basis. The Commission shall cease to exist sixty days after the date of the submission of such report."

COMPENSATION OF MEMBERS OF RAILROAD RETIREMENT BOARD

Compensation of members, see section 5315 of Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1, 362 of this title.

§ 228k. Court jurisdiction.

Decisions of the Board determining the rights or liabilities of any person under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act except that the time within which proceedings for the review of a decision with respect to an annuity, pension, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant. (Aug. 29, 1935, ch. 812, § 11, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 315; July 31, 1946, ch. 709, § 215, 60 Stat. 735.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in the text, is classified to chapter 11 of this title.

AMENDMENTS

1946—Act July 31, 1946, made the judicial review provisions of the Railroad Unemployment Insurance Act applicable to cases under the Railroad Retirement Act of 1937.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECT OF 1946 ACT

Effect of 1946 amendment on existing annuities and pensions, see note under section 228a of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Process, see rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228*l*. Assignability; exemption from levy.

Notwithstanding any other law of the United States, or of any State, Territory, or of the District of Columbia, no annuity or pension payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated. (Aug. 29, 1935, ch. 812, § 12, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 316; Aug. 12, 1955, ch. 869, § 4, 69 Stat. 716.)

AMENDMENTS

1955—Act Aug. 12, 1955, specified that exemption applies to the laws of the several States, the District of Columbia, and the Territories.

EFFECTIVE DATE OF 1955 AMENDMENT

Section 4 of act Aug. 12, 1955, provided in part that amendment to section by the act shall be effective as of the date of its "original enactment" [Aug. 29, 1935].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228m. Penalties.

(a) Any officer or agent of an employer, as the word "employer" is defined in section 228p of this title, or any employee acting in his own behalf, or any individual whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required, in accordance with the provisions of section 228j (b) 4 of this title, by the Board in the administration of sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of such sections, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such sections, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

(b) All fines and penalties imposed by a court pursuant to sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account. (Aug. 29, 1935, ch. 812, § 13, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 316; Sept. 6, 1958, Pub. L. 85–927, pt. I, § 4, 72 Stat. 1781.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

AMENDMENTS

1958—Pub. L. 85–927 designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1958 AMENDMENT

Amendments of section by Pub. L. 85–927 effective with respect to fines and penalties imposed after Sept. 6, 1958, except amendment adding subsec. (b) of this section, which is effective with respect to offenses committed on or after September 6, 1958, see section 5 (g) of Pub. L. 85–927, set out as a note under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228n. Separability of provisions.

If any provision of sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935, or the application thereof to any person or circumstance, should be held invalid, the remainder of such sections, or the application of such provision to other persons or circumstances, shall not be affected thereby. (Aug. 29, 1935, ch. 812, § 14, 49 Stat. 973; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 316.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228o. Railroad Retirement Account.

(a) Establishment; appropriation; budget estimate.

There is created an account in the Treasury of the United States to be known as the Railroad Retirement Account. There is authorized to be appropriated to the account for each fiscal year, beginning with the fiscal year ending June 30, 1937, as an annual premium an amount sufficient, with a reasonable margin for contingencies, to provide for the payment of all annuities, pensions, and death benefits in accordance with the provisions of sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title and the Railroad Retirement Act of 1935. The Railroad Retirement Board shall submit annually to the Bureau of the Budget an estimate of the appropriation to be made to the account.

(b) Railroad Retirement Supplement Account; appropriations.

There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 228c(j) of this title, and for expenses necessary for the Board in the administration of such section 228c(j) as may be specifically authorized annually in Appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year thereafter, under sections 3211(b) and 3221(c) of Title 26.

(c) Investment in Government obligations.

At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credit to the Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as "Accounts" or "Railroad Retirement Accounts") as, in the judgment of the Board, is not immediately required for the payment of annuities, pensions, and death benefits. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price; or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Accounts. Such obligations issued for purchase by the Accounts shall have maturities fixed with due regard for the needs of the Accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall b the multiple of one-eighth of 1 per centum nearest such rate: *Provided,* That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. The Secretary of the Treasury may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principle and interest by the United States, on original issue or at the market price only if he determines that such purchases are in the public interest, provided that the investment yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. If it is in the interest of the Accounts so to do, the Secretary of the Treasury may sell and dispose of obligations in the Accounts and he may sell obligations acquired by the Accounts (other than special obligations issued exclusively to the Accounts) at the market price. Special obligations issued exclusively to the Accounts shall, at the request of the Board, be deemed at par plus accrued interest. All amounts credited to the Accounts shall be available for all purposes of the Accounts.

(d) Actuarial Advisory Committee; appointments; duties; compensation.

The Board is authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of carriers. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Accounts. The committee shall examine the actuarial reports and estimates made by the Railroad Retirement Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the committee of actuaries, exclusive of the member designated by the Secretary shall be fixed by the Board on a per-diem basis.

(e) Annual report.

The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement Accounts. At intervals not longer than three years the Board shall make an estimate of the liabilities created by sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title and the Railroad Retirement Act of 1935 and shall include such estimate in its annual report. Such report shall also contain an estimate of the reduction in liabilities under title II of the Social Security Act arising as a result of the maintenance of said sections. (Aug. 29, 1935, ch. 812, § 15, 49 Stat. 974; June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 316; Sept. 22, 1959, Pub. L. 86–346, title I, § 104(4), 73 Stat. 622; Oct. 5, 1963, Pub. L. 88–133, title I, § 7(a), 77 Stat. 220; Oct. 30, 1966, Pub. L. 89–699, title I, § 2, 80 Stat. 1074; Mar. 17, 1970, Pub. L. 91–215, § 3, 84 Stat. 70; Aug. 12, 1970, Pub. L. 91–377, § 5, 84 Stat. 792.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in subsecs. (a) and (e), was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

The Second Liberty Bond Act, referred to in subsec. (c) is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former sections 757c–1, and sections 757c–, 757–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Title II of the Social Security Act, referred to in subsec. (e), is title II of act Aug. 14, 1935, ch. 531, 49 Stat. 622 and is classified to section 401 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–215 removed the Railroad Retirement Board's authority to adjust supplemental annuities in such manner as to enable the Supplemental Account to make payments over the twelve months following October 30, 1970.

Subsec. (c). Pub. L. 91–377 substituted "all marketable interest-bearing notes" for "all marketable interest-bearing obligation".

1966—Subsec. (b). Pub. L. 89–699, § 2(a), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 89–699, § 2(b), redesignated subsec. (b) as (c), and substituted therein "Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as 'Accounts' or 'Railroad Retirement Accounts')" for "Account", and "Accounts" for "Account" wherever else appearing.

Subsec. (d). Pub. L. 89–699, § 2(b), redesignated subsec. (c) as (d), and substituted therein "Railroad Retirement Accounts" for "Railroad Retirement Account."

Subsec. (e). Pub. L. 89–699, § 2(b), redesignated subsec. (d) as (e), and substituted therein "Railroad Retirement Accounts" for "Railroad Retirement Account."

1963—Subsec. (a). Pub. L. 88–133 deleted the third sentence providing: "Such amount shall be based on such tables of mortality as the Railroad Retirement Board shall from time to time adopt, and on an interest rate of 3 per centum per annum compounded annually."

Subsec. (b). Pub. L. 88–133 deleted "in accordance with the provisions of sections 228a to 228c–1, 228e—228h, 228i—228p, and 228r to 228s–1 of this title and the Railroad Retirement Act of 1935" following "annuities, pensions, and death benefits" in the first sentence; substituted "for all purposes of the Account" for "for the payment of all annuities, pensions, and death benefits in accordance with the provisions of sections 228a to 228c–1, 228e—228h, 228i—228p, and 228r to 228s–1 of this title and the Railroad Retirement Act of 1935" in the last sentence; designated existing provisions as clauses (1), substituting therein "at the issue price" for "at par", and (2); provided for the fixation of maturities of the special obligations issued for purchase by the Account, with due regard for the needs of the Account, and at an interest rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eight of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate; and made the authority of the Secretary of the Treasury to sell and dispose of obligations in the Account permissive instead of mandatory.

1959—Subsec. (b). Pub. L. 86–346 which substituted "on original issue at the issue price" for "on original issue at par."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–377 effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970, see section 4(a) of Pub. L. 91–377, set out as a note under section 228c of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 88–133 effective on Oct. 5, 1963, see section 8 of Pub. L. 88–133, set out as a note under section 228c of this title.

TRANSFER OF FUNDS FOR PAYMENT OF SUPPLEMENTAL ANNUITIES

Section 6 of Pub. L. 91–215 provided that: "The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the supplemental annuities, provided for in section 3(j) of the Railroad Retirement Act of 1937 [section 228c(j) of this title], for the six months next following enactment of this Act [Mar. 17, 1970] and for administrative expenses necessary in the administration of such section 3(j) [section 228c(j) of this title] (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15(b) of such Act [subsec. (b) of this section], and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury, at any time before the expiration of one year following the enactment of this Act [Mar. 17, 1970], to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1970, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer."

Section 3(b) of Pub. L. 89–699 provided that: "The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the Supplemental annuities, provided for in section 3(j) of the Railroad Retirement Act of 1937 [section 228c(j) of this title], for the six months next following enactment of this Act [October 30, 1966], and for administrative expenses necessary in the administration of such section 3(j) [section 228c(j) of this title] (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15(b) of such Act [subsec. (b) of this section], and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury at any time before the expiration of one year following the enactment of this Act [October 30, 1966], to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1966, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer."

CONVERSION OF SPECIAL OBLIGATIONS IN RAILROAD RETIREMENT ACCOUNT ON OCT. 5, 1963; INTEREST RATE

Section 7(b) of Pub. L. 88–133 authorized the Secretary of the Treasury to retire the special obligations held by the Account on Oct. 5, 1963 and to issue in lieu thereof special obligations with an interest rate determined as provided for in subsec. (c) of this section [formerly subsec. (b) of this section], Pub. L. 88–133.

RECERTIFICATIONS

All recertifications required by reason of the amendments made by Pub. L. 91–377 to be made by the Railroad Retirement Board without application therefor, see section 4(b)(2) of Pub. L. 91–377, set out as a note under section 228c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title; title 26 section 3221.

§ 228p. Appropriation.

There is authorized to be appropriated from time to time such sums as may be necessary to provide for the expenses of the Board in administering the provisions of sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title and the Railroad Retirement Act of 1935. (Aug. 29, 1935, ch. 812, § 16, as added June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 317.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228q. Social Security.

The term "employment", as defined in section 410 of Title 42 shall not include service performed by an individual as an employee as defined in section 228a of this title. (Aug. 29, 1935, ch. 812, § 17, as added June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 317, and amended Oct. 30, 1951, ch. 632, § 24, 65 Stat. 690.)

AMENDMENTS

1951—Act Oct. 30, 1951, struck out "subsection (b) of" preceding "section" in two places.

EFFECTIVE DATE OF 1951 AMENDMENT

Effective date of amendments by act Oct. 30, 1951, see note under section 228a of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228r. Free transportation.

It shall not be unlawful for carriers by railroad subject to sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title to furnish free transportation to individuals receiving annuities or pensions under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title or the Railroad Retirement Act of 1935 in the same manner as such transportation is furnished to employees in their service. (Aug. 29, 1935, ch. 812, § 18, as added June 24, 1937, ch. 382, pt. I, § 1, 50 Stat. 318.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228s, 228s–1, 228s–2, 228z, 228z–1 of this title.

§ 228s. Incompetence.

(a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title or any other Act of Congress now or hereafter administered by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: *Provided, however,* That, regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit.

(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of this title or any other Act of Congress now or hereafter administered by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, but subject to to the provisions of the preceding subsection, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under said sections or any other Act of Congress now or hereafter administered by the Board. Any payment made pursuant to the provisions of this or the preceding subsection shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment. (Aug. 29, 1935, ch. 812, § 19, (a), (b), as added June 24, 1937, ch. 382, pt. I, § 1, as added Apr. 8, 1942, ch. 227, § 11, 56 Stat. 207, 208, and amended Oct. 30, 1966, Pub. L. 89–700, title I, § 109, 80 Stat. 1085.)

CODIFICATION

A subsec. (c) was included in act Aug. 29, 1935, § 19, as added by act Apr. 8, 1942. It is set out in note under this section relating to effective date.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–700, § 109(a) substituted "*Provided, however,* That, regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit" for "*Provided, however,* That the Board may, in its discretion, validly, recognize actions by, and conduct transactions with, others acting, prior to receipt of, or in the absence of, such written notice, in behalf of an individual found by the Board to be an incompetent or a minor, if the Board finds such actions or transactions to be in the best interests of such individual.

Subsec. (b). Pub. L. 89–700, § 109(b), inserted "but subject to the provisions of the preceding subsection," following "in the manner and to the extent prescribed by the Board,".

EFFECTIVE DATE

Section 19 (c) of act Aug. 29, 1935, as added by act Apr. 8, 1942, provided as follows: "This section shall be effective as of August 29, 1935."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c-1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s-1, 228s-2, 228z, 228z-1 of this title and in title 42 of section 426.

§ 228s-1. Waiver of annuities and pensions.

Any person awarded an annuity or pension under sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of this title may decline to accept all or any part of such annuity or pension by a waiver signed and filed with the Board. Such waiver may be revoked in writing at any time, but no payment of the annuity or pension waived shall be made covering the period during which such waiver was in effect. Such waiver shall have no effect on the amount of the spouse's annuity, or of a lump sum under section 228c(f)(2) of this title, which would otherwise be due, and it shall have no effect for purposes of the last sentence of section 228e(g)(1) of this title. (June 24, 1937, ch. 382, pt. I, § 20, as added Aug. 31, 1954, ch. 1164, pt. I, § 15, 68 Stat. 1040, and amended May 19, 1959, Pub. L. 86-28, pt. I, § 4, 73 Stat. 28; Aug. 29, 1959, Pub. L. 86-211, § 8(c), 73 Stat. 436; Oct. 30, 1966, Pub. L. 89-700, title I, § 110, 80 Stat. 1085.)

AMENDMENTS

1966—Pub. L. 89-700 eliminated the designation "(a)" which preceded "Any person."

1959—Subsec. (a). Pub. L. 86-28 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 86-211 repealed subsec. (b), which provided that pensions and annuities under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 shall not be considered income for the purposes of section 522 of Title 38.

Subsec. (b). Pub. L. 86-28 added subsec. (b).

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment of section by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as a note under section 521 of Title 38, Veterans' Benefits.

Amendment of section by Pub. L. 86-28 effective only with respect to pensions due in calendar months after the month next following May, 1959 and annuities accruing for months after May 1959, see section 6(a) of Pub. L. 86-28, set out as a note under section 228b of this title.

EFFECTIVE DATE

Section effective July 1, 1954, see notes under section 228a of this title.

RECERTIFICATIONS

Recertifications required by reason of the amendments made by Pub. L. 86-28 to be made by the Railroad Retirement Board without application therefor, see section 6(b) of Pub. L. 86-28, set out as a note under section 228b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c-1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o, 228p, 228r, 228s, 228s-2, 228z, 228z-1 of this title.

§ 228s-2. Hospital insurance benefits for the aged.

(a) Authority of Board to determine rights to payments; determination considered a decision with respect to an annuity.

For the purposes of this section, the Board shall have the same authority to determine the rights of individuals described in subsection (b) of this section to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, post-hospital extended care services, and post-hospital home health services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such section and such parts apply. For purposes of section 228k of this title, a determination with respect to the rights of an individual under this section shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(b) Certification as qualified railroad retirement beneficiary.

Except as otherwise provided in this section, every individual who—

(1) has attained age 65, and

(2)(A) is entitled to an annuity under sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of this title, or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse, had such spouse's husband or wife ceased compensated service, or (C) had been awarded a pension under section 228f of this title, or (D) bears a relationship to an employee which, by reason of section 228c(e) of this title has been, or would be, taken into account in calculating the amount of an annuity of such employee or his survivors,

shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

(c) Reciprocal exchange of information, records, and documents for administration of provisions.

The Board and the Secretary of Health, Education, and Welfare shall furnish each other with such information, records, and documents as may be considered necessary to the administration of this section or section 226, and part A of title XVIII, of the Social Security Act.

(d) Entitlement to annuity or pension under Railroad Retirement Act of 1937 as including entitlement under Railroad Retirement Act of 1935.

For purposes of this section (and sections 1840, 1843, and 1870 of the Social Security Act), entitlement to an annuity or pension under sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of this title shall be deemed to include entitlement under the Railroad Retirement Act of 1935.

(e) Beneficiary's rights to payments for services in Canada; administration of subsection in light of other provisions and certain references; payments from Railroad Retirement Account where amount exceeds amount payable under law in Canada; overpayment of annuity.

The rights of individuals described in subsection (b) of this section to have payment made on their behalf for the services referred to in subsection (a) of this section but provided in Canada shall be the same as those of individuals to whom section 226 and part A of title XVIII of the Social Security Act apply, and this subsection shall be administered by the Board as if the provisions of section 226 and part A of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health, Education, and Welfare were to the Board, as if references to the Federal Hospital Insurance Trust Fund were to the Railroad Retirement Account, as if references to the United States or a State included

Canada or a subdivision thereof, and as if the provisions of sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874(b), and 1875 of such title XVIII were not included in such title. The payments for services herein provided for in Canada shall be made from the Railroad Retirement Account (in accordance with, and subject to, the conditions applicable under section 228j(b) of this title in making payment of other benefits) to the hospital, extended care facility, or home health agency providing such services in Canada to individuals to whom subsection (b) of this section applies, but only to the extent that the amount of payments for services otherwise hereunder provided for an individual exceeds the amount payable for like services provided pursuant to the law in effect in the place in Canada where such services are furnished. For the purposes of section 228i of this title any overpayment under this subsection shall be treated as if it were an overpayment of an annuity. (Aug. 29, 1935, ch. 812, § 21, as added July 30, 1965, Pub. L. 89–97, title I, § 105(a)(1), 79 Stat. 335, and amended July 30, 1965, Pub. L. 89–97, title I, § 111(b)(1), 79 Stat. 340; Jan. 2, 1968, Pub. L. 90–248, title I, § 129(c)(13), 81 Stat. 849.)

REFERENCES IN TEXT

Section 226 of the Social Security Act, referred to in subsecs. (a), (b), (c), and (e), is classified to section 426 of Title 42, The Public Health and Welfare.

Part A of title XVIII of the Social Security Act, referred to in subsecs. (a), (c), and (e), is classified to sections 1395c—1395i of Title 42.

Part C of title XVIII of the Social Security Act, referred to in subsec. (a), is classified to sections 1395x—1395*ll* of Title 42.

Sections 1840, 1843, and 1870 of the Social Security Act, referred to in subsec. (d), are classified to sections 1395s, 1395v, and 1395gg of Title 42, respectively.

The Railroad Retirement Act of 1935, referred to in subsec (d), was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

Sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874(b), and 1875 of title XVIII of the Social Security Act, referred to in subsec. (e), are classified to sections 1395y(a)(4), 1395z, 1395aa, 1395dd, 1395ee, 1395ff, 1395kk(b), and 1395*ll* of Title 42, respectively.

Such title, referred to in subsec. (e), means subchapter XVIII of the Social Security Act which subchapter is classified to sections 1395—1395*ll* of Title 42.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248 eliminated provision authorizing the Board to determine right to payment for outpatient hospital diagnostic services.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248, set out as a note under section 1395d of Title 42.

EFFECTIVE DATE

Section 111(e) of Pub. L. 89–97 provided that:

"(1) The amendments made by the preceding provisions of this section [enacting this section and section 1395i–1 of Title 42, and amending section 228e of this title and sections 1401, 3101, 3111, 3201, 3211 and 3221 of Title 26, and section 1395kk of Title 42] shall apply to the calendar year 1966 or to any subsequent calendar year, but only if the requirement in paragraph (2) has been met with respect to such calendar year.

"(2) The requirement referred to in paragraph (1) shall be deemed to have been met with respect to any calendar year if, as of the October 1 immediately preceding such calendar year, the Railroad Retirement Tax Act [chapter 22 of Title 26] provides that the maximum amount of monthly compensation taxable under such Act during all months of such calendar year will be an amount equal to one-twelfth of the maximum wages which the Federal Insurance Contributions Act [chapter 21 of Title 26] provides may be counted for such calendar year."

HOSPITAL INSURANCE BENEFITS FOR THE AGED

Section 21 of Act Aug. 29, 1935, as added July 30, 1965, Pub. L. 89–97, title I, § 105(a)(1), 79 Stat. 335, provided that: "For the purposes of part A of title XVIII of the Social Security Act [sections 1395c—1395i of Title 42], in order to provide hospital insurance benefits for annuitants, pensioners, and certain other aged individuals, the Board shall, upon request of the Secretary of Health, Education, and Welfare, certify to the Secretary the name of any individual who has attained age 65 and who (1) is entitled to an annuity or pension under this act [sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title], (2) would be entitled to such an annuity had he (i) ceased compensated service and (in the case of a spouse) had such spouse's husband or wife ceased compensated service and (ii) applied for such annuity, or (3) bears a relationship to an employee which, by reason of section 3(e) of this Act [section 228c(e) of this title], has been, or would be, taken into account in calculating the amount of an annuity of such employee or his survivors. Such a certification shall include such additional information as may be necessary to carry out the provisions of part A of title XVIII of the Social Security Act, and shall become effective on the date of certification or on such earlier date not more than one year prior to the date of certification as the Board states that such individual first met the requirements for certification. The Board shall notify the Secretary of the date on which such individual no longer meets the requirements of this section."

ENTITLEMENT TO ANNUITY OR PENSION UNDER RAILROAD RETIREMENT ACT OF 1937 AS INCLUDING ENTITLEMENT UNDER RAILROAD RETIREMENT ACT OF 1935

Section 105(a)(2) of Pub. L. 89–97 provided that: "For purposes of section 21 of the Railroad Retirement Act of 1937 [set out as a note under this section] (and sections 1840, 1843, and 1870 of the Social Security Act [sections 1395s, 1395v and 1395gg of Title 42]), entitlement to an annuity or pension under the Railroad Retirement Act of 1937 shall be deemed to include entitlement under the Railroad Retirement Act of 1935."

RAILROAD RETIREMENT AND OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM: PRESERVATION OF RELATIONSHIP

Section 105(c) of Pub. L. 89–97 provided that: "For amendments preserving relationship between the railroad retirement and old-age, survivors, and disability insurance systems, see section 326 of this Act [amending sections 228(a) and 228e(*l*)(9) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228a, 228b, 228c, 228c–1, 228e, 228f, 228g, 228i, 228j, 228k, 228m, 228n, 228o 228p, 228r, 228s, 228s–1, 228z, 228z–1 of this title and in title 42 sections 426, 426a.

§ 228t. Applicability of 1951 amendments to prior annuities where service was less than ten years.

In the case of any retirement or survivor annuity awarded under the Railroad Retirement Acts prior to October 30, 1951, and currently payable, if such annuity was awarded to, or with respect to the death of, any individual who has completed less than ten years of service, then the amendments made by this Act shall apply with respect to such annuity as if such individual had met the requirement of ten years of service which is imposed as a condition to benefits under the Railroad Retirement Act of 1937, as amended by this Act. In addition, the spouse of any such individual shall not, during such individual's lifetime, be barred from a spouse's annuity under such Act by reason of the fact that such in-

dividual has completed less than ten years of service. (Oct. 30, 1951, ch. 632, § 25 (d), 65 Stat. 690.)

REFERENCES IN TEXT

The "Railroad Retirement Acts", referred to in the text, are the Railroad Retirement Act of 1935, and the Railroad Retirement Act of 1937. The former, as last amended by act Aug. 13, 1940, ch. 664, §§ 2, 3, 54 Stat. 785, is set out in note under former sections 215–228 of this title; and, as amended in its entirety by the Railroad Retirement Act of 1937, and as amended by later acts, including act Oct. 30, 1951, it is set out as sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title.

The "amendments made by this Act", referred to in the text, refer to the amendments made by act Oct. 30, 1951 to sections 228a (f), (g), 228b (a), (c), (e), (f), (g), 228c (a), (b), (e), (h), 228c–1 (k), 228e (a–f), (g) (2) (3), (i) (1) (ii), (j), (k) (1), (k) (2), (*l*) (1) (4) (6—10), and 228q of this title, in the manner described in notes under such sections 228a, 228b, 228c, 228c–1, 228e, and 228q. For effective dates of the 1951 amendments, see note under said section 228a.

The "Railroad Retirement Act of 1937", referred to in the text, which, as stated above, amended in its entirety the Railroad Retirement Act of 1935, is, as also stated above, classified to sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title, and "as amended by this Act", also referred to, means the amendments made thereto by act Oct. 30, 1951, which amendments were made to the sections of this title cited in the paragraph of this note immediately preceding this paragraph.

CODIFICATION

Section constitutes subsec. (d) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, and subsecs. (e)—(i) thereof are set out as sections 228u—228y, respectively, of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 288u. Determination of entitlement to survivor's annuity.

Where the parent of a deceased employee has, prior to October 30, 1951, been awarded a survivor annuity under the Railroad Retirement Acts which is currently payable, the entitlement of such parent to a survivor's annuity in accordance with the amendments made by this Act shall be determined without regard to whether or not such employee died leaving a "widow" or "widower", as defined in section 228e (*l*) of this title. (Oct. 30, 1951, ch. 632, § 25 (e), 65 Stat. 690.)

REFERENCES IN TEXT

For meaning of "Railroad Retirement Acts", referred to in the text, and of "amendments made by this Act [act of Oct. 30, 1951]", also referred to, see note under section 228t of this title.

CODIFICATION

Section constitutes subsec. (e) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, subsec. (d) thereof is set out as section 228t of this title, and subsecs. (f)—(i) thereof are set out as sections 228v—228y, respectively, of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 228v. Law governing awards of annuities; right of election; revocation; increase; date of commencement of accrual.

All joint and survivor annuities heretofore and hereafter awarded shall be governed by the law under which the election of the joint and survivor annuity was made, except that the individual who made the election shall have the right to revoke the same in such manner and form as the Board may prescribe.

An election shall be deemed to have been revoked if before or after October 30, 1951 the spouse for whom the election was made predeceased the individual who made the election. Upon revocation of the election, or death of the spouse, as herein provided, the individual's annuity shall be increased to the amount which would have been payable had no election been made; such increased annuity shall, subject to the provisions of section 228b (c) of this title, begin to accrue on the first of the calendar month following the calendar month in which the election was revoked or the spouse died but not before November 1, 1951. (Oct. 30, 1951, ch. 632, § 25 (f), 65 Stat. 691.)

CODIFICATION

Section constitutes subsec. (f) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, subsecs. (d) and (e) thereof are set out as sections 228t and 228u, respectively, of this title, and subsecs. (g)—(i) thereof are set out as sections 228w—228y, respectively, of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 228w. Increase in pensions due in months following November 30, 1951.

All pensions due in months following November 30, 1951, shall be increased by 15 per centum. (Oct. 30, 1951, ch. 632, § 25 (g), 65 Stat. 691.)

CODIFICATION

Section constitutes subsec. (g) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, subsecs. (d)—(f) thereof are set out as sections 228t—228v, respectively, of this title, and subsecs. (h) and (i) thereof are set out as sections 228x and 228y, respectively, of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 228x. Applicability of increase in retirement annuities to awards under Railroad Retirement Act of 1935; scope of term "spouse".

The increase in retirement annuities provided by this Act shall apply also to annuities heretofore awarded under the Railroad Retirement Act of 1935, and the term "spouse" as used in this Act shall include the wife or husband of an employee who has been awarded an annuity under the Railroad Retirement Act of 1935. The provisions of this Act shall not apply to annuities heretofore paid under the Railroad Retirement Acts in lump sums equal to their commuted values. (Oct. 30, 1951, ch. 632, § 25 (h), 65 Stat. 691.)

REFERENCES IN TEXT

Words "this Act", referred to in several places in the text, refer to act Oct. 30, 1951. The act amended sections 228a (f), (g), 228b (a), (c), (e), (f), (g), 228c (a), (b), (e), (h), 228c–1 (k), 228e (a)—(f), (g) (2) (3), (i) (1) (ii), (j), (k) (1) (2), (*l*) (1) (4) (6–10), and 228q of this title, in the manner described in notes under sections 228a, 228b, 228c, 228c–1, 228e, and 228q, enacted sections 228t—228y of this title, and amended sections 351 (k) and 354 (a–1) of this title, in the manner described in

notes under sections 351 and 354. See, particularly, notes under sections 228a and 228t.

For explanation of "Railroad Retirement Act of 1935", and "Railroad Retirement Acts", also referred to in the text, see note under section 228t of this title.

CODIFICATION

Section constitutes subsec. (h) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, subsecs. (d)—(g) thereof are set out as sections 228t—228w, respectively, of this title, and subsec. (i) thereof is set out as section 228y of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 228y. Amount of annuity of spouse of individual in receipt of reduced annuity under provisions prior to 1946 amendment.

The annuity of the spouse of an employee who has been awarded an annuity under section 3 (b) of the Railroad Retirement Act of 1935 or under section 228b (a) (b) of this title prior to its amendment by Public Law 572, Seventy-ninth Congress, shall, subject to the provisions of this Act, be one-half the annuity such employee would have received had the annuity been awarded at age sixty-five. (Oct. 30, 1951, ch. 632, § 25 (i), 65 Stat. 691.)

REFERENCES IN TEXT

"Section 3 (b) of the Railroad Retirement Act of 1935 [former section 217 (b) of this title]", referred to in the text, as it read prior to amendment by the Railroad Retirement Act of 1937, is set out in note under former sections 215–228 of this title. As amended by the 1937 act, and later acts, it is set out as section 228c of this title. See notes under sections 228a and 228t of this title.

"Public Law 572, Seventy-ninth Congress", referred to in the text, is act July 31, 1946, ch. 709, 60 Stat. 722, sections 205 and 206 of which amended section 228b (a), (b) of this title in the manner described in note under section 228b. See, also, notes under sections 228a and 228t of this title.

For distribution of "this Act", referred to in the text (meaning act Oct. 30, 1951), see note under section 228x of this title.

CODIFICATION

Section constitutes subsec. (i) of act Oct. 30, 1951, § 25. Subsecs. (a)—(c) and (j) of section 25 are set out in notes under section 228a of this title, and subsecs. (d)—(h) thereof are set out as sections 228t—228x, respectively, of this title.

RECERTIFICATIONS BY BOARD UNDER ACT OCT. 30, 1951

Recertifications by Railroad Retirement Board under act Oct. 30, 1951, see note under section 228a of this title.

§ 228z. Increase in pensions, joint and survivor annuities awarded before July 1, 1956, and annuities under 1935 Act.

All pensions under section 228f of this title, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title awarded before July 1, 1956, and all annuities under the Railroad Retirement Act of 1935 are increased by 10 per centum. (Aug. 7, 1956, ch. 1022, § 3, 70 Stat. 1076.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under the former sections.

EFFECTIVE DATE

Section effective only with respect to pensions due in calendar months after July 1956 and annuities accruing for months after June 1956, see note set out under section 228c of this title.

§ 228z–1. Additional increase in pensions, joint and survivor annuities, widows' and widowers' insurance annuities, and annuities under 1935 Act.

All pensions under section 228f of this title, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under sections 228a to 228c–1, 228e to 228h and 228i to 228s–2 of this title, awarded before the month next following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 228e(a) or section 228e(b) of this title, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum. (Pub. L. 86–28, pt. I, § 5, May 19, 1959, 73 Stat. 28.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in the text, was formerly classified to sections 215 to 228 of this title, and is set out as a note under said former sections.

The month of enactment of this Act, referred to in the text, means the month of enactment of Pub. L. 86–28, which was approved on May 19, 1959.

EFFECTIVE DATE

Section effective only with respect to pensions due in calendar months after the month next following May 1959 and annuities accruing for months after May, 1959, see section 6(a) of Pub. L. 86–28, set out as a note under section 228b of this title.

RECERTIFICATIONS

Recertifications required by reason of the amendments made by Pub. L. 86–28 to be made by the Railroad Retirement Board without application therefor, see section 6(b) of Pub. L. 86–28, set out as a note under section 228b of this title.

Chapter 10.—TAX ON CARRIERS AND EMPLOYEES

CARRIERS TAXING ACT OF 1935

§§ 241 to 253. Repealed. June 29, 1937, ch. 405, § 11, 50 Stat. 440.

Sections, act Aug. 29, 1935, 3 p. m., ch. 813, §§ 1—13, 49 Stat. 974—977; Feb. 27, 1937, 12 p. m., ch. 19, 50 Stat. 23, constituted the Carriers Taxing Act of 1935.

CARRIERS TAXING ACT OF 1937

§§ 261 to 273. Omitted.

CODIFICATION

Sections, act June 29, 1937, ch. 405, §§ 1–13, 50 Stat. 435—440, related to tax on carriers and employees. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939 to the extent that they related exclusively to internal revenue laws, were repealed. See enacting sections preceding section 1 of Title 26, I. R. C. 1939, 53 Stat. 1. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The omitted sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Omitted sections	I. R. C. 1939	I. R. C. 1954
261 (as amended Aug. 13, 1940, ch. 664, §§ 1, 3, 54 Stat. 785, 786).	1532	3231, 7701.
262	1500, 1501	3201, 3202, 6205 (a) (1), 6413 (a) (1).
263	1520, 1521	3221, 6205 (a) (1), 6413 (a) (1).
264	1502, 1522	6205 (b), 6413 (b).
265	1510, 1511	3211, 3212.
266	1503, 1512	3502.
267	1422, 1530, 1531, 1536.	3501, 3503, 6011 (a), 6071, 6081 (a), 6091 (a), 6151 (a), 6313, 6601 (a), (f) (1).
268	1534	3232.
269	1426 (b) (9) (10), 1428.	3121 (b) (9) (10), 3124.
270	3802	7511.
271		
272	1535	7805 (a), (c).
273		

Section 271 related to the repeal of the Carriers Taxing Act of 1935, former sections 241—253 of this title, and the substitution in lieu thereof of the Carriers Taxing Act of 1937, former sections 261—273 of this title.

Section 273 provided as short title for former sections 261—273 of this title "Carriers Taxing Act of 1937".

COMPENSATION FROM LOCAL DIVISION OF RAILWAY-LABOR-ORGANIZATION EMPLOYER TAX-UNPAID BEFORE JULY 1, 1940

Act Oct. 10, 1940, ch. 842, § 27 (b), 54 Stat. 1101, eff. as of date provided in note under section 351 of this title, provided as follows: "(b) For the purpose of determining the amount of taxes under sections 2 (a) and 3 (a) of the Carriers Taxing Act of 1937 (former sections 262 (a) and 263 (a) of this title), compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and the taxes thereon under such sections are not paid before July 1, 1940."

Chapter 11.—RAILROAD UNEMPLOYMENT INSURANCE

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355a. Acceptance of claims for benefits.
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(b) Payment of benefits or refunds.
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(e) Certification of claims; authorization of employee to make payment; bond.
(f) Cooperation with other agencies administering unemployment, sickness, or maternity compensation laws; agreements.
(g) Benefits also subject to a State law; mutual reimbursement.
(h) Assistance from employers and labor organizations; compensation.
(i) Free employment offices; registration of unemployed; statements of sickness; reemployment.
(j) Advisory councils; members' remuneration.
(k) Reduction of unemployment; training and reemployment of unemployed employees, etc.
(l) Necessary and incidental powers; employees of Board, employment, remuneration, civil-service laws, registration of unemployed, and detail.
(m) Delegation of powers.
(n) Sickness benefits; examinations; information and reports; contracts and expenses for examinations.
(o) Liability of third party for sickness; reimbursement of Board.
(p) Disqualification to execute statements of sickness or receive fees.
(q) Investigations and research with respect to accidents and disabilities.
363. Exclusiveness of provisions; transfers from State unemployment compensation accounts to railroad unemployment insurance account.
(a) Effect on State unemployment compensation laws.

Sec.
363. Exclusiveness of provisions.—Continued
(b) Determination of "preliminary amount" for States.
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(d) Transfers and withdrawals, effect upon Social Security Act.
(e) Payments to railroad unemployment insurance account; transfers from unemployment trust fund of States.
363a. Refunds of State unemployment contributions by employees; amount; application period; definitions.
364. District of Columbia account, transfer of funds to railroad unemployment insurance account.
365. Transitional provisions.
366. Separability of provisions.
366a. Effect of Internal Revenue Code.
367. Short title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 section 5108.

§ 351. Definitions.

For the purposes of this chapter, except when used in amending the provisions of other Acts—

(a) The term "employer" means any carrier (as defined in subsection (b) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inpection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to chapter 1 of Title 49.

(c) The term "company" includes corporations, associations, and joint-stock companies.

(d) The term "employee" (except when used in phrases establishing a different meaning) means any individual who is or has been (i) in the service of one or more employers for compensation, or (ii) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) of this section only if he was in the service of a carrier on or after August 29, 1935. The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(e) An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the

principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof.

(f) The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term employer as defined in subsection (a) of this section who before or after August 29, 1935, was in the service of an employer as defined in said subsection and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(g) The term "employment" means service performed as an employee. For the purposes of determining eligibility for and the amount of benefits and the amount of contributions due pursuant to this chapter, employment after June 30, 1940, in the service of a local lodge or division of a railway-labor-organization employer or as an employee representative shall be disregarded. For purposes of determining eligibility for and the amount of benefits and the amount of contributions due pursuant to this chapter, employment as a delegate to a national or international convention of a railway labor organization defined as an "employer", in subsection (a) of this section, shall be disregarded if the individual having such employment has not previously rendered service, other than as such a delegate, which may be included in his "years of service" for purposes of the Railroad Retirement Act.

(h) The term "registration period" means, with respect to any employee, the period which begins with the first day for which such employee registers at an employment office in accordance with such regulations as the Board may prescribe, and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office; and thereafter each period which begins with the first day for which he next registers at an employment office after the end of his last preceding registration period which began with a day for which he registered at an employment office and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office. The term "registration period" means also, with respect to any employee, the period which begins with the first day with respect to which a statement of sickness is filed in his behalf in accordance with such regulations as the Board may prescribe, or the first such day after the end of a registration period which will have begun with a day with respect to which a statement of sickness was filed in his behalf, and ends with the thirteenth day thereafter.

(i) The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative: *Provided, however,* That in computing the compensation paid to any employee, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before the calendar month next following the month in which this chapter was amended in 1959, or in excess of $400 for any month after the month in which this chapter was so amended, shall be recognized. Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 1101(a)(15) of Title 8 and which is performed to carry out the purpose specified in subparagraph (F) or (J) as the case may be. A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 356 of this title, the period during which such compensation will have been earned.

(j) The term "remuneration" means pay for services for hire, including pay for time lost, and tips, but pay for time lost shall be deemed earned on the

day on which such time is lost. The term "remuneration" includes also earned income other than for services for hire if the accrual thereof in whole or in part is ascertainable with respect to a particular day or particular days. The term "remuneration" does not include (i) the voluntary payment by another, without deduction from the pay of an employee, of any tax or contribution now or hereafter imposed with respect to the remuneration of such employee, or (ii) any money payments received pursuant to any nongovernmental plan for unemployment insurance, maternity insurance, or sickness insurance.

(k) Subject to the provisions of section 354 of this title (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; and (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, pschological, or nervous injury, illness, sickness, or disease he is not able to work, or, with respect to a female employee, a calendar day on which, because of pregnancy, miscarriage, or the birth of a child, (i) she is unable to work or (ii) working would be injurious to her health, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however,* That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than $1,000: *Provided further,* That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the first of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the second of such calendar days: *Provided further,* That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of three dollars a day for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

(*l*) Repealed. Pub. L. 90–257, title II, § 201(b), Feb. 15, 1968, 82 Stat. 23.

(*l*) (1) The term "benefits" (except in phrases clearly designating other payments) means the money payments payable to an employee as provided in this chapter, with respect to his unemployment or sickness.

(*l*) (2) The term "statement of sickness" means a statement with respect to days of sickness of an employee, executed in such manner and form by an individual duly authorized pursuant to section 362 (i) of this title to execute such statements, and filed as the Board may prescribe by regulations.

(m) The term "benefit year" means the twelve-month period beginning July 1 of any year and ending June 30 of the next year, except that a registration period beginning in June and ending in July shall be deemed to be in the benefit year ending in such month of June.

(n) The term "base year" means the completed calendar year immediately preceding the beginning of the benefit year.

(*o*) The term "employment office" means a free employment office operated by the Board, or designated as such by the Board pursuant to section 362 (i) of this title.

(p) The term "account" means the railroad unemployment insurance account established pursuant to section 360 of this title in the unemployment trust fund.

(q) The term "fund" means the railroad unemployment insurance administration fund, established pursuant to section 361 of this title in the unemployment trust fund.

(r) The term "Board" means the Railroad Retirement Board.

(s) The term "United States", when used in a geographical sense, means the States and the District of Columbia.

(t) The term "State" means any of the States or the District of Columbia.

(u) Any reference in this chapter to any other Act of Congress, including such reference in amendments to other Acts, includes a reference to such other Act as amended from time to time. (June 25, 1938, ch. 680, § 1, 52 Stat. 1094; June 20, 1939, ch. 227, §§ 1—6, 20, 53 Stat. 845, 848; Aug. 13, 1940, ch. 664, §§ 1, 3, 54 Stat. 785, 786; Oct. 10, 1940, ch. 842, §§ 2—8, 54 Stat. 1094, 1095; Apr. 8, 1942, ch. 227, § 15, 56 Stat. 210; July 31, 1946, ch. 709, §§ 1, 2, 301—304, 60 Stat. 722, 735, 736; Oct. 30, 1951, ch. 632, § 26, 65 Stat. 691; Aug. 31, 1954, ch. 1164, pt. III, §§ 301—303, 68 Stat. 1041; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 201, 72 Stat. 1782; May 19, 1959, Pub. L. 86–28, pt. III, § 301, 73 Stat. 30; Oct. 30, 1966, Pub. L. 89–700, title II, § 201, 80 Stat. 1087; Feb. 15, 1968, Pub. L. 90–257, title II, § 201, 82 Stat. 83; Oct. 22, 1968, Pub. L. 90–624, § 3, 82 Stat. 1316.)

REFERENCES IN TEXT

Railway Labor Act, referred to in subsecs. (a) and (f), is classified to chapter 8 of this title.

The Railroad Retirement Act, referred to in subsec. (g), is classified to sections 228a to 228c–1, 228e—228h and 228i to 228s–2 of this title.

The month in which this chapter was amended in 1959, referred to in subsec. (i), means May, 1959, the month in which this chapter was amended by Pub. L. 86–28.

AMENDMENTS

1968—Subsec. (i). Pub. L. 90–624 excluded remuneration for services performed by nonresident alien individuals temporarily in the United States as participants in a cultural exchange or training program.

Subsec. (k). Pub. L. 90–257, § 201(a), amended the definition of "day of sickness" so as to remove reference therein to a day in a maternity period and inserted into the definition references to a day of sickness for female employees when, because of pregnancy, miscarriage, or the birth of a child, she is unable to work or working is injurious to her health and raised from $750 to $1000 the amount specified in the subsidiary remuneration provision.

Subsec. (*l*). Pub. L. 90–257, § 201(b), redesignated former subsec. (*l*) defining the term "benefits" as subsec. (*l*)(1). Former subsec. (*l*)(1) redesignated as subsec. (*l*)(2).

Subsec. (*l*)(1). Pub. L. 90–257, § 201(b), redesignated as subsec. (*l*)(1) former subsec. (*l*) defining the term "benefits".

Subsec. (*l*)(2). Pub. L. 90–257, § 201(b), redesignated as subsec. (*l*)(2) former subsec. (*l*)(1) defining the term "statement of sickness" and struck out therein reference to the statement of maternity sickness. Former subsec. (*l*)(2) defining the term "maternity period" stricken.

1966—Subsec. (i). Pub. L. 89–700, § 201(a), substituted "section 356 of this title" for "section 358 of this title."

Subsec. (k). Pub. L. 89–700, § 201(b), substituted "$750" for "500."

Subsec. (s). Pub. L. 89–700, § 201(c), eliminated ", Alaska, Hawaii," which followed "States."

Subsec. (t). Pub. L. 89–700, § 201(c), eliminated ", Alaska, Hawaii," which followed "States."

1959—Subsec. (i). Pub. L. 86–28, § 301(a), increased, for any month after May 1959, from $350 to $400 the maximum amount of monthly compensation to be used in computing benefits.

Subsec. (k). Pub. L. 86–28, § 301(b), substituted "$500" for "$400".

1958—Subsec. (k). Pub. L. 85–927, § 201(a), substituted "first" for "second" and "second" for "first" in second proviso of first paragraph, and substituted "three dollars" for "one dollar" in second paragraph.

Subsec. (q). Pub. L. 85–927, § 201(b), inserted "in the unemployment trust fund".

1954—Subsec. (g). Act Aug. 31, 1954, § 301, provided that compensation for service by an individual as a delegate to a convention of a national railway labor organization shall be disregarded in determining eligibility for benefits, if he has no previous creditable service.

Subsec. (i). Act Aug. 31, 1954, § 302, increased, after June 30, 1954, from $300 to $350 the maximum amount of monthly compensation to be used in computing benefits.

Subsec. (k). Act Aug. 31, 1954, § 303 (part), substituted "$400" for "$150".

1951—Subsec. (k). Act Oct. 30, 1951, added last proviso of first par.

1946—Subsec. (e). Act July 31, 1946, § 1, changed opening par. to include professional or technical services when integrated into staff of employer or other personal services the rendition of which is integrated into the employer's operations and added clause at end of first proviso excluding compensation of less than 10% of remuneration.

Subsec. (h). Act July 31, 1946, § 301, changed the definition of registration period to cover days of sickness as well as days of unemployment.

Subsec. (i). Act July 31, 1946, § 2, changed definition of compensation to remuneration "paid" instead of "payable" and added provisions relating to presumption that a payment is compensation; payments for time lost and with respect to personal injury; and payments after the end of a calendar year earned during that year.

Subsec. (j). Act July 31, 1946, § 302, added reference to maternity insurance and sickness insurance.

Subsec. (k). Act July 31, 1946, § 303, inserted cl. (2), defining day of sickness.

Subsec. (*l*). Act July 31, 1946, § 304, expanded definition of benefits to include payment with respect to sickness and added pars. (1) and (2), defining statement of sickness, statement of maternity sickness, and maternity period.

1942—Subsec. (e). Act Apr. 8, 1942, affected the first proviso.

1940—Subsec. (*l*). Act Oct. 10, 1940, § 6, redesignated former subsec. (m) as (*l*). Former subsec. (*l*) redesignated (n) by act Oct. 10, 1940, § 8.

Subsec. (m). Act Oct. 10, 1940, § 7, redesignated former subsec. (n) as (m). Former subsec. (m) redesignated (*l*) by act Oct. 10, 1940, § 6.

Subsec. (n). Act Oct. 10, 1940, § 8, redesignated former subsec. (*l*) as (n), and amended subsec. generally. Former subsec. (n) redesignated (m) by act Oct. 10, 1949, § 7.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 4(b) of Pub. L. 90–624 provided that: "The amendments made by section 3 [amending this section] shall apply with respect to service performed after December 31, 1967."

Amendment of subsec. (k) of this section by section 201(a)(1) of Pub. L. 90–257 effective as of July 1, 1968, see section 208 of Pub. L. 90–257, set out as a note under section 352 of this title.

Amendment of subsec. (k) of this section by section 201(a)(2) of Pub. L. 90–257 effective with respect to base years beginning in calendar years after December 31, 1966, see section 208 of Pub. L. 90–257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 309 of Pub. L. 86–28 provided that: "The amendments made by section 301(b) [to subsec. (k) of this section] shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 [to sections 352(a), (c) and 354(a–2) of this title] shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 [to section 353 of this title] shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 [to section 358(a) of this title, increasing the contribution rates for compensation paid after May, 1959] and clause (1) of section 307 [to section 358(b) of this title, increasing the contribution rate from 3 to 3¾ percent] shall be effective as of the first day of the calendar month next following the month in which this Act was enacted [May, 1959], and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted [May, 1959]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 207 of Pub. L. 85–927 provided that:

"(a) The amendments made by section 201 (a) [amending subsec. (k) of this section] shall be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

"(b) The amendments made by section 202 [amending section 354 (a–1) (ii) of this title] shall be effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

"(c) The remaining amendments made by this part [amending subsec. (q) of this section and sections 358 (a), 361 (a), 362 (*l*) of this title and section 1104 (a), (e), and (f) of Title 42, The Public Health and Welfare] shall be effective, except as otherwise indicated therein, on the date of the enactment of this Act [September 6, 1958]."

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendments to this section by act Aug. 31, 1954, see sections 401 and 402 of the Act, set out as notes under section 228a of this title.

EFFECTIVE DATE OF 1951 AMENDMENT

Section 28 of act Oct. 30, 1951, provided that the provisions of sections 26 and 27 of the act (amending subsection (k) of this section, and section 354 (a–1) of this title), shall become effective with respect to registration periods beginning on and after January 1, 1952.

EFFECTIVE DATE OF 1946 AMENDMENTS

1946 amendments to subsecs. (h), (j), (k), and (*l*) of this section effective July 1, 1947, see note to section 352 of this title. 1946 amendments to subsecs. (e) and (i) effective July 31, 1946, see note to section 228a of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Act Apr. 8, 1942, besides amending subsec. (e) of this section, contained the following paragraph: "The amendment in this section shall operate in the same manner and have the same effect as if it had been part of the Railroad Unemployment Insurance Act (this chapter) when that Act was enacted on June 25, 1938: *Provided, however,* That no interest or penalties shall accrue or be deemed to have accrued for the failure to make returns under, or pay contributions levied by, section 8 of said Railroad Unemployment Insurance Act (section 358 of this title) with respect to the compensation of employees of any local lodge or division of a railway-labor-organization employer earned prior to July 1, 1940, and with respect to the compensation of employees of any general committee of a railway-labor-organization employer earned prior to the enactment of this amendment if, with respect to any such local lodge or division (1) the headquarters of such a local lodge or division was not located in the United States or (2) all, or substantially all, the individuals constituting the membership of such a local lodge or division were employees of an employer not conducting the principal part of its business in the United States; and if, with respect to any such general committee (1) the individuals represented by such a general committee were employees of an employer not conducting the principal part of its business in the United States, or (2) the service to such a general committee was rendered outside the United States, or (3) the office or headquarters of the individual rendering service to such a general committee was not located in the United States and if such returns are made and such contributions are paid by such a local lodge or division or by such a general committee within the time allowed for making returns and paying contributions with respect to the first calendar quarter beginning after the enactment of this amendment."

EFFECTIVE DATE OF 1940 AMENDMENT

Section 1 of act Oct. 10, 1940, ch. 842, 54 Stat. 1094, which act affected sections 228a, 228i, 262 note, 351, 352, 353, 354, 355, 356, 361, and 362 of this title and section 1532 of Title 26, provided:

"That the provisions of this act shall take effect on November 1, 1940, except that sections 2, 11, 25, 26, and 27 (affecting section 228a (h), 228i, 262 note, 351 (g), and 352 (d) of this title, and section 1532 (e) of Title 26 I. R. C. 1939) shall be effective as of July 1, 1940, and sections 19 and 20 (affecting section 355 (c) of this title) shall become effective upon the approval of this act: *Provided, however,* That—

"(a) A half-month which has begun prior to November 1, 1940, in accordance with the Railroad Unemployment Insurance Act (this chapter) and regulations thereunder, and which includes such date, shall continue, and benefits with respect thereto shall be computed and paid as if this act had not been enacted;

"(b) All benefit years current on October 31, 1940, shall terminate (1) on October 31, 1940, or (2) on the last day of a half-month which includes October 31, 1940 and November 1, 1940, whichever is later, and, for the purposes of section 2 (c) of the Railroad Unemployment Insurance Act (section 352 (c) of this title), as amended by this act, all benefits paid for unemployment in half-months begun subsequent to June 30, 1940, and prior to November 1, 1940, shall be deemed to have been paid for unemployment within the benefit year ending June 30, 1941;

"(c) Benefits for unemployment in the first registration period, beginning after October 31, 1940, of an employee who has, subsequent to June 30, 1940, completed a waiting period under section 3 (b) of the Railroad Unemployment Insurance Act (section 353 (b) of this title), shall be determined and computed as though such registration period were a subsequent registration period in the same benefit year."

CROSS REFERENCES

Operation and effect of act Aug. 13, 1940, see sections 4—7 thereof, set out in notes under section 151 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 3306.

§ 352. Benefits.

(a) Days for which benefits payable; table of amounts.

Benefits shall be payable to any qualified employee (i) for each day of unemployment in excess of four during any registration period, and (ii) for each day of sickness in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more such days of sickness, and for each such day of sickness in excess of four during any subsequent registration period in the same benefit year.

The benefits payable to any such employee for each such day of unemployment or sickness shall be the amount appearing in the following table in column II on the line on which, in column I, appears the compensation range containing his total compensation with respect to employment in his base year:

Column I Total compensation	*Column II* Daily benefit rate
$1,000 to $1,299.99	$8.00
$1,300 to $1,599.99	8.50
$1,600 to $1,899.99	9.00
$1,900 to $2,199.99	9.50
$2,200 to $2,499.99	10.00
$2,500 to $2,799.99	10.50
$2,800 to $3,099.99	11.00
$3,100 to $3,499.99	11.50
$3,500 to $3,999.99	12.00
$4,000 and over	12.70

Provided, however, That if the daily benefit rate in column II with respect to any employee is less than an amount equal to 60 percentum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, such rate shall be increased to such amount but not to exceed $12.70. The daily rate of compensation referred to in the last sentence shall be as determined by the Board on the basis of information furnished to the Board by the employee, his employer, or both.

In computing benefits to be paid, days of unemployment shall not be combined with days of sickness in the same registration period.

(b) Time of payments.

The benefits provided for in this section shall be paid to an employee at such reasonable intervals as the Board may prescribe.

(c) Maximum number of benefit days.

The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty: *Provided, however,* That the total amount of benefits which may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits which may be paid to an employee for days of sickness within a benefit year

shall in no case exceed the employee's compensation in the base year: *And provided further,* That, with respect to an employee who has ten or more years of service as defined in section 228a(f) of this title, who did not voluntarily retire and (in a case involving exhaustion of rights to benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment or sickness (depending on the type of benefit rights exhausted) within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment or days of sickness, as the case may be, within such extended benefit period:

If the employee's "years of service" total—	The extended benefit period shall begin on the first day of unemployment or sickness, as the case may be, following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment or days of sickness and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—
10 and less than 15	7 (but not more than 65 days).
15 and over	13.

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 353 of this title on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily retire and (in a case involving unemployment did not voluntarily leave work without good cause, who has fourteen or more consecutive days of unemployment, or fourteen or more consecutive days of sickness, and who is not a "qualified employee" for the general benefit year current when such unemployment or sickness commences but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment or sickness commences. Notwithstanding the other provisions of this subsection, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of the payment of unemployment benefits; and, in the case of a succeeding benefit year beginning in accordance with the next preceding sentence by reason of sickness, such sentence shall not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the day on which age 65 is attained and continuing through the day preceding the first day of the next succeeding general benefit year. For purposes of this subsection and section 360(h) of this title, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.

(d) Overpayment of benefits; recovery; liability of officers.

If the Board finds that at any time more than the correct amount of benefits has been paid to any individual under this chapter or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual is entitled under this chapter or any other Act administered by the Board may, except as otherwise provided in this subsection, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this chapter or any other Act administered by the Board, to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

Adjustments under this subsection may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

There shall be no recovery in any case in which more than the correct amount of benefits has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this chapter or would be against equity or good conscience.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under the third paragraph of this subsection or has been begun but cannot be completed under the first paragraph of this subsection.

(e) Assignment, taxation, garnishment, attachment, etc., of benefits.

Notwithstanding any other law of the United States, or of any State, Territory, or the District of Columbia, no benefits shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

(f) Effect of payment of benefits for remunerable period; payment of surplus remuneration to Board.

If (i) benefits are paid to any employee with respect to unemployment or sickness in any registration period, and it is later determined that

remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment or sickness, and (ii) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment or sickness included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment or sickness and which are included in the period for which such remuneration is payable, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 358 of this title with respect to contributions. The proceeds of such special fund shall be credited to the account. Such benefits, to the extent that they are represented in such a special fund which has been collected by the Board, shall be disregarded for the purposes of subsection (c) of this section.

(g) Payment of accrued benefits upon death.

Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefor, to the same individual or individuals to whom any accrued annuities under section 228c(f)(1) of this title are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 228c(f)(1) of this title if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account. (June 25, 1938, ch. 680, § 2, 52 Stat. 1096; June 20, 1939, ch. 227, §§ 7–9, 21, 53 Stat. 845, 848; Oct. 10, 1940, ch. 842, §§ 9–12, 54 Stat. 1095, 1096; July 31, 1946, ch. 709, §§ 305–307, 60 Stat. 736, 737; May 15, 1952, ch. 290, § 1, 66 Stat. 73; Aug. 31, 1954, ch. 1163, pt. III, § 304, 68 Stat. 1041; Aug. 12, 1955, ch. 869, § 4, 69 Stat. 716; May 19, 1959, Pub. L. 86–28, pt. III, §§ 302, 303(a), 73 Stat. 30; Oct. 30, 1966, Pub. L. 89–700, title II, § 202, 80 Stat. 1087; Feb. 15, 1968, Pub. L. 90–257, title II, § 202, 82 Stat. 23.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–257, § 202(a), struck out all references to the payment of maternity benefits, amended the table of benefit rates by striking out the line for persons in the compensation range of $750 to $999.99 and by increasing the rates of benefits for the remaining categories from $5.50 to $8.00, $6.00 to $8.50, $6.50 to $9.00, $7.00 to $9.50, $7.50 to $10.00, $8.00 to $10.50, $8.50 to $11.00, $9.00 to $11.50, $9.50 to $12.00, and $10.20 to $12.70 respectively, and raised from $10.20 to 12.70 the maximum rate applicable if the formula of 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year is used.

Subsec. (c). Pub. L. 90–257, § 202(b), removed all references to payment of maternity benefits, made provision for extended sickness benefits similar to extended unemployment benefits, added to existing provisions for the early beginning of a general benefit year (or accelerated benefit year) in certain cases involving days of unemployment similar provisions for a similar early beginning of a general benefit year in certain cases involving days of sickness, and added provisions dealing with the effect of the attainment of age 65 on an employee's receipt of extended sickness benefits and on his receipt of sickness benefits in an accelerated benefit year and relating to the evidence of age on which the Board may rely for purposes of determining the attainment of age 65.

1966—Subsec. (a). Pub. L. 89–700, § 202(a), eliminated the daily benefit rate of $4.50 for the compensation range of $500 to $699.99 from the table, and substituted "750" for "700" in Column I.

Subsec. (g). Pub. L. 89–700, § 202(b), amended subsection generally, and among other changes, provided that if there is no individual to whom accrued benefits can be paid, such benefits or parts thereof shall escheat to the credit of the account.

1959—Subsec. (a). Pub. L. 86–28, § 302, substituted "for each day of unemployment in excess of four during any registration period, and" for "for each day of unemployment in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more days of unemployment, and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year, and", "60 per centum" for "50 per centum", and "not to exceed $10.20" for "not to exoeed $8.50", and increased the daily benefit rates.

Subsec. (c). Pub. L. 86–28, § 303(a), provided for an extended benefit period with respect to employees who have ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, and who have exhausted their rights to normal benefits for days of unemployment in a benefit year.

1955—Subsec. (e). Act Aug. 12, 1955, specified that exemption applies to the laws of the several States, the District of Columbia, and the Territories.

1954—Subsec. (a). Act Aug. 31, 1954, § 304(a), changed the table of daily benefit rates and qualifying amounts of earnings in the base year so that such rates and amounts will begin with $3.50 and $4.00, respectively, to a maximum of $8.50 for $4,000 and over, and added the proviso immediately following the table.

Subsec. (c). Act Aug. 31, 1954, § 304(b), added the proviso at the end thereof.

1952—Subsec. (a). Act May 15, 1952, substituted a new table of daily benefit rates.

1946—Subsec. (a). Act July 31, 1946, § 305, changed first and second pars. to include benefits for days of sickness, changed reference to total amount of compensation payable to him in second par. to total compensation, added new benefit rates to table for compensation of $2,000 to $2,499.99 and $2,500 and over, and added last two pars. relating to maternity benefits and to computation of benefits.

Subsec. (c). Act July 31, 1946, § 306, increased the maximum days of unemployment to 130 and established the same maximum for days of sickness.

Subsec. (f). Act July 31, 1946, § 307, inserted references to sickness.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 208 of Pub. L. 90–257 provided that: "The amendments made by sections 201(a)(1), 201(b), 202(a)(1), 202(a)(2), 202(b)(1), 206 and 207 [amending subsecs. (a) and (c) of this section and sections 351(k)(1), 362(b), (g), (i) and (n), and 363 of this title] shall be effective as of July 1, 1968. The amendments made by sections 201(a)(2) and 203 [amending sections 351(k) and 353 of this title] shall be effective with respect to base years beginning in calendar years after December 31, 1966, except that with respect to the base year in calendar year 1967 the amendments made by section 203 [amending section 353 of this title] shall not be applicable to an employee whose compensation with respect to that base year was not less than 750 but less than $1,000; further, as to such an employee, the amendments made by section

202(a)(3) [amending subsec. (a) of this section] shall not be applicable with respect to days of unemployment and days of sickness in registration periods in the benefit year beginning July 1, 1968. The amendments made by section 202(a)(3) [amending subsec. (a) of this section] shall otherwise be effective with respect to days of unemployment and days of sickness in registration periods beginning on or after July 1, 1968. The amendments made by sections 202(b)(2) (i) through (vi) [amending subsec. (c) of this section] shall be effective to provide the beginning of extended benefit periods on or after July 1, 1968. The amendments made by section 202(b)(2) (vii) through (ix) [amending subsec. (c) of this section] shall be effective to provide for the early beginning of a benefit year on or after July 1, 1967. The amendment made by section 204(a) [amending section 354(a-1) of this title] shall be effective with respect to calendar days in benefit years beginning after June 30, 1968, and the amendment made by section 204(b) [amending section 354(a-2) of this title] shall be effective with respect to voluntary leaving of work (within the meaning of section 4(a-2)(i) of the Railroad Unemployment Insurance Act [section 354 (a-2) (i) of this title]) after the enactment date of this Act [Feb. 15, 1968]."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsecs. (a) and (c) of this section by Pub. L. 86-28 effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after Dec. 31, 1957, see section 309 of Pub. L. 86-28, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Section 4 of act Aug. 12, 1955, provided in part that amendment to subsec. (e) by the section shall be effective as of the date of its "original enactment" [June 25, 1938].

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment to section by act Aug. 31, 1954, effective July 1, 1954, see notes under section 228a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 3 of act May 15, 1952, provided that amendment by act May 15, 1952 shall be effective with respect to benefit years beginning on and after July 1, 1952.

EFFECTIVE DATE OF 1946 AMENDMENTS

Section 402 of act July 31, 1946, provided that the amendment of subsec. (c) by section 306 of act July 31, 1946, shall be effective July 1, 1946.

Section 403 of act July 31, 1946, provided that amendments to subsecs. (a) and (f) of this section and sections 351 (h), (j), (k), (l), 353 and 354 of this title by sections 301—305, 307—310 of that act shall become effective on July 1, 1947, except that the revision of the table in subsec. (a) of this section shall be effective on July 31, 1946.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

BENEFITS FOR CERTAIN EMPLOYEES WHO EXHAUSTED RIGHTS TO BENEFITS BEFORE APRIL 1, 1959

Section 303(b) of Pub. L. 86-28 provided that: "An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937 [section 228a(f) of this title], and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act [this chapter], except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 [former sections 1400—1400k of Title 42, The Public Health and Welfare] may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958 [former sections 1400—1400k of Title 42, The Public Health and Welfare]. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act [this chapter] shall be applicable in the administration of this subsection."

INTERCHANGE OF INFORMATION BETWEEN SECRETARY OF LABOR AND RAILROAD RETIREMENT BOARD

Section 303(c) of Pub. L. 86-28 provided that: "The Secretary of Labor, upon request shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof [set out as a note under this section], and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958 [former sections 1400—1400k of Title 42, The Public Health and Welfare]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 360, 362 of this title.

§ 353. Qualifying condition.

An employee shall be a "qualified employee" if the Board finds that his compensation will have been not less than $1,000 with respect to the base year, and, if such employee has had no compensation prior to such year, that he will have had compensation with respect to each of not less than seven months in such year. (June 25, 1938, ch. 680, § 3, 52 Stat. 1097; June 20, 1939, ch. 227, § 10, 53 Stat. 845; Oct. 10, 1940, ch. 842, § 13, 54 Stat. 1097; July 31, 1946, ch. 709, § 308, 60 Stat. 737; May 15, 1952, ch. 290, § 2, 66 Stat. 73; Aug. 31, 1954, ch. 1164, pt. III, § 303, 68 Stat. 1041; May 19, 1959, Pub. L. 86-28, pt. III, § 304, 73 Stat. 31; Oct. 5, 1963, Pub. L. 88-133, title III, § 301(a), 77 Stat. 222; Feb. 15, 1968, Pub. L. 90-257, title II, § 203, 82 Stat. 24.)

AMENDMENTS

1968—Pub. L. 90-257 substituted "$1,000" for "$750".

1963—Pub. L. 88-133 increased from $500 to $750 the amount of compensation in a base year required to qualify for benefits and provided that if employee has had no compensation prior to such year he will have had compensation with respect to each of not less than 7 months in such year.

1959—Pub. L. 86-28 substituted "$500" for "$400".

1954—Act Aug. 31, 1954, substituted "$400" for "$300".

1952—Act May 15, 1952, substituted "$300" for "$150" to conform to the new table of daily benefit rates as set out in section 352 of this title.

1946—Act July 31, 1946, changed section to relate to compensation paid instead of compensation earned during a year.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-257 effective with respect to base years beginning in calendar years after December 31, 1966, except that with respect to the base year in calendar year 1967 such amendments not to be applicable to an employee whose compensation with respect to that base year was not less than $750 but was less than $1,000, see section 208 of Pub. L. 90-257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 301(b) of Pub. L. 88-133 provided that: "The amendment made by subsection (a) [to this section] shall be fully effective with respect to base years after 1963. With respect to the base year 1963, they shall be applicable only to an employee concerning whom the Railroad Retirement Board finds that his compensation in that portion of the calendar year 1963 preceding the first day of the calendar month next following the month of enactment of this Act [Oct. 1963] will have been less than $500."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86–28 effective with respect to base years after the base year ending Dec. 31, 1957, see section 309 of Pub. L. 86–28, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment to section by act Aug. 31, 1954, effective July 1, 1954, see notes under section 228a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 3 of act May 15, 1952, provided that amendment by said act May 15, 1952, shall be effective with respect to benefit years beginning on and after July 1, 1952.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 1, 1947, see note under section 352 of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 360, 362 of this title.

§ 354. Disqualifying conditions.

(a–1) Day of unemployment or day of sickness.

There shall not be considered as a day of unemployment, or as a day of sickness, with respect to any employee—

(i) any of the seventy-five days beginning with the first day of any registration period with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;

(ii) any day in any period with respect to which the Board finds that he is receiving or will have received annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or insurance benefits under title II of the Social Security Act, or unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law other than this chapter, or any other social-insurance payment under any law: *Provided,* That if an employee receives or is held entitled to receive any such payments, other than unemployment, maternity, or sickness payments, with respect to any period which include days of unemployment or sickness in a registration period, after benefits under this chapter for such registration period will have been paid, the amount by which such benefits under this chapter will have been increased by including such days as days of unemployment or as days of sickness shall be recoverable by the Board: *Provided further,* That, if that part of any such payment or payments, other than unemployment, maternity, or sickness payments, which is apportionable to such days of unemployment or days of sickness is less in amount than the benefits under this chapter which, but for this paragraph, would be payable and not recoverable with respect to such days of unemployment or days of sickness, the preceding provisions of this paragraph shall not apply but such benefits under this chapter for such days of unemployment or days of sickness shall be diminished or recoverable in the amount of such part of such other payment or payments.

(iii) if he is paid a separation allowance, any of the days in the period beginning with the day following his separation from service and continuing for that number of consecutive fourteen-day periods which is equal, or most nearly equal, to the amount of the separation allowance divided (i) by ten times his last daily rate of compensation prior to his separation if he normally works five days a week, (ii) by twelve times such rate if he normally works six days a week, and (iii) by fourteen times such rate if he normally works seven days a week;

(a–2) Day of unemployment.

(i) (A) subject to the provisions of subdivision (B) hereof, any of the days in the period beginning with the day with respect to which the Board finds that he left work voluntarily, and continuing until he has been paid compensation of not less than $1,000 with respect to time after the beginning of such period;

(B) if the Board finds that he left work voluntarily with good cause, the provisions of subdivision (A) shall not apply, with respect to him, to any day in a registration period if such period does not include any day which is in a period for which he could receive benefits under an unemployment compensation law other than this chapter, and he so certifies. Such certification shall, in the absence of evidence to the contrary, be accepted subject to the penalty provisions of section 359(a) of this title;

(ii) any of the thirty days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him, or to comply with instructions from the Board requiring him to apply for suitable work or to report, in person or by mail as the Board may require, to an employment office;

(iii) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member.

(b) Participation, interest, or financial assistance in labor dispute.

The disqualification provided in subsection (a–2) (iii) of this section shall not apply if the Board finds that—

(i) the employee is not participating in or financing or directly interested in the strike which causes the stoppage of work: *Provided,* That payment of regular union dues shall not be construed to constitute financing a strike or direct interest in a strike within the meaning of this and the following paragraphs; and

(ii) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed in the establishment, premises, or enterprise at which the stoppage occurs, any of whom

are participating in or financing or directly interested in the dispute: *Provided,* That if separate types of work are commonly conducted in separate departments of a single enterprise, each such department shall, for the purposes of this subsection, be deemed to be a separate establishment, enterprise, or other premises.

(c) Unsuitable work.

No work shall be deemed suitable for the purposes of subsection (a–2) (ii) of this section, and benefits shall not be denied under this chapter to any otherwise qualified employee for refusing to accept work if—

(i) the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) the remuneration, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or the rate of remuneration is less than the union wage rate, if any, for similar work in the locality;

(iii) as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(iv) acceptance of the work would require him to engage in activities in violation of law or which, by reason of their being in violation of reasonable requirements of the constitution, bylaws, or similar regulations of a bona fide labor organization of which he is a member, would subject him to expulsion from such labor organization; or

(v) acceptance of the work would subject him to loss of substantial seniority rights under any collective bargaining agreement between a railway labor organization, organized in accordance with the provisions of the Railway Labor Act, and any other employer.

(d) Factors in determination of suitable work.

In determining, within the limitations of subsection (c) of this section, whether or not any work is suitable for an employee for the purposes of subsection (a–2) (ii) of this section, the Board shall consider, in addition to such other factors as it deems relevant, (i) the current practices recognized by management and labor with respect to such work; (ii) the degree of risk involved to such employee's health, safety, and morals; (iii) his physical fitness and prior training; (iv) his experience and prior earnings; (v) his length of unemployment and prospects for securing work in his customary occupation; and (vi) the distance of the available work from his residence and from his most recent work.

(e) Voluntarily leaving unsuitable work.

For the purposes of subsection (a–2) (i) of this section, no voluntary leaving of work shall be deemed to have been without good cause if the Board finds that such work would not have been suitable for the purposes of subsection (a–2) (ii) of this section. (June 25, 1938, ch. 680, § 4, 52 Stat. 1098; June 20, 1939, ch. 227, § 11, 53 Stat. 846; Oct. 10, 1940, ch. 842, §§ 14—18, 54 Stat. 1097, 1098; July 31, 1946, ch. 709, §§ 309, 310, 60 Stat. 737, 738; Oct. 30, 1951, ch. 632, § 27, 65 Stat. 691; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 202, 72 Stat. 1782; May 19, 1959, Pub. L. 86–28, pt. III, § 305, 73 Stat. 31; Oct. 5, 1963, Pub. L. 88–133, title III, § 302(a), 77 Stat. 222; Feb. 15, 1968, Pub. L. 90–257, title II, § 204, 82 Stat. 24.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1935, referred to in subsec. (a–1)(ii), is set out in note under former sections 215—228 of this title.

Railroad Retirement Act of 1937, referred to in subsec. (a–1) (ii), is classified to sections 228a to 228c–1, 228e—228h and 228i to 228s–2 of this title.

Title II of the Social Security Act, referred to in subsec. (a–1(ii), is classified to sections 401 et seq. of Title 42, The Public Health and Welfare.

Railway Labor Act, referred to in subsecs. (a–2) (iii) and (c) (v), is classified to chapter 8 of this title.

AMENDMENTS

1968—Subsec. (a–1). Pub. L. 90–257, § 204(a) (added par. (iii).

Subsec. (a–2)(i)(A). Pub. L. 90–257, § 204(b), substituted "$1,000" for "$750".

1963—Subsec. (a–2)(i). Pub. L. 88–133 substituted cl. (i) providing in subd. (A) that an employee who voluntarily leaves his work shall not be considered as having days of unemployment for a period beginning with the day he so leaves and continuing until he has been paid compensation of not less than $750 with respect to time after the beginning of such period and subd. (B) that if the Board finds that the employee left work voluntarily with good cause, such disqualification shall not apply, except that in such case the employee would not be considered as having days of unemployment with respect to any day in a registration period if such period includes a day which is in a period for which he could receive benefits under an unemployment law other than this chapter and he so certifies, for former cl. (i) providing that an employee who leaves work voluntarily is not considered as having days of unemployment with respect to any of the first 30 days after he so leaves if the Board finds that he left work voluntarily without good cause.

1959—Subsec. (a–2). Pub. L. 86–28 struck out cl. (iv), that prevented Sundays and holidays from being considered as days of unemployment unless they were preceded and succeeded by a day of unemployment.

1958—Subsec. (a–1)(ii). Pub. L. 85–927 substituted "other than this chapter or any other social-insurance payments under any law" for "of any State of the United States other than this chapter, or any other social-insurance payments under a law of any State or of the United States".

1951—Subsec. (a–1). Act Oct. 30, 1951, struck out cls. (iii) and (iv) which excepted from consideration as a day of unemployment or as a day of sickness, any days in any registration period in which the employee had certain specified earnings.

1946—Subsec. (a–1). Act July 31, 1946, § 309 (a) (b), designated the provisions of former subsec. (a) which apply both to days of unemployment and to days of sickness as subsec. (a–1) and changed cl. (ii) to include sickness and maternity benefits.

Subsec. (a–2). Act July 31, 1946, § 309 (c), designated the provisions of former subsec. (a) which apply only to days of unemployment as subsec. (a–2).

Subsecs. (b—e). Act July 31, 1946, § 310, changed references to subsec. (a) of this section to refer to subsec. (a–2).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a–1) of this section by section 204(a) of Pub. L. 90–257 effective with respect to calendar days in benefit years beginning after June 30, 1968, and amendment of subsec. (a–2) of this section by section 204(b) of Pub. L. 90–257 effective with respect to voluntary leaving of work (within the meaning of subsec. (a–2)(i) of this section) after February 15, 1968, see section 208 of Pub. L. 90–257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 302(b) of Pub. L. 88–133 provided that: "The amendment made by subsection (a) [to subsec. (a–2)(i) of this section] shall be effective only with respect to an

employee who leaves work voluntarily after the date of enactment of this Act [Oct. 5, 1963]."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsec. (a-2) of this section by Pub. L. 86-28 effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after Dec. 31, 1957, see section 309 of Pub. L. 86-28. set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (a-1) (ii) by Pub. L. 85-927 effective with respect to days in benefit years after the benefit year ending on June 30, 1958, see section 207 (a) of Pub. L. 85-927, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment of subsec. (a-1) of this section by act Oct. 30, 1951 to become effective with respect to registration periods beginning on and after January 1, 1952, see note under section 351 of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 1, 1947, see note under section 352 of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 355. Claims for benefits.

(a) Publication of Board's regulations.

Claims for benefits and appeals from determinations with respect thereto shall be made in accordance with such regulations as the Board shall prescribe. Each employer shall post and maintain, in places readily accessible to employees in his service, such printed statements concerning such regulations as the Board supplies to him for such purpose, and shall keep available to his employees copies of such printed statements. Such printed statements shall be supplied by the Board to each employer without cost to him.

(b) Findings, hearings, investigations, etc., by Board.

The Board is authorized and directed to make findings of fact with respect to any claim for benefits and to make decisions as to the right of any claimant to benefits. The Board is further authorized to hold such hearings, to conduct such investigations and other proceedings, and to establish, by regulations or otherwise, such procedures as it may deem necessary or proper for the determination of a right to benefits.

(c) Hearing and review of decisions on claims.

Each qualified employee whose claim for benefits has been denied in whole or in part upon an initial determination with respect thereto upon a basis other than one which is reviewable pursuant to one of the succeeding paragraphs of this subsection, shall be granted an opportunity for a fair hearing thereon before a referee or such other reviewing body as the Board may establish or assign thereto.

Any claimant whose claim for benefits has been denied in an initial determination with respect thereto upon the basis of his not being a qualified employee, and any claimant who contends that under an initial determination of his claim he has been awarded benefits at less than the proper rate, may appeal to the Board for the review of such determination. Thereupon the Board shall review the determination and for such review may designate one of its officers or employees to receive evidence and to report to the Board thereon together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.

In any case in which benefits are awarded to a claimant in whole or in part upon the basis of pay earned in the service of a person or company found by the Board to be an employer as defined in this chapter but which denies that it is such an employer, such benefits awarded on such basis shall be paid to such claimant subject to a right of recovery of such benefits. The Board shall thereupon designate one of its officers or employees to receive evidence and to report to the Board on whether such benefits should be repaid. The Board may also designate one of its officers or employees to receive evidence and report to the Board whether or not any person or company is entitled to a refund of contributions or should be required to pay contributions under this chapter, regardless of whether or not any claims for benefits will have been filed upon the basis of service in the employ of such person or company, and shall follow such procedure if contributions are assessed and payment is refused or payment is made and a refund claimed upon the basis that such person or company is or will not have been liable for such contributions. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the proceedings provided for in this paragraph and for decisions upon such proceedings.

Final decision of the Board in the cases provided for in the preceding two paragraphs shall be communicated to the claimant and to the other interested parties within fifteen days after it is made. Any properly interested party notified, as hereinabove provided, of his right to participate in the proceedings may obtain a review of any such decision by which he claims to be aggrieved or the determination of any issue therein in the manner provided in subsection (f) of this section with respect to the review of the Board's decisions upon claims for benefits and subject to all provisions of law applicable to the review of such decisions. Subject only to such review, the decision of the Board upon all issues determined in such decision shall be final and conclusive for all purposes and shall conclusively establish all rights and obligations, arising under this chapter, of every party notified as hereinabove provided of his right to participate in the proceedings.

Any issue determinable pursuant to this subsection and subsection (f) of this section shall not be determined in any manner other than pursuant to this subsection and subsection (f) of this section.

(d) Decisions of reviewing bodies; review and finality.

The Board shall prescribe regulations governing the filing of cases with and the decision of cases by reviewing bodies, and the review of such decisions. The Board may provide for intermediate reviews of such decisions by such bodies as the Board may establish or assign thereto. The Board may (i) on its own motion review a decision of an intermediate reviewing body on the basis of the evidence previously submitted in such case, and may direct the taking of additional evidence, or (ii) permit such parties as it finds properly interested in the proceedings to take appeals to the Board. Unless a review or an appeal is had pursuant to this subsection, the decision of an intermediate reviewing body shall, subject to such regulations as the Board may prescribe, be deemed to be the final decision of the Board.

(e) Application of rules of evidence in law and equity; notice of findings.

In any proceeding other than a court proceeding, the rules of evidence prevailing in courts of law or equity shall not be controlling, but a full and complete record shall be kept of all proceedings and testimony, and the Board's final determination, together with its findings of fact and conclusions of law in connection therewith, shall be communicated to the parties within fifteen days after the date of such final determination.

(f) Review of final decision of Board by Courts of Appeals; costs.

Any claimant, or any railway labor organization organized in accordance with the provisions of the Railway Labor Act, of which claimant is a member, or any other party aggrieved by a final decision under subsection (c) of this section, may, only after all administrative remedies within the Board will have been availed of and exhausted, obtain a review of any final decision of the Board by filing a petition for review within ninety days after the mailing of notice of such decision to the claimant or other party, or within such further time as the Board may allow, in the United States court of appeals for the circuit in which the claimant or other party resides or will have had his principal place of business or principal executive office, or in the United States Court of Appeals for the Seventh Circuit or in the United States Court of Appeals for the District of Columbia. A copy of such petition, together with initial process, shall forthwith be served upon the Board or any officer designated by it for such purpose. Service may be made upon the Board by registered mail addressed to the Chairman. Within fifteen days after receipt of service, or within such additional time as the court may allow, the Board shall file with the court in which such petition has been filed the record upon which the findings and decision complained of are based, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall give precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence. It shall have power to enter a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for rehearing. The findings of the Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive. No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court the additional record. The judgment and decree of the court shall be final, subject to review as in equity cases.

An applicant for review of a final decision of the Board concerning a claim for benefits shall not be liable for costs, including costs of service, or costs of printing records, except that costs may be assessed by the court against such applicant if the court determines that the proceedings for such review have been instituted or continued without reasonable ground.

(g) Finality of Board decisions.

Findings of fact and conclusions of law of the Board in the determination of any claim for benefits or refund, the determination of any other matter pursuant to subsection (c) of this section, and the determination of the Board that the unexpended funds in the account are available for the payment of any claim for benefits or refund under this chapter, shall be, except as provided in subsection (f) of this section, binding and conclusive for all purposes and upon all persons, including the Comptroller General and any other administrative or accounting officer, employee, or agent of the United States, and shall not be subject to review in any manner other than that set forth in subsection (f) of this section.

(h) Benefits payable prior to final decision of Board.

Except as may be otherwise prescribed by regulations of the Board, benefits payable with respect to any period prior to the date of a final decision of the Board with respect to a claim therefor, shall be paid only after such final decision.

(i) Fees for presenting claims; penalties.

No claimant or other properly interested person claiming benefits shall be charged fees of any kind by the Board, its employees or representatives, with respect to such claim. Any such claimant or other properly interested person may be represented by counsel or other duly authorized agent, in any proceeding before the Board or its representatives or a court, but no such counsel or agent for a claimant shall either charge or receive for such services more than an amount approved by the Board or by the court before whom the proceedings of the Board are reviewed. Any person who violates any provision of this subsection shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year. (June 25, 1938, ch. 680, § 5, 52 Stat. 1099; Oct. 10, 1940, ch. 842, §§ 19, 20, 54 Stat. 1098; July 31, 1946, ch. 709, §§ 311—316, 60 Stat. 738; June 25, 1948, ch. 646, §§ 1, 32 (a), 62 Stat. 870, 991; May

24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85–791, § 23, 72 Stat. 948.)

REFERENCES IN TEXT

Railway Labor Act, referred to in subsec. (f), is classified to chapter 8 of this title.

AMENDMENTS

1958—Subsec. (f). Pub. L. 85–791, in fourth sentence, eliminated "certify and" following "shall", eliminated "a transcript of" following "filed", and inserted "as provided in section 2112 of Title 28"; in fifth sentence, substituted "the filing of such petition" for "such filing"; in sixth sentence, eliminated "upon the pleadings and transcript of the record," following "enter"; and in eighth sentence eliminated "a transcript of" preceding "the additional record".

1946—Subsec. (c). Act July 31, 1946, § 311 struck out provisions for district boards, placing their functions in referees or such other reviewing bodies as the Board may establish; changed the third par. to allow the Board to determine if a person or company is covered by this chapter regardless of whether or not benefit claims are pending; and added last par.

Subsec. (d). Act July 31, 1946, § 312, changed references to district boards to refer to reviewing bodies.

Subsec. (e). Act July 31, 1946, § 313, eliminated provisions restricting subsection to proceedings on a claim for benefits.

Subsec. (f). Act July 31, 1946, § 314, changed first sentence to provide for review by circuit courts of appeals instead of district courts.

Subsec. (g). Act July 31, 1946, § 315 inserted reference to the determination of any other matter pursuant to subsec. (c) of this section.

Subsec. (i). Act July 31, 1946, § 316, extended provisions to other properly interested persons besides a claimant.

CHANGE OF NAME

Subsec. (f) catchline and text amended by act June 25, 1948, § 32 (a), eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "Courts of Appeals", "United States court of appeals for the circuit" and "United States Court of Appeals for the Seventh Circuit" for "Circuit Courts of Appeals", "United States circuit court of appeals for the circuit" and "United States Circuit Court of Appeals for the Seventh Circuit" respectively.

"United States Court of Appeals for the District of Columbia" was substituted for "Court of Appeals for the District of Columbia", in the text of subsec. (f), in view of section 41 of Title 28, Judiciary and Judicial Procedure, which constitutes the District of Columbia as one of the eleven judicial circuits of the United States and section 43 (a) of said Title 28, which states that "There shall be in each circuit a court of appeals, which shall be a court of record, known as the United States Court of Appeals for the circuit".

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

§ 355a. Acceptance of claims for benefits.

Whenever there is duly tendered to the Board, by any person, any claim for unemployment compensation pursuant to this chapter, such claim shall be accepted by the Board without delay and appropriate administrative action for the allowance or disallowance of such claim shall be taken by the Board at the earliest practicable time. (June 29, 1956, ch. 477, title V, § 501, 70 Stat. 437.)

CODIFICATION

Section was enacted as part of the Departments of Labor, and Health, Education, and Welfare, Appropriation Act, 1957, and not as a part of the Railroad Unemployment Insurance Act which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in act Aug. 1, 1955, ch. 437, title V, § 501, 69 Stat. 411.

§ 356. Returns of compensation; conclusiveness; failure to make.

Employers shall file with the Board, in such manner and at such times as the Board by regulations may prescribe, returns of compensation of employees, and, if the Board shall so require, shall distribute to employees annual statements of compensation: *Provided,* That no returns shall be required of employers which would duplicate information contained in similar returns required under any other Act of Congress administered by the Board. The Board's record of the compensation so returned shall, for the purpose of determining eligibility for and the amount of benefits, be conclusive as to the amount of compensation paid to an employee during the period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall, for the purposes of determining eligibility for and the amount of benefits, be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation in the one case, or failure to make or record return of the compensation in the other case, is called to the attention of the Board within eighteen months after the date on which the last return covering any portion of the calendar year which includes such period is required to have been made. (June 25, 1938, ch. 680, § 6, 52 Stat. 1101; June 20, 1939, ch. 227, § 12, 53 Stat. 847; Oct. 10, 1940, ch. 842, § 21, 54 Stat. 1099; July 31, 1946, ch. 709, § 317, 60 Stat. 739; Oct. 30, 1966, Pub. L. 89–700, title II, § 203, 80 Stat. 1087.)

AMENDMENTS

1966—Pub. L. 89–700 eliminated provisions which required the returns of compensation of employees to be under oath.

1946—Act July 31, 1946, changed references to compensation earned by an employee to refer to compensation paid to an employee.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 357. Free transportation.

It shall not be unlawful for carriers to furnish free transportation to employees qualified for benefits or serving waiting periods under this chapter. (June 25, 1938, ch. 680, § 7, 52 Stat. 1102.)

§ 358. Contributions.

(a) Employers' contributions.

Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939, and before July 1, 1954, and is not in excess of $350 for any calendar month paid by him to any employee for

services rendered to him after June 30, 1954, and before June 1, 1959, and is not in excess of $400 for any calendar month paid by him to any employee for services rendered to him after May 31, 1959: *Provided, however,* That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than $300 for any month before July 1, 1954, and to not more than $350 for any month after June 30, 1954, and before June 1, 1959, and to not more than $400 for any month after May 31, 1959, of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946 bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $300 if such month is before July 1, 1954, or less than $350 if such month is after June 30, 1954, and before June 1, 1959, or less than $400 if such month is after May 31, 1959, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;

2. With respect to compensation paid after the month in which this chapter was amended in 1959, the rate shall be as follows:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board, is:	The rate with respect to compensation paid during the next succeeding calendar year shall be:
	Percent
$450,000,000 or more	1½
$400,000,000 or more but less than $450,000,000	2
$350,000,000 or more but less than $400,000,000	2½
$300,000,000 or more but less than $350,000,000	3
Less than $300,000,000	4

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account.

(b) Employee representatives' contributions.

Each employee representative shall pay, with respect to his income, a contribution equal to 4 per centum of so much of the compensation of such employee representative as is not in excess of $300 for any calendar month, paid to him for services performed as an employee representative after June 30, 1939, and before July 1, 1954, and as is not in excess of $350 paid to him for services rendered as an employee representative in any calendar month after June 30, 1954 and before June 1, 1959, and as is not in excess of $400 paid to him for services rendered as an employee representative in any calendar month after May 31, 1959. The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this chapter.

(c) Fractional parts of a cent.

In the payment of any contribution under this chapter, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(d) Adjustments for improper payments.

If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation, then, under regulations prescribed under this chapter by the Board, proper adjustments with respect to the contribution shall be made, without interest, in connection with subsequent contribution payments made under this chapter by the same employer or employee representative.

(e) Refunding overpayment; collecting underpayment.

If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation and the overpayment or underpayment of the contribution cannot be adjusted under subsection (d) of this section, the amount of the overpayment shall be refunded from the account, or the amount of the underpayment shall be collected, in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations of the Board.

(f) Collection and deposit of contributions.

The contributions required by this chapter shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, such part thereof as equals 0.25 per centum of the total compensation on which such contributions are based to be deposited to the credit of the fund and the balance to be deposited to the credit of the account.

(g) Time for payment; failure to pay promptly.

The contributions required by this chapter shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this chapter as may be prescribed by regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ.

If a contribution required by this chapter is not paid when due, there shall be added to the amount payable (except in the case of adjustments made in accordance with the provisions of this chapter) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account.

(h) Application of other laws; authority of Board.

All provisions of law, including penalties, applicable with respect to any tax imposed by the provisions of the Railroad Retirement Tax Act, insofar as applicable and not inconsistent with the provisions of this chapter, shall be applicable with respect to the contributions required by this chapter: *Provided,* That all authority and functions conferred by or pursuant to such provisions upon any officer or employee of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to such contributions, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefor. (June 25, 1938, ch. 680, § 8, 52 Stat. 1102; July 31, 1946, ch. 709, § 318, 60 Stat. 739; June 23, 1948, ch. 608, §§ 4, 5(a), 6, 62 Stat. 577; Aug. 31, 1954, ch. 1164, pt. III, §§ 305, 306, 68 Stat. 1042; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 203, 72 Stat. 1782; May 19, 1959, Pub. L. 86–28, pt. III, §§ 306, 307, 73 Stat. 32; Oct. 5, 1963, Pub. L. 88–133, title III, §§ 303(a), 304, 77 Stat. 222, 223; Oct. 30, 1966, Pub. L. 89–700, title II, § 204, title III, § 301(i), (ii), 80 Stat. 1087, 1088.)

REFERENCES IN TEXT

The phrase "following the enactment of this Act", referred to in subsec. (a), has reference to act June 23, 1948, which is classified to sections 228c, 228c note, 228e, 228e note, 358, 358 note, 360 and 361 of this title.

The Railroad Retirement Tax Act, referred to in subsec. (h), is classified to section 3201 et seq. of Title 26, Internal Revenue Code.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–700, § 301 (i), (ii), substituted "before June 1, 1959" for "before the calendar month next following the month in which this Act was amended in 1959", and "after May 31, 1959" for "after the month in which this Act was so amended."

Subsec. (b). Pub. L. 89–700, §§ 204(a), 301(i), (ii), increased the contribution rate from 3¾ per centum to 4 per centum, and substituted "before June 1, 1959" for "before the calendar month next following the month in which this Act was amended in 1959", and "after May 31, 1959" for "after the month in which this Act was so amended."

Subsec. (h). Pub. L. 89–700, § 204(b), substituted "the provisions of the Railroad Retirement Tax Act" for "section 1800 or 2700 of Title 26, and the provisions of section 3661 of Title 26."

1963—Subsec. (a). Pub. L. 88–133, § 303(a), increased the contribution rate in the table from 3¾ to 4 percent when the balance to the credit of the railroad unemployment insurance account as of the close of business on Sept. 30 of any year is less than $300,000,000.

Subsec. (f). Pub. L. 88–133, § 304, increased the amount of the contributions to be deposited to the credit of the fund from 0.2 per centum to 0.25 per centum of the total compensation on which such contributions are based.

1959—Subsec. (a). Pub. L. 86–28, § 306, increased the earnings base from $350 to $400 per month for months after May 1959 for purposes of unemployment insurance contributions, and the contribution rates with respect to compensation paid after May 1959 by 1 percent for each of the categories over $300,000,000, by 1¼ percent when the balance was $250,000,000 or more but less than $300,000,000, and by ¾ of 1 percent where the balance was less than $250,000,000.

Subsec. (b). Pub. L. 86–28, § 307, increased the contribution rate from 3 to 3¾ per centum and the maximum amount of compensation for which the contribution is payable from $350 to $400 for services rendered in any calendar month after May 1959.

1958—Subsec. (a). Pub. L. 85–927 added provision deeming balance to credit of fund a part of balance to credit of account.

1954—Subsecs. (a), (b). Act Aug. 31, 1954, increased the earnings base from $300 to $350 per month after June 30, 1954 for purposes of unemployment insurance contributions.

1948—Subsec. (a). Act June 23, 1948, §§ 4, 5(a), substituted for the flat 3 percent contribution rate a sliding scale under which the tax rate is automatically adjusted in accordance with the amount of reserves in the unemployment insurance account as of the close of business on Sept. 30 of each year.

Subsec. (f). Act June 23, 1948, § 6, changed the rates of the credits to the account and the fund.

1946—Subsec. (a). Act July 31, 1946, § 318(a), changed basis of contributions from compensation payable during a month to compensation paid during the month and added provisions relating to proration of contributions where one of the employers is a railway labor organization.

Subsec. (h). Act July 31, 1946, § 318(b), substituted references to sections of the Internal Revenue Code for references to the sections of the Internal Revenue Acts of 1926 and 1934 from which they were derived.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 303(a) of Pub. L. 88–133 provided in part that the amendment of subsec. (a) of this section by such section 303(a) shall be effective with respect to compensation paid after Dec. 31, 1963.

Section 304 of Pub. L. 88–133 provided in part that the amendment of subsec. (f) of this section by such section 304 shall be effective with respect to contributions collected by the Railroad Retirement Board after Dec. 31, 1961.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 86–28, to increase the contribution rates for compensation paid after May 1959 and the employee representatives' contribution rate from 3 to 3¾ per centum, effective the first day of the calendar month next following May 1959, and applicable only with respect to compensation paid for services rendered in calendar months after May 1959, see section 309 of Pub. L. 86–28, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (a) by Pub. L. 85–927 effective Sept. 6, 1958, except as otherwise indicated, see section 207 (c) of Pub. L. 85–927, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment to section by act Aug. 31, 1954, effective July 1, 1954, see notes under section 228a of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to subsecs. (a) and (h) of this section by act July 31, 1946 effective Jan. 1, 1947, see note under section 228a of this title.

ADJUSTMENT OR REFUND OF EXCESSIVE CONTRIBUTIONS

Section 5 (b) of act June 23, 1948, provided that: "Contributions paid under subsection (a) of section 8 of the Railroad Unemployment Insurance Act, as amended [subsec. (a) of this section], prior to the enactment of the foregoing amendment thereof [June 23, 1948] which are in excess of those required by said subsection as so amended shall be subject to adjustment or refund in accordance with the provisions of subsections (d) and (e) of said section 8 [subsecs. (d) and (e) of this section]."

CROSS REFERENCES

Provisions of this section effective notwithstanding the enactment of the Internal Revenue Code, see section 366a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 360, 404 of this title.

§ 359. Penalties.

(a) Failure to make report or furnish information; false or fraudulent statement or claim.

Any officer or agent of an employer, or any employee representative, or any employee acting in his own behalf, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this chapter, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purposes of this chapter, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or claim for the purpose of causing benefits or other payment to be made or not to be made under this chapter, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

(b) Agreement by employee to bear employer's contribution.

Any agreement by an employee to pay all or any portion of the contribution required of his employer under this chapter shall be void, and it shall be unlawful for any employer, or officer or agent of an employer, to make, require, or permit any employee to bear all or any portion of such contribution. Any employer, or officer or agent of an employer, who violates any provision of this subsection shall be punished for each such violation by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

(c) Punishments not specifically provided.

Any person who violates any provision of this chapter, the punishment for which is not otherwise provided, shall be punished for each such violation by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

(d) Payment and disposition of fines or penalties.

All fines and penalties imposed by a court pursuant to this chapter shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the account. (June 25, 1938, ch. 680, § 9, 52 Stat. 1103.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 354 of this title.

§ 360. Railroad unemployment insurance account.

(a) Funds constituting account; availability for benefits or refunds.

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 1104 of Title 42 an account to be known as the railroad unemployment insurance account. This account shall consist of (i) such part of all contributions collected pursuant to section 358 of this title as is in excess of 0.25 per centum of the total compensation on which such contributions are based, together with all interest collected pursuant to section 358(g) of this title; (ii) all amounts transferred or paid into the account pursuant to section 363 or section 364 of this title and pursuant to subsection (e) of this section; (iii) all additional amounts appropriated to the account in accordance with any provision of this chapter or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 1104(e) of Title 42; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 361 of this title; (vii) all fines or penalties collected pursuant to the provisions of this chapter; and (viii) all amounts credited thereto pursuant to section 352(f) or section 362(g) of this title. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this chapter, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund.

(b) Payment of benefits or refunds.

All moneys in the account shall be used solely for the payment of the benefits and refunds provided for by this chapter. The Board shall, from time to time, certify to the Secretary of the Treasury the name and address of each person or company entitled to receive benefits or a refund payment under this chapter, the amount of such payment, and the time at which it shall be made. Prior to audit or settlement by the General Accounting Office, the Secretary of the Treasury, through the Fiscal Service of the Treasury Department, shall make payments from the account directly to such person or company of the amount of benefits or refund so certified by the Board: *Provided, however,* That if the Board shall so request, the Secretary of the Treasury, through the Fiscal Service of the Treasury Department, shall transmit benefits payments to the Board for distribution by it through employment offices or in such other manner as the Board deems proper.

(c) Annual report to Congress.

The Board shall include in its annual report to Congress a statement with respect to the status and operation of the account.

(d) Transfer and retransfer of funds; interest.

Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this chapter, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account

to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at a rate for each fiscal year equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 358(a) of this title, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

(e) Annual adjustment of account; transfer of funds from Railroad Retirement Account.

At the close of the fiscal year ending June 30, 1968, and each fiscal year thereafter, the Board shall determine the amount, if any, which, if added to the railroad unemployment insurance account, would place such account in the same position it would have been in at the close of such fiscal year if every employee who had been paid benefits in the fiscal year for days of sickness in an extended benefit period under the first sentence of section 352(c) of this title, or in a "succeeding benefit year" begun in accordance with the second sentence of section 352(c) of this title, and who upon application therefor would have been entitled to a disability annuity under section 228b(a) of this title with respect to some or all of the days for which such benefits were paid, had been paid such annuity with respect to all days of sickness for which he was paid benefits which were also days with respect to which such annuity could have accrued. In determining such amount, the Board shall presume that every such employee was, in respect to his permanent physical or mental condition, qualified for such an annuity from the date of onset of the last spell of illness for which he was paid such benefits, if (a) he died without applying for such an annuity and before fully exhausting all rights to such benefits; or (b) he died without applying for such an annuity but within a year after the last day of sickness for which he had been paid such benefits, and had not meanwhile engaged in substantial gainful employment; or (c) he applied for such an annuity within one year after the last day of sickness for which he was paid such benefits and had not engaged in substantial gainful employment after that day and before the day on which he filed an application for such an annuity. The Board shall also have authority to make reasonable approximations deemed necessary in computing annuities for this purpose. The Board shall determine such amount no later than June 15 following the close of the fiscal year, and within ten days after such determination shall certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account to the railroad unemployment insurance account, and the Secretary of the Treasury shall make such transfer. The amount so certified shall include interest (at a rate determined, as of the close of the fiscal year, in accordance with subsection (d) of this section) payable from the close of such fiscal year to the date of certification. (June 25, 1938, ch. 680, § 10 (a–d), 52 Stat. 1104; June 20, 1939, ch. 227, § 13, 53 Stat. 848; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; June 23, 1948, ch. 608, § 7, 62 Stat. 578; May 19, 1959, Pub. L. 86–23, pt. III, § 308(a), 73 Stat. 32; Oct. 5, 1963, Pub. L. 83–133, title III, § 305, 77 Stat. 223; Oct. 30, 1966, Pub. L. 89–700, title II, § 205, 80 Stat. 1087; Feb. 15, 1968, Pub. L. 90–257, title II, § 205, 82 Stat. 24.)

CODIFICATION

Subsec. (h) of section 10 of act June 25, 1938, added by section 205 of Pub. L. 90–257, was redesignated as subsec. (e) of this section for purposes of codification, since subsecs. (e)—(g) of act June 25, 1938, are classified to section 1104 of Title 42, The Public Health and Welfare.

AMENDMENTS

1968—Subsec. (a)(ii). Pub. L. 90–257 added reference to amounts transferred or paid into the account pursuant to subsec. (e) of this section.

Subsec. (e). Pub. L. 90–257 added subsec. (e).

1966—Subsec. (a). Pub. L. 89–700 substituted "0.25 per centum" for "0.2 per centum."

1963—Subsec. (d). Pub. L. 88–133 substituted "a rate for each fiscal year equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum" for "the rate of 3 per centum per annum."

1959—Subsec. (d). Pub. L. 86–28 substituted provisions authorizing the Board to request the transfer and retransfer of funds for provisions which directed the Secretary of the Treasury to advance not more than $25,000,000 for the purpose of paying benefits.

1948—Subsec. (a)(i). Act June 23, 1948, changed the computation of the insurance account.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 305 of Pub. L. 88–133 provided in part that the amendment of subsec. (d) of this section by Pub. L. 88–133 shall be effective after June 30, 1964.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 308(b) of Pub. L. 86–28 provided that: "The amendment made by this section [to subsec. (d) of this section] shall take effect on the date of enactment of this Act [May 19, 1959]."

TRANSFER OF FUNCTIONS

"Fiscal Service," as used in subsec. (b), originally read "Division of Disbursements." 1940 Reorg. Plan No. III consolidated the Division of Disbursements and certain other offices and agencies and their functions into Fiscal Service of Treasury Department. Said 1940 Reorg. Plan No. III is set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Custody, investment, and disbursement of fund, see section 1104 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 352 of this title.

§ 361. Railroad unemployment insurance administration fund.

(a) Maintenance of account; amounts constituting fund.

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 1104 of Title 42 an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of

all contributions collected pursuant to section 358 of this title as equals 0.25 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this chapter. Such additional amounts are authorized to be appropriated.

(b) Appropriation; advance of sums; repayment.

In addition to the other moneys herein provided for expenses necessary or incidental to administering this chapter, there is appropriated to the fund such amount as the Secretary of the Treasury and the Board shall jointly estimate to have been collected or to be collectible with respect to the calendar years 1936, 1937, 1938, and 1939, from employers subject to this chapter, under sections 1101 to 1110 of Title 42, less such amount as the Secretary of the Treasury and the Board shall jointly estimate will be appropriated or has been appropriated to States or Territories pursuant to the Act of Congress approved August 24, 1937, ch. 755, 50 Stat. 754, as proceeds of taxes paid by employers pursuant to sections 1101 to 1110 of Title 42.

Until the amount appropriated by this subsection is credited to the fund, the Secretary of the Treasury is directed to advance to the credit of the fund such sums, but not more than $2,000,000, as the Board requests for the purpose of financing the costs of administering this chapter. Such advance shall be repaid from the fund at such time after the amount appropriated by this subsection is credited to the fund as the Board by agreement with the Secretary of the Treasury may determine, but not later than January 1, 1940.

(c) Availability for administrative expenses.

Notwithstanding any other provision of law, all moneys at any time credited to the fund are permanently appropriated to the Board to be continuously available to the Board without further appropriation for any expenses necessary or incidental to administering this chapter, including personal services in the District of Columbia and elsewhere; travel expenses, including expenses of attendance at meetings when authorized by the Board; actual transportation expenses and not to exceed $10 per diem to cover subsistence and other expenses while in attendance at and en route to and from the place to which he is invited, to any person other than an employee of the Federal Government who may, from time to time, be invited to the city of Washington or elsewhere for conference or advisory purposes in furthering the work of the Board; when found by the Board to be in the interest of the Government, not exceeding 3 per centum, in any fiscal year, of the amounts credited during such year to the fund, for engaging persons or organizations, by contract or otherwise, for any special technical or professional services, determined necessary by the Board, including but not restricted to accounting, actuarial, statistical, and reporting services, without regard to section 5 of Title 41 and the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; services; advertising, postage, telephone, telegraph, teletype, and other communication services and tolls; supplies; reproducing, photographing, and all other equipment, office appliances, and labor-saving devices, including devices for internal communication and conveyance; purchase and exchange, operation, maintenance and repair of motor-propelled passenger-carrying vehicles to be used only for official purposes in the District of Columbia and in the field; printing and binding; purchase and exchange of law books, books of reference, and directories; periodicals, newspapers and press clippings, in such amounts as the Board deems necessary, without regard to the provisions of section 102 of Title 5; manuscripts and special reports; membership fees or dues in organizations which issue publications to members only, or to members at a lower price than to others, payment for which may be made in advance; rentals, including garages, in the District of Columbia or elsewhere; alterations and repairs; if found by the Board to be necessary to expedite the certification to the Board by the Civil Service Commission of persons eligible to be employed by the Board, and to the extent that the Board finds such expedition necessary, meeting the expenses of the Civil Service Commission in holding examinations for testing the fitness of applicants for admission to the classified service for employment by the Board pursuant to the second paragraph of section 362 (1)[1] of this title, but not to exceed the additional expenses found by the Board to have been incurred by reason of the holding of such examinations; and miscellaneous items, including those for public instruction and information deemed necessary by the Board: *Provided,* That section 5 of Title 41 shall not be construed to apply to any purchase or procurement of supplies or services by the Board from moneys in the fund when the aggregate amount involved does not exceed $300. Determinations of the Board whether the fund or an appropriation for the administration of the Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1935 is properly chargeable with the authorized expenses, or parts thereof, incurred in the administration of such Acts, or of this Act, shall be binding and conclusive for all purposes and upon all persons, including the Comptroller General and any other administrative or accounting officer, employee, or agent of the United States, and shall not be subject to review in any manner.

(d) Transfer of excess to insurance account.

So much of the balance in the fund as of June 30 of each year as is in excess of $6,000,000 shall as of such date be transferred from the fund and credited to the account. (June 25, 1938, ch. 680, § 11, 52 Stat. 1105; June 20, 1939, ch. 227, §§ 14, 15, 53 Stat. 848; Oct. 10, 1940, ch. 842, § 22, 54 Stat. 1099; June 23, 1948, ch. 608, § 8, 62 Stat. 578; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 205, 72 Stat. 1783; Oct. 30, 1966, Pub. L. 89–700, title II, § 205, 80 Stat. 1087.)

REFERENCES IN TEXT

Sections 1101 to 1110 of Title 42, except for section 1104, referred to in subsec. (b), have been superseded by the Federal Unemployment Tax Act, which was formerly

[1] So in original.

classified to subchapter C of Chapter 9 of Title 26, I. R. C. 1939 and is now classified to chapter 23 of Title 26, I. R. C. 1954. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. See enacting sections preceding section 1 of Title 26, I. R. C. 1939, 53 Stat. 1. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I R. C. 1954 (Act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also section 7807 of Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. See, also, Codification Note for former sections 1101—1103 and 1105—1110 of Title 42, The Public Health and Welfare, set out preceding section 1101, for distribution of sections 1101—1110 in Title 26, I. R. C. 1939 and I. R. C. 1954.

Section 102 of Title 5, referred to in subsec. (c), which related to expenditures for newspapers, was section 102 of title 5 prior to its revision by Pub. L. 89-554, and was repealed by act Aug. 2, 1946, ch. 744, § 17(a), 60 Stat. 811.

Railroad Retirement Act of 1937, referred to in subsec. (c), is classified to sections 228a to 228c-1, 228e—228h, and 228i to 228s-2 of this title.

Railroad Retirement Act of 1935, referred to in subsec. (c), is set out in note under sections 215 to 228 of this title.

This Act, referred to in subsec. (c), has reference to act June 23, 1948, which is classified to sections 228c, 228c note, 228e, 228e note, 358, 358 note, 360 and 361 of this title.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-700 substituted "0.25 per centum" for "0.2 per centum."

1958—Subsec. (a). Pub. L. 85-927 substituted provisions directing Secretary of Treasury to maintain in the unemployment trust fund established pursuant to section 1104 of Title 42 an account to be known as the railroad unemployment insurance administration fund, for provisions which established railroad unemployment insurance administration fund in Treasury of United States.

1948—Subsec. (a)(i). Act June 23, 1948, changed the computation of the administration funds.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (a) by Pub. L. 85-927 effective September 6, 1958, except as otherwise indicated, see section 207 (c) of Pub. L. 85-927, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 360, 362 of this title.

§ 362. Duties and powers of Board.

(a) Witnesses; subpenas, service, fees, etc.

For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, or relative to any other matter within its jurisdiction under this chapter, the Board shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence, documentary or otherwise, that relates to any matter under investigation or in question, before the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and production of evidence may be required from any place in the United States or any Territory or possession thereof at any designated place of hearing. All subpenas may be served and returned by anyone authorized by the Board in the same manner as is now provided by law for the service and return by United States marshals of subpenas in suits in equity. Such service may also be made by registered mail or by certified mail and in such case the return post-office receipt shall be proof of service. Witnesses summoned in accordance with this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(b) Enforcement of subpenas by courts; contempts; service of orders, writs, or processes.

In case of contumacy by, or refusal to obey a subpena lawfully issued to, any person, the Board may invoke the aid of the district court of the United States or the United States courts of any Territory or possession, where such person is found or resides or is otherwise subject to service of process, or the United States District Court for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, or the United States District Court for the Northern District of Illinois, if the investigation or proceeding is being carried on in the Northern District of Illinois, in requiring the attendance and testimony of witnesses and the production of evidence. Any such court shall issue an order requiring such person to appear before the Board or its specified employee or representative at the place specified in the subpena of the Board, whether within or without the judicial district of the court, there to produce evidence, if so ordered, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. All orders, writs, and processes in any such proceeding may be served in the judicial district of the district court issuing such order, writ, or process, except that the orders, writs, and processes of the United States District Court for the District of Columbia or of the United States District Court for the Northern District of Illinois in such proceedings may run and be served anywhere in the United States.

(c) Repealed. Pub. L. 91-452, title II, § 239, Oct. 15, 1970, 84 Stat. 930.

(d) Information as confidential.

Information obtained by the Board in connection with the administration of this chapter shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this chapter; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; and (iii) any claimant of benefits under this chapter shall, upon his request, be supplied with information from the Board's records pertaining to his claim. Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance

administration fund established pursuant to section 361(a) of this title;

(e) Certification of claims; authorization of employee to make payment; bond.

The Board shall provide for the certification of claims for benefits and refunds and may arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. The Board shall designate and authorize one or more of its employees to sign vouchers for the payment of benefits and refunds under this chapter. Each such employee shall give bond, in form and amount fixed by the Board, conditioned upon the faithful performance of his duties. The premiums due on such bonds shall be paid from the fund and deemed to be a part of the expenses of administering this chapter.

(f) Cooperation with other agencies administering unemployment, sickness, or maternity compensation laws; agreements.

The Board may cooperate with or enter into agreement with the appropriate agencies charged with the administration of State, Territorial, Federal, or foreign unemployment-compensation or sickness laws or employment offices, with respect to investigations, the exchange of information and services, the establishment, maintenance, and use of free employment service facilities, and such other matters as the Board deems expedient in connection with the administration of this chapter, and may compensate any such agency for services or facilities supplied to the Board in connection with the administration of this chapter. The Board may enter also into agreements with any such agency, pursuant to which any unemployment or sickness benefits provided for by this chapter or any other unemployment-compensation or sickness law, may be paid through a single agency to persons who have, during the period on the basis of which eligibility for and duration of benefits is determined under the law administered by such agency or under this chapter, or both, performed services covered by one or more of such laws, or performed services which constitute employment as defined in this chapter: *Provided,* That the Board finds that any such agreement is fair and reasonable as to all affected interests.

(g) Benefits also subject to a State law; mutual reimbursement.

In determining whether an employee has qualified for benefits in accordance with section 353 of this title, and in determining the amount of benefits to be paid to such employee in accordance with section 352(a) and (c) of this title, the Board is authorized to consider as employment (and compensation therefor) services for hire other than employment (and remuneration therefor) if such services for hire are subject to an unemployment or sickness compensation law of any State, provided that such State has agreed to reimburse the United States such portion of the benefits to be paid upon such basis to such employee as the Board deems equitable. Any amounts collected pursuant to this paragraph shall be credited to the account.

If a State, in determining whether an employee is eligible for unemployment or sickness benefits under an unemployment or sickness compensation law of such State, and in determining the amount of unemployment or sickness benefits to be paid to such employee pursuant to such unemployment or sickness compensation law, considers as services for hire (and remuneration therefor) included within the provisions of such unemployment or sickness compensation law, employment (and compensation therefor), the Board is authorized to reimburse such State such portion of such unemployment or sickness benefits as the Board deems equitable; such reimbursements shall be paid from the account, and are included within the meaning of the word "benefits" as used in this chapter.

(h) Assistance from employers and labor organizations; compensation.

The Board may enter into agreements or arrangements with employers, organizations of employers, and railway-labor organizations which are duly organized in accordance with the provisions of the Railway Labor Act, for securing the performance of services or the use of facilities in connection with the administration of this chapter, and may compensate any such employer or organization therefor upon such reasonable basis as the Board shall prescribe, but not to exceed the additional expense incurred by such employer or organization by reason of the performance of such services or making available the use of such facilities pursuant to such agreements or arrangements. Such employers and organizations, and persons employed by either of them, shall not be subject to section 66 of Title 5.

(i) Free employment offices; registration of unemployed; statements of sickness; reemployment.

The Board may establish, maintain, and operate free employment offices, and may designate as free employment offices facilities maintained by (i) a railway labor organization which is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or (ii) any other labor organization which has been or may be organized in accordance with the provisions of the Railway Labor Act, or (iii) one or more employers, or (iv) an organization of employers, or (v) a group of such employers and labor organizations, or (vi) a State, Territorial, foreign, or the Federal Government. The Board may also enter into agreements or arrangements with one or more employers or railway labor organizations organized in accordance with the provisions of the Railway Labor Act, pursuant to which notice of the availability of work and the rights of employees with respect to such work under agreements between such employers and railway labor organizations may be filed with employment offices and pursuant to which employees registered with employment offices may be referred to such work.

The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, accept such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits.

The Board shall provide a form or forms for statements of sickness and a procedure for the execution and filing thereof. Such forms and procedure shall be designated with a view to having such statements provide substantial evidence of the days of sickness of the employee. Such statements may be executed by any doctor (authorized to practice in the State or foreign jurisdiction in which he practices his profession) or any officer or supervisory employee of a hospital, clinic, group health association, or other similar organization, who is qualified under such regulations as the Board may prescribe to execute such statements. The Board shall issue regulations for the qualification of such persons to execute such statements. When so executed by any such person, or, in the discretion of the Board, by others designated by the Board individually or by groups, they may be accepted as initial proof of days of sickness sufficient to certify for payment a claim for benefits.

The regulations of the Board concerning registration at employment offices by unemployed persons may provide for group registration and reporting, through employers, and need not be uniform with respect to different classes of employees.

The operation of any employment facility operated by the Board shall be directed primarily toward the reemployment of employees who have theretofore been substantially employed by employers.

(j) Advisory councils; members' remuneration.

The Board may appoint national or local advisory councils composed of equal numbers of representatives of employers, representatives of employees, and persons representing the general public, for the purpose of discussing problems in connection with the administration of this chapter and aiding the Board in formulating policies. The members of such councils shall serve without remuneration, but shall be reimbursed for any necessary traveling and subsistence expenses or on a per diem basis in lieu of subsistence expenses.

(k) Reduction of unemployment; training and reemployment of unemployed employees, etc.

The Board, with the advice and aid of any advisory council appointed by it, shall take appropriate steps to reduce and prevent unemployment and loss of earnings; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to promote the reemployment of unemployed employees; and to these ends to carry on and publish the results of investigations and research studies.

(*l*) Necessary and incidental powers; employees of Board, employment, remuneration, civil-service laws, registration of unemployed, and detail.

In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties necessary to administer or incidental to administering this chapter, and in connection therewith shall have such of the powers, duties, and remedies provided in section 228j (b) (4) of this title, with respect to the administration of said Act, as are not inconsistent with the express provisions of this chapter. A person in the employ of the Board under section 205 of the Act of Congress approved June 24, 1937 (50 Stat. 307), shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Civil Service Commission, he shall pass such noncompetitive tests of fitness as the Civil Service Commission may prescribe. A person in the employ of the Board on June 30, 1939, and on June 30, 1940, and who has had experience in railroad service, shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Civil Service Commission, he shall pass such noncompetitive tests of fitness for the position for which the Board recommends him as the Civil Service Commission may prescribe.

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this chapter. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5: *Provided,* That all positions to which such persons are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom: *Provided,* That in the employment of such persons the Board shall give preference, as between applicants attaining the same grades, to persons who have had experience in railroad service, and notwithstanding any other provisions of law, rules, or regulations, no other preference shall be given or recognized: *And provided further,* That certification by the Civil Service Commission of persons for appointment to any positions at minimum salaries of $4,600 per annum, or less, shall, if the Board so requests, be upon the basis of competitive examinations, written, oral, or both, as the Board may request: *And provided further,* That, for the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make facilities available for the registration of such employees, the Board may, without regard to civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, appoint persons to accept, in such areas, registration of such employees and perform services incidental thereto and may compensate such persons on a piece-rate basis to be determined by the Board. Notwithstanding any other provision of law, the Board may detail employees from stations outside the District of Columbia to other stations outside the District of Columbia or to service in the District of Columbia, and may detail employees in the District of Columbia to service outside the District of Columbia: *Provided,* That all details hereunder shall be made by specific order and in no case for a period of time exceeding one hundred and twenty days. Details so made may, on expiration, be renewed from time to time by order of the Board, in each particular case, for periods not exceeding one hundred and twenty days.

(m) Delegation of powers.

The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this chapter, excluding only the power to prescribe rules and regulations.

(n) Sickness benefits; examinations; information and reports; contracts and expenses for examinations.

Any employee claiming, entitled to, or receiving sickness benefits under this chapter may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness benefits shall be payable under this chapter with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee, upon which a claim or right to benefits under this chapter is based, shall furnish the Board, in such manner and form and at such times as the Board by regulations may prescribe, information and reports relative thereto and to the condition of the employee. An application for sickness benefits under this chapter shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness period upon which such application is based: *Provided,* That such information shall not be disclosed by the Board except in a court proceeding relating to any claim for benefits by the employee under this chapter.

The Board may enter into agreements or arrangements with doctors, hospitals, clinics, or other persons for securing the examination, physical, medical, mental, or otherwise, of employees claiming, entitled to, or receiving sickness benefits under this chapter and the performance of services or the use of facilities in connection with the execution of statements of sickness. The Board may compensate any such doctors, hospitals, clinics, or other persons upon such reasonable basis as the Board shall prescribe. Such doctors, hospitals, clinics, or other persons and persons employed by any of them shall not be subject to section 66 of Title 5. In the event that the Board pays for the physical or mental examination of an employee or for the execution of a statement of sickness and such employee's claim for benefits is based upon such examination or statement, the Board shall deduct from any sickness benefits payable to the employee pursuant to such claim such amount as, in the judgment of the Board, is a fair and reasonable charge for such examination or execution of such statement.

(o) Liability of third party for sickness; reimbursement of Board.

Benefits payable to an employee with respect to days of sickness shall be payable regardless of the liability of any person to pay damages for such infirmity. The Board shall be entitled to reimbursement from any sum or damages paid or payable to such employee or other person through suit, compromise, settlement, judgment, or otherwise on account of any liability (other than a liability under a health, sickness, accident, or similar insurance policy) based upon such infirmity, to the extent that it will have paid or will pay benefits for days of sickness resulting from such infirmity. Upon notice to the person against whom such right or claim exists or is asserted, the Board shall have a lien upon such right or claim, any judgment obtained thereunder, and any sum or damages paid under such right or claim, to the extent of the amount to which the Board is entitled by way of reimbursement.

(p) Disqualification to execute statements of sickness or receive fees.

The Board may, after hearing, disqualify any person from executing statements of sickness who, the Board finds, (i) will have solicited, or will have employed another to solicit, for himself or for another the execution of any such statement, or (ii) will have made false or misleading statements to the Board, to any employer, or to any employee, in connection with the awarding of any benefits under this chapter, or (iii) will have failed to submit medical reports and records required by the Board under this chapter, or will have failed to submit any other reports, records, or information required by the Board in connection with the administration of this chapter or any other Act heretofore or hereafter administered by the Board, or (iv) will have engaged in any malpractice or other professional misconduct. No fees or charges of any kind shall accrue to any such person from the Board after his disqualification.

(q) Investigations and research with respect to accidents and disabilities.

The Board shall engage in and conduct research projects, investigations, and studies with respect to the cause, care, and prevention of, and benefits for, accidents and disabilities and other subjects deemed by the Board to be related thereto, and shall recommend legislation deemed advisable in the light of such research projects, investigations, and studies. (June 25, 1938, ch. 680, § 12, 52 Stat. 1107; June 20, 1939, ch. 227, § 16, 53 Stat. 848; Oct. 10, 1940, ch. 842, §§ 23, 24, 54 Stat. 1099; July 31, 1946, ch. 709, §§ 319—323, 60 Stat. 739, 740; June 25, 1948, ch. 646, §§ 1, 32 (b), 62 Stat. 878, 895, 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 1972; Aug. 12, 1955, ch. 869, § 6, 69 Stat. 716; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 206, 72 Stat. 1783; June 11, 1960, Pub. L. 86–507, § 1(37), 74 Stat. 202; Oct. 30, 1966, Pub. L. 89–700, title II, § 206, 80 Stat. 1087; Feb. 15, 1968, Pub. L. 90–257, title II, § 206, 82 Stat. 25; Oct. 15, 1970, Pub. L. 91–452, title II, § 239, 84 Stat. 930.)

REFERENCES IN TEXT

Railway Labor Act, referred to in subsecs. (h) and (i), is classified to chapter 8 of this title.

Section 66 of Title 5, referred to in subsecs. (h) and (n), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 209 of Title 18, Crimes and Criminal Procedure.

The civil service laws, referred to in the catchline and text of subsec. (*l*), are classified generally to Title 5, Government Organization and Employees.

Said Act, referred to in subsec. (*l*), has reference to the Railroad Retirement Act of 1937, which is classified to sections 228a to 228c–1, 228e–228h, and 228i to 228s–2 of this title.

Section 205 of act June 24, 1937, referred to in subsec. (*l*), is not classified to the code.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–452 struck out subsec. (c) which related to the immunity from prosecution of any person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1968—Subsec. (f). Pub. L. 90–257, § 206(a), struck out references to maternity benefits and laws and made changes in punctuation and grammar necessitated thereby.

Subsec. (g). Pub. L. 90–257, § 206(b), struck out references to maternity benefits and maternity compensation laws and made changes in punctuation and grammar necessitated thereby.

Subsec. (i). Pub. L. 90–257, § 206(c), struck out provisions making reference to maternity sickness and to the expected and actual date of birth of the child required to be included in the report of maternity sickness.

Subsec. (n). Pub. L. 90–257, § 206(d), struck out references to maternity benefits and to services of a doctor as to the expected date of birth of a female employee's child, or the birth of such a child.

1966—Subsec. (d). Pub. L. 89–700 authorized the Board to furnish such information to any person or organization upon payment of the cost incurred by reason thereof, and requiring amounts so paid to the Board to be credited to the railroad unemployment insurance administration fund.

Subsec. (g). Pub. L. 89–700 substituted "section 353 of this title" for "section 353(a) of this title."

1960—Subsec. (a). Pub. L. 86–507 inserted "or by certified mail" following "registered mail."

1958—Subsec. (*l*). Pub. L. 85–927 eliminated "except that the Board may fix the salary of a director of unemployment insurance at $10,000 per annum" preceding first proviso in second paragraph, and substituted "Classification Act of 1949" for "Classification Act of 1923", which substitution had already been executed in accordance with act Oct. 28, 1949.

1955—Subsec. (*l*). Act Aug. 12, 1955, specifically provided for employees of the Railroad Retirement Board to be in and under the competitive civil service.

1949—Subsec. (*l*). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923" which, for purposes of codification, was translated as "chapter 51 and subchapter III of chapter 53 of title 5".

1946—Subsec. (b). Act July 31, 1946, § 319, inserted provisions relating to the District Court of the United States for the Northern District of Illinois.

Subsec. (f). Act July 31, 1946, § 320, inserted references to sickness or maternity laws and benefits.

Subsec. (g). Act July 31, 1946, § 321, inserted references to sickness or maternity laws and benefits and struck out phrase limiting second paragraph to eligibility with respect to unemployment after June 30, 1939.

Subsec. (i). Act July 31, 1946, § 322, added third paragraph, providing for the form, execution and filing of statements of sickness.

Subsecs. (n)—(q). Act July 31, 1946, § 323, added subsecs. (n)—(q).

CHANGE OF NAME

Subsec. (b) amended by act June 25, 1948, § 32 (b), eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia".

"United States District Court for the Northern District of Illinois" was substituted for "District Court of the United States for the Northern District of Illinois" in view of act June 25, 1948, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and that "Illinois is divided into three judicial districts to be known as the Northern, Southern, and Eastern Districts of Illinois." See sections 88 and 132 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–257 effective as of July 1, 1968, see section 208 of Pub. L. 90–257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (*l*) by Pub. L. 85–927 effective Sept. 6, 1958, except as otherwise indicated, see section 207 (c) of Pub. L. 85–927, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

EFFECTIVE DATE OF 1940 AMENDMENT

Effective date of act Oct. 10, 1940, see note under section 351 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Perjury, see sections 1621 and 1622 of Title 18, Crimes and Criminal Procedure.

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of Title 42, The Public Health and Welfare.

FEDERAL RULES OF CIVIL PROCEDURE

Federal Rules of Civil Procedure as governing the procedure in all suits of a civil nature whether cognizable as cases at law or in equity, see rule 1, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228j, 351, 360, 361, 363 of this title.

§ 363. Exclusiveness of provisions; transfers from State unemployment compensation accounts to railroad unemployment insurance account.

(a) Effect on State unemployment compensation laws.

By enactment of this chapter the Congress makes exclusive provision for the payment of unemployment benefits for unemployment occurring after June 30, 1939, and for the payment of sickness benefits for sickness periods after June 30, 1947, based upon employment (as defined in this chapter). No employee shall have or assert any right to unemployment benefits under an unemployment compensation law of any State with respect to unemployment occurring after June 30, 1939, or to sickness benefits under a sickness law of any State with respect to sickness periods occurring after June 30, 1947, based upon employment (as defined in this chapter). The Congress finds and declares that by virtue of the enactment of this chapter, the application of State unemployment compensation laws after June 30, 1939 or of State sickness laws after June 30, 1947, to such employment, except pursuant to section 362(g) of this title, would constitute an undue burden upon, and an undue interference with the effective regulation of, interstate commerce. In furtherance of such determination, after June 30, 1939, the term "person" as used in section 1106 of Title 42 shall not be construed to include any employer (as defined in this chapter) or any person in

its employ: *Provided,* That no provision of this chapter shall be construed to affect the payment of unemployment benefits with respect to any period prior to July 1, 1939, under an unemployment compensation law of any State based upon employment performed prior to July 1, 1939, and prior to such date employment as defined in this chapter shall not constitute "Service with respect to which unemployment compensation is payable under an [or "service under any"] unemployment compensation system [or "plan"] established by an Act of Congress" [or "a law of the United States"] or "employment in interstate commerce, of an individual who is covered by an unemployment compensation system established directly by an Act of Congress," or any term of similar import, used in any unemployment compensation law of any State.

(b) Determination of "preliminary amount" for States.

The Social Security Board is directed to determine for each State, after agreement with the Railroad Retirement Board, and after consultation with such State; the total (hereinafter referred to as the "preliminary amount") of (i) the amount remaining as the balances of reserve accounts of employers as of June 30, 1939, if the unemployment compensation law of such State provides for a type of fund known as "Reserve Accounts," plus (ii) if the unemployment compensation law of such State provides for a type of fund known as "Pooled Fund" or "Pooled Account," that proportion of the balance of such fund or account of such State as of June 30, 1939, as the amount of taxes or contributions collected from employers and their employees prior to July 1, 1939, pursuant to its unemployment compensation law and credited to such fund or account bears to all such taxes or contributions theretofore collected from all persons subject to its unemployment compensation law and credited to such fund or account; and the additional amounts (hereinafter referred to as the "liquidating amount") of taxes or contributions collected from employers and their employees from July 1, 1939 to December 31, 1939, pursuant to its unemployment compensation law.

(c) Withholding amounts from certification to States; transfers to railroad unemployment compensation account.

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 502 (a) of Title 42 to be necessary for the proper administration of each State's unemployment-compensation law, until an amount equal to its "preliminary amount" plus interest from July 1, 1939, at 2½ per centum per annum on such portion thereof as has not been used as the measure for withholding certification for payment, has been so withheld from certification pursuant to this paragraph: *Provided, however,* That if a State shall, prior to whichever is the later of (i) thirty days after the close of the first regular session of its legislature which begins after the approval of this chapter, and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund an amount equal to its "preliminary amount", no amount shall be withheld from certification for payment to such State pursuant to this paragraph.

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 502 (a) of Title 42 to be necessary for the proper administration of each State's unemployment compensation law, until an amount equal to its "liquidating amount" plus interest from January 1, 1940, at 2½ per centum per annum on such portion thereof as has not been used as the measure for withholding certification for payment has been so withheld from certification pursuant to this paragraph: *Provided, however,* That if a State shall, prior to whichever is the later of (i) thirty days after the close of the first regular session of its legislature which begins after the approval of this chapter, and (ii) January 1, 1940, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund an amount equal to its "liquidating amount", no amount shall be withheld from certification for payment to such State pursuant to this paragraph.

The withholdings from certification directed in each of the foregoing paragraphs of this subsection shall begin with respect to each State when the Social Security Board finds that such State is unable to avail itself of the condition set forth in the proviso contained in such paragraph: *Provided, however,* That if the Social Security Board finds with respect to any State that such State (1) is unable to avail itself of such conditions solely by reason of prohibitions contained in the constitution of such State, as determined by a decision of the highest court of such State declaring invalid in whole or in part the action of the legislature of the State purporting to provide for transfers from the State's account in the Unemployment Trust Fund to the railroad unemployment insurance account, and (2) for similar reasons is unable to use amounts withdrawn from its account in the Unemployment Trust Fund for the payment of expenses incurred in the administration of its State unemployment compensation law, the Social Security Board shall not begin to withhold from certification to the Secretary of the Treasury for payment to such State the amounts determined by it pursuant to section 502 of Title 42 and to certify to the Secretary of the Treasury for payment into the railroad unemployment insurance account the amount so withheld from such State until July 1, 1944, or until a date one hundred and eighty days after the adjournment of the first session of the legislature of such State beginning after July 1, 1942, whichever date is the earlier, and then only if the Social Security Board finds that such State had not prior thereto effectively authorized and directed the Secretary of the Treasury to transfer from such State's account in the Unemployment Trust Fund to the railroad unemployment insurance account amounts equal to such State's "preliminary amount" and "liquidating amount" less such parts thereof, if any, as the State may have, within the periods set forth in the provisos contained in the first two paragraphs of this subsection, effectively authorized and

directed the Secretary of the Treasury so to transfer, plus interest on such difference, if any, with respect to each amount, at 2½ per centum per annum from the date the State's "preliminary amount" or "liquidating amount", as the case may be, is determined by the Social Security Board; and with respect to any such State the amount withheld shall equal the State's "preliminary amount" and "liquidating amount" less such parts thereof, if any, as the State may have, within the periods set forth in the provisos contained in the first two paragraphs of this subsection effectively authorized and directed the Secretary of the Treasury to transfer, plus interest from July 1, 1939, at 2½ per centum per annum on so much of the "preliminary amount" and "liquidating amount", as the case may be, as has not been so transferred or has not been used as the measure for withholding. An enactment of any State legislature providing for the transfer (from the State's account in the Unemployment Trust Fund to the railroad unemployment insurance account) of all interest earned upon contributions which are collected with respect to employment occurring after such enactment by such State pursuant to its unemployment compensation law and credited to its account in the Unemployment Trust Fund (until the total of such transfers equals the amounts which otherwise would be required to be withheld from certification under this subsection), shall be deemed an effective authorization and direction to the Secretary of the Treasury as required by this subsection; and for purposes of computing the interest to be so transferred, amounts withdrawn by such State from its account in the Unemployment Trust Fund after the date of such State enactment shall be considered to be first charged against the amounts credited to such State's account prior to the date of such State enactment: *Provided, however,* That if at any time after such enactment the provision for transfer therein contained for any reason fails to be operative to effect the transfers of interest as therein prescribed, and such State has not otherwise made an effective authorization and direction to the Secretary of the Treasury as required by this subsection, the Social Security Board shall immediately after such failure or, on the date otherwise provided in this subsection for the beginning of withholdings from certification, whichever is later, begin to make the withholdings from certification provided for in this subsection in the same manner and to the same extent as if such enactment by such State had not been enacted, except that the amounts of the certifications withheld shall be reduced by the total amount, if any, which has been transferred from interest pursuant to such enactment.

(d) Transfers and withdrawals, effect upon Social Security Act.

The transfers described in the provisos contained in the several paragraphs of subsection (c) of this section shall not be deemed to constitute a breach of the conditions set forth in sections 503 (a) (5) and 1103 (a) (4) of Title 42; nor shall the withdrawal by a State from its account in the unemployment trust fund of amounts, but not to exceed the total amount the Social Security Board shall have withheld from certification with respect to such State pursuant to subsection (c) of this section, be deemed to constitute a breach of the conditions set forth in sections 503 (a) (5) and 1103 (a) (4) of Title 42, provided the moneys so withdrawn are expended solely for expenses which the Social Security Board determines to be necessary for the proper administration of such State's unemployment compensation law.

(e) Payments to railroad unemployment insurance account; transfers from unemployment trust fund of States.

The Social Security Board is authorized and directed to certify to the Secretary of the Treasury for payment, and the Secretary shall pay, into the railroad unemployment insurance account, such amounts as the Social Security Board withholds from certification pursuant to subsection (c) of this section and the appropriations authorized in section 501 of Title 42 shall be available for payments authorized by this subsection. The Secretary shall transfer from the account of a State in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund such amounts as the State authorizes and directs him so to transfer pursuant to subsection (c) of this section. (June 25, 1938, ch. 680, § 13 (b)—(f), 52 Stat. 1110; June 20, 1939, ch. 227, § 17, 53 Stat. 848; July 2, 1940, ch. 530, 54 Stat. 741; June 30, 1942, ch. 463, 56 Stat. 465; July 31, 1946, ch. 709, § 324, 60 Stat. 740; Feb. 15, 1968, Pub. L. 90–257, title II, § 207, 82 Stat. 25.)

REFERENCES IN TEXT

Sections 1106 and 1103 (a) (4) of Title 42, referred to in subsecs. (a) and (d), respectively, were superseded by former sections 1606 and 1603 of Title 26, I. R. C. 1939 and are now covered by sections 3305 and 3304 of Title 26, I. R. C. 1954. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. See enacting sections preceding section 1 of Title 26, I. R. C. 1939, 53 Stat. 1. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954.

Social Security Act, referred to in the catchline of subsec. (d), is classified to chapter 7 of Title 42, The Public Health and Welfare.

CODIFICATION

Subsecs. (a)—(e) of this section constituted subsecs. (b)—(f), respectively, of act June 25, 1938.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–257 struck out all references to maternity benefits.

1946—Subsec. (a). Act July 31, 1946, inserted phrases extending provisions of that subsection to State sickness and maternity laws and benefits after June 30, 1947.

1942—Subsec. (c). Act June 30, 1942, affected provisos in third paragraph.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of section by section 207 of Pub. L. 90–257 effective as of July 1, 1968, see section 208 of Pub. L. 90–257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

1946 amendment to this section effective July 31, 1946, see note under section 228a of this title.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor and functions of all agencies and employees of

the Department were, with the exception of the functions vested by the Administrative Procedure Act, now covered by sections 551 et seq. and 701 et seq. of Title 5, in hearing examiners employed by the Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065, set out in the Appendix to Title 5. Section 1 of 1949 Reorg. Plan No. 2, also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by the officers, agencies, and employees of the Department of Labor as he shall designate.

The Social Security Board was abolished and its functions and those of its chairman transferred to the Federal Security Administrator to be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he designated by 1946 Reorg. Plan No. 2, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095, set out in the Appendix to Title 5. For transfer of personnel, property, records, and funds, see section 12 of the Reorganization Plan.

EFFECT OF SOCIAL SECURITY ACT AMENDMENTS

Act Aug. 10, 1939, ch. 666, Title IX, § 901, 53 Stat. 1399, provided as follows: "Except as provided in section 906, no provision of this act shall be construed as amending or altering the effect of section 13 (b), (c), (d), (e), or (f) of the Railroad Unemployment Insurance Act."

Section 906 of act Aug. 10, 1939, provided as follows: "If the Social Security Board finds with respect to any State that the first regular session of such State's legislature which began after June 25, 1938, and adjourned prior to thirty days after the enactment of this act (1) had not made provision to authorize and direct the Secretary of the Treasury, prior to thirty days after the close of such session or July 1, 1939, whichever date is later, to transfer from its account in the Unemployment Trust Fund to the railroad unemployment insurance account in the Unemployment Trust Fund an amount equal to such State's 'preliminary amount,' or to authorize and direct the Secretary of the Treasury, prior to thirty days after the close of such session or January 1, 1940, whichever date is later, to transfer from its account in the Unemployment Trust Fund to the railroad unemployment insurance account in the Unemployment Trust Fund an amount equal to such State's 'liquidating amount,' or both; and (2) had not made provision for financing the administration of its unemployment-compensation law during the period with respect to which grants therefor under section 302 of the Social Security Act (section 502 of Title 42) are required under section 13 of the Railroad Unemployment Insurance Act (section 363 of this title) to be withheld by the Social Security Board, notwithstanding the provisions of section 13 (d) of the Railroad Unemployment Insurance Act (section 363 of this title) the Social Security Board shall not begin to withhold from certification to the Secretary of the Treasury for payment to such State the amounts determined by it pursuant to section 302 of the Social Security Act (section 502 of Title 42) and to certify to the Secretary of the Treasury for payment into the railroad unemployment-insurance account the amount so withheld from such State, as provided in section 13 of the Railroad Unemployment Insurance Act (section 363 of this title), until after the thirtieth day after the close of such State's first regular or special session of its legislature which begins after the date of enactment of this act and after the Social Security Board finds that such State had not, by the thirtieth day after the close of such legislative session, authorized and directed the Secretary of the Treasury to transfer from such State's account in the Unemployment Trust Fund to the railroad unemployment insurance account in the Unemployment Trust Fund such State's 'preliminary amount' plus interest thereon at 2½ per centum per annum from the date the amount thereof is determined by the Social Security Board, and such State's 'liquidating amount' plus interest thereon at 2½ per centum per annum from the date the amount thereof is determined by the Social Security Board. Notwithstanding the provisions of section 13 (e) of the Railroad Unemployment Insurance Act (section 363 of this title), any withdrawal by such State from its account in the Unemployment Trust Fund for purposes other than the payment of compensation of the whole or any part of amounts so withheld from certification with respect to such State pursuant to this act shall be deemed to constitute a breach of the conditions set forth in sections 303 (a) (5) of the Social Security Act (section 503 of Title 42) and 1603 (a) (4) of the Internal Revenue Code (section 1603 of Title 26, I. R. C. 1939). The terms 'preliminary amount' and 'liquidating amount', as used herein, shall have the meanings defined in section 13 of the Railroad Unemployment Insurance Act (this section)."

KENTUCKY

Act Oct. 26, 1945, ch. 434, 59 Stat. 550, as amended by 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095, provided that $1,260,000 should constitute the total amount withheld by the Federal Security Administrator under subsec. (d) of this section for payment for the administration of Kentucky's Unemployment Compensation Law, KRS 341.010–341.990.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 360, 363a, 364 of this title.

§ 363a. Refunds of State unemployment contributions by employees; amount; application period; definitions.

(a) Notwithstanding any other provision of law, in any case where an employee amount (as hereinafter defined) was paid from a State unemployment fund to the Unemployment Trust Fund, an aggregate amount equal thereto shall be paid from the Unemployment Trust Fund, as refunds, to employees who paid into the State fund the contributions upon which such payment into the Unemployment Trust Fund was based, except that in case any such employee is deceased, payment shall be made to his estate; and the payment so made in the case of any employee shall be in proportion to the contributions paid by such employee into the State fund: *Provided*, That payment in any such case shall be made only if application therefor is made to the Railroad Retirement Board within two years after August 2, 1946.

(b) As used in this section—

(1) The term "employee amount" means any amount paid from a State unemployment fund to the Unemployment Trust Fund which would not have been required to be paid, under the provisions of section 363 (c) of this title, if said section had not required payment of amounts based on contributions collected from employees.

(2) The term "Unemployment Trust Fund" means the fund established by section 1104 of Title 42.

(3) The term "employees" has the same meaning as in this chapter.

(Aug. 2, 1946, ch. 743, 60 Stat. 806; Aug. 6, 1947, ch. 509, 61 Stat. 793.)

CODIFICATION

Section was not enacted as a part of the Railroad Unemployment Insurance Act, which comprises this chapter.

AMENDMENTS

1947—Subsec. (a). Act Aug. 6, 1947, extended time for application for refund from twelve months to two years after Aug. 2, 1946.

§ 364. District of Columbia account, transfer of funds to railroad unemployment insurance account.

The Secretary of the Treasury is authorized and directed to transfer from the account of the District of Columbia in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund, an amount equal to the "preliminary amount" and an amount equal to the "liquidating amount", whenever such amounts, respectively, have been determined, with respect to the District of Columbia, pursuant to section 363 of this title. (June 25, 1938, ch. 680, § 14 (b), 52 Stat. 1113.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 360 of this title.

§ 365. Transitional provisions.

CODIFICATION

Section, acts June 25, 1938, ch. 680, § 15, 52 Stat. 1113; June 20, 1939, ch. 227, § 19, 53 Stat. 844, related to transitional provisions occurring before July 1, 1939, and has been omitted as executed.

§ 366. Separability of provisions.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby. (June 25, 1938, ch. 680, § 16, 52 Stat. 1113.)

§ 366a. Effect of Internal Revenue Code.

The provisions of this chapter and section 1104 of Title 42, shall be in full force and effect notwithstanding the enactment of the Internal Revenue Code. (June 20, 1939, ch. 227, § 22, 53 Stat. 848.)

CODIFICATION

Section was not enacted as a part of the Railroad Unemployment Insurance Act, which comprises this chapter.

§ 367. Short title.

This chapter may be cited as the "Railroad Unemployment Insurance Act". (June 25, 1938, ch. 680 § 17, 52 Stat. 1113.)

Chapter 12.—TEMPORARY RAILROAD UNEMPLOYMENT INSURANCE PROGRAM

Sec.
401. Payment of compensation; eligibility; duration; maximum aggregate amount payable; duplication of benefits; application of railroad unemployment insurance provisions.
402. Exchange of information between Secretary of Labor and Railroad Retirement Board.
403. Appropriation to railroad unemployment insurance account; transfer and repayment of funds; interest.
404. Temporary increase in employers' contribution rate.

§ 401. Payment of compensation; eligibility; duration; maximum aggregate amount payable; duplication of benefits; application of railroad unemployment insurance provisions.

An employee as defined in the Railroad Unemployment Insurance Act who has, after June 30, 1960, and before April 1, 1962, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his right to unemployment benefits under the Railroad Unemployment Insurance Act, shall be paid unemployment benefits in accordance otherwise with the provisions of such Act for days of unemployment, not exceeding sixty-five, and not exceeding in the aggregate, an amount equal to 50 per centum of the total amount of unemployment benefits which were payable to him in the benefit year in which he last exhausted his rights before making his first claim under this chapter, which occur in registration periods, as defined in the Railroad Unemployment Insurance Act, beginning on or after the fifteenth day after the date of enactment of the Temporary Extended Unemployment Compensation Act of 1961, and before April 1, 1962, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act: *Provided,* That an employee entitled under this section to benefits for a day before April 1, 1962, may receive such benefits for days in registration periods which begin before July 1, 1962: *Provided further,* That payment of benefits otherwise provided for in this chapter shall not be made with respect to any individual for any day of unemployment to the extent that such payment, when added to the sum of the benefits under the Railroad Unemployment Insurance Act and under this chapter paid such individual with respect to prior days in the benefit year, would exceed one hundred and ninety-five times such individual's daily benefit rate for such benefit year. An employee who has filed, and established, a first claim for benefits under the provisions of the Temporary Extended Unemployment Compensation Act of 1961, may not thereafter establish a claim under this section, and an employee who has registered for, and established, a claim under this section may not thereafter establish a claim under the provisions of the Temporary Extended Unemployment Compensation Act of 1961. Except to the extent inconsistent with this section, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this section. (Pub. L. 87–7, § 2, Mar. 24, 1961, 75 Stat. 16.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in the text, is classified to chapter 11 of this title.

Such Act, referred to in the text, refers to the Railroad Unemployment Insurance Act.

The Temporary Extended Unemployment Compensation Act of 1961, referred to in the text, was classified to former section 1400*l* et seq. of Title 42, The Public Health and Welfare.

The date of enactment of the Temporary Extended Unemployment Compensation Act of 1961, referred to in the text, means March 24, 1961, the date on which such act was approved.

SHORT TITLE

Section 1 of Pub. L. 87–7 provided: "That this Act [this chapter] may be cited as the 'Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 402 of this title.

§ 402. Exchange of information between Secretary of Labor and Railroad Retirement Board.

The Secretary of Labor, upon request, shall furnish the Railroad Retirement Board information deemed necessary by such Board for the administration of section 401 of this title, and such Board, upon request, shall furnish the Secretary of Labor infor-

mation deemed necessary by the Secretary for the administration of the Temporary Extended Unemployment Compensation Act of 1961. (Pub. L. 87-7, § 3, Mar. 24, 1961, 75 Stat. 17.)

REFERENCES IN TEXT

The Temporary Extended Unemployment Compensation Act of 1961, referred to in the text, was classified to former section 1400*l* of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 228b.

§ 403. Appropriation to railroad unemployment insurance account; transfer and repayment of funds; interest.

There are authorized to be appropriated to the railroad unemployment insurance account, without fiscal year limitation, such amounts as may be necessary to carry out the provisions of this chapter. The amounts so appropriated shall be transferred from time to time to the railroad unemployment insurance account on the basis of estimates by the Secretary of the Treasury after consultation with the Railroad Retirement Board of the amounts required from time to time to carry out the provisions of this chapter. Amounts so transferred shall be repayable advances without interest. (Pub. L. 87-7. § 4, Mar. 24, 1961, 75 Stat. 17; Pub. L. 88-133, title III, § 303(c), Oct. 5, 1963, 77 Stat. 222.)

AMENDMENTS

1963—Pub. L. 88-133 repealed provision for repayment of advances by transfers from the account to the general fund of the Treasury when funds of the account derived from increase in employers' contribution rate are adequate for such purpose, which is now covered by section 303(b) of Pub. L. 88-133, set out as a note under this section.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 303(c) of Pub. L. 88-133 provided in part that the amendment of this section by such section 303(c) shall be effective with respect to contributions collected on compensation paid after Dec. 31, 1963.

REPAYMENT BY ACCOUNT OF ADVANCES FROM GENERAL FUND OF TREASURY FROM CONSTRIBUTIONS COLLECTED ON COMPENSATION PAID AFTER DEC. 31, 1963

Section 303(b) of Pub. L. 88-133 provided that: "Effective with respect to contributions collected by the Railroad Retirement Board pursuant to section 8(f) of the Railroad Unemployment Insurance Act [section 358(f) of this title] on compensation paid after December 31, 1963, that part of such contributions equal to one-fourth of 1 per centum of the compensation on which such contributions are based shall, notwithstanding the provisions of section 10(b) of such Act [section 360(b) of this title], be applied by the Board exclusively for transfers from the railroad unemployment insurance account to the general fund of the Treasury until the full amount advanced from the general fund of the Treasury to the railroad unemployment insurance account pursuant to section 4 of the Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961 [this section] has been repaid.

§ 404. Temporary increase in employers' contribution rate.

Notwithstanding the provisions of section 358(a) 2 of this title, the rate of contribution required to be paid under the Railroad Unemployment Insurance Act by every employer as defined in such Act shall be 4 per centum with respect to compensation as defined in such Act, paid after December 31, 1961, and before January 1, 1964. (Pub. L. 87-7, § 5, Mar 24, 1961, 75 Stat. 17.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in the text, is classified to chapter 11 of this title.

Such Act, referred to in the text, refers to the Railroad Unemployment Insurance Act.

Chapter 13.—RAILROAD SAFETY

SUBCHAPTER I.—GENERAL PROVISIONS

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(c) Agreements with noncertifying States for State agency action; procedure for termination of agreements.
(d) Expenditures by Federal government for State programs; maximum amount; preconditions.
(e) Monitoring by Secretary of State investigative and surveillance practices.
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436. Enforcement of rule, regulation, order, or standard by State agency engaged in investigative and surveillance activities; preconditions; jurisdiction and power of court; exceptions.
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(d) Force and effect of orders, rules, regulations, standards, and requirements for purposes of determining liability of common carriers by railroad for injuries to employees.
438. Civil penalties.
(a) Unlawful acts.
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Sec.
438. Civil penalties.—Continued
(c) Assessment by Secretary; separate offense; procedure for recovery; compromise by Secretary; amount as deductible from any sums owed by United States to violator; payment into Treasury.
(d) Subpenas for witnesses.
439. Injunctive relief; procedure; jurisdiction; criminal contempt proceedings for violations of injunction or restraining order.
440. Annual report by Secretary; contents; recommendations for additional legislation.
441. Authorization of appropriations.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 421. Congressional declaration of purpose.

The Congress declares that the purpose of this Act is to promote safety in all areas of railroad operations and to reduce railroad-related accidents, and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials. (Pub. L. 91–458, title I, § 101, Oct. 16, 1970, 84 Stat. 971.)

REFERENCES IN TEXT

This Act, referred to in the text, is Pub. L. 91–458, which enacted this chapter and chapter 26 of Title 49, Transportation.

SEPARABILITY OF PROVISIONS

Section 401 of Pub. L. 91–458 provided that: "If any provision of this Act [enacting this chapter and chapter 26 of Title 49, Transportation] or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby."

SUBCHAPTER II.—RULES, REGULATIONS, ORDERS, AND STANDARDS

§ 431. Promulgation of rules, regulations, orders, and standards.

(a) Authority of Secretary; collective bargaining agreements under Railway Labor Act as consistent with rules, etc.

The Secretary of Transportation (hereafter in this subchapter referred to as the "Secretary") shall (1) prescribe, as necessary, appropriate rules, regulations, orders, and standards for all areas of railroad safety supplementing provisions of law and regulations in effect on October 16, 1970, and (2) conduct, as necessary, research, development, testing, evaluation, and training for all areas of railroad safety. However, nothing in this subchapter shall prohibit the bargaining representatives of common carriers and their employees from entering into collective bargaining agreements under the Railway Labor Act, including agreements relating to qualifications of employees, which are not inconsistent with rules, regulations, orders, or standards prescribed by the Secretary under this subchapter. Nothing in this subchapter shall be construed to give the Secretary authority to issue rules, regulations, orders, and standards relating to qualifications of employees, except such qualifications as are specifically related to safety.

(b) Hearings.

Hearings shall be conducted in accordance with the provisions of section 553 of Title 5 for all rules, regulations, orders, or standards issued by the Secretary including those establishing, amending, revoking, or waiving compliance with a railroad safety rule, regulation, order, or standard under this subchapter, and an opportunity shall be provided for oral presentations.

(c) Waiver of compliance; authority of Secretary.

The Secretary may, after hearing in accordance with subsection (b) of this secton, waive in whole or in part compliance with any rule, regulation, order, or standard established under this subchapter, if he determines that such waiver of compliance is in the public interest and is consistent with railroad safety. The Secretary shall make public his reasons for granting any such waiver.

(d) Consideration by Secretary of relevant existing safety data and standards.

In prescribing rules, regulations, orders, and standards under this section the Secretary shall consider relevant existing safety data and standards.

(e) Time for issuance; review and revision by Secretary.

The Secretary shall issue initial railroad safety rules, regulations, orders, and standards under this subchapter based upon existing safety data and standards, not later than one year after October 16, 1970. The Secretary shall review and, after hearing in accordance with subsection (b) of this section, revise such rules, regulations, orders, and standards as necessary.

(f) Judicial review.

Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of Title 5. (Pub. L. 91–458, title II, § 202, Oct. 16, 1970, 84 Stat. 971.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (a), is classified to chapter 8 of this title.

SHORT TITLE

Section 201 of Pub. L. 91–458 provided that: "This title [which enacted this subchapter] may be cited as the 'Federal Railroad Safety Act of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 432, 435, 440 of this title.

§ 432. Emergency hazardous situations; determination by Secretary of unsafe condition of facility or piece of equipment; issuance of order prohibiting usage; review of order.

If through testing, inspection, investigation, or research carried out pursuant to this subchapter, the Secretary determines that any facility or piece of equipment is in unsafe condition and thereby creates an emergency situation involving a hazard of death or injury to persons affected by it, the Secretary may immediately issue an order, without regard to the provisions of section 431(b) of this title, prohibiting the further use of such facility or equipment until the unsafe condition is corrected. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of Title 5. (Pub. L. 91–458, title II, § 203, Oct. 16, 1970, 84 Stat. 972.)

§ 433. Grade crossings and railroad rights-of-way; comprehensive study and recommendations of means of elimination and protection.

(a) The Secretary shall submit to the President for transmittal to the Congress, within one year after October 16, 1970, a comprehensive study of the problem of eliminating and protecting railroad grade crossings, including a study of measures to protect pedestrians in densely populated areas along railroad rights-of-way, together with his recommendations for appropriate action including, if relevant, a recommendation for equitable allocation of the economic costs of any program proposed as a result of such study.

(b) In addition the Secretary shall, insofar as practicable, under the authority provided by this subchapter and pursuant to his authority over highway, traffic, and motor vehicle safety, and highway construction, undertake a coordinated effort toward the objective of developing and implementing solutions to the grade crossing problem, as well as measures to protect pedestrians in densely populated areas along railroad rights-of-way. (Pub. L. 91–458, title II, § 204, Oct. 16, 1970, 84 Stat. 972.)

§ 434. National uniformity of laws, rules, regulations, orders, and standards relating to railroad safety; State regulation.

The Congress declares that laws, rules, regulations, orders, and standards relating to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time as the Secretary has adopted a rule, regulation, order, or standard covering the subject matter of such State requirement. A State may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard, and when not incompatible with any Federal law, rule, regulation, order, or standard, and when not creating an undue burden on interstate commerce. (Pub. L. 91–458, title II, § 205, Oct. 16, 1970, 84 Stat. 972.)

§ 435. Investigative and surveillance activities by State.

(a) Preconditions to State participation; annual certification by State agency to Secretary of activities; authority of Secretary to assess and compromise penalties, request injunctive relief, and recommend appropriate action.

A State may participate in carrying out investigative and surveillance activities in connection with any rule, regulation, order, or standard prescribed by the Secretary under this subchapter if the safety practices applicable to railroad facilities, equipment, rolling stock, and operations within such State are regulated by a State agency and such State agency submits to the Secretary an annual certification that such State agency—

(1) has regulatory jurisdiction over the safety practices applicable to railroad facilities, equipment, rolling stock, and operations within the State concerned;

(2) has been furnished a copy of each Federal safety rule, regulation, order, and standard, applicable to any such railroad facility, equipment, rolling stock, or operation, established under this subchapter as of the date of the certification;

(3) is conducting the investigative and surveillance activities prescribed by the Secretary as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary.

The Secretary shall retain the exclusive authority to assess and compromise penalties and (except as otherwise provided by section 436 of this title) to request injunctive relief for the violation of rules, regulations, orders, and standards prescribed by the Secretary under section 431(a) of this title and to recommend appropriate action as provided by sections 438 and 439 of this title.

(b) Report in annual certification; contents; determination by Secretary of compliance of State agency with prescribed activities; procedure for rejection of certification or enforcement action.

Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing—

(1) the name and address of each railroad subject to the safety jurisdiction of the State agency;

(2) all accidents or incidents reported during the preceding twelve months by each railroad involving personal injury requiring hospitalization, fatality, or property damage exceeding $750 or such other higher amount as the Secretary may prescribe, together with a summary of the State agency's investigation as to the cause and circumstances surrounding each such accident or incident;

(3) the record maintenance, reporting, and inspection practices conducted by the State agency to aid the Secretary in his enforcement of rules, regulations, orders, and standards prescribed by him under section 431(a) of this title, including a detail of the number of inspections made of rail facilities, equipment, rolling stock, and operations by the State agency during the preceding twelve months; and

(4) such other information as the Secretary may require.

The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification the Secretary determines that the State agency is not satisfactorily complying with the investigative and surveillance activities prescribed by him with respect to such safety rules, regulations, orders, and standards, he may, on reasonable notice and after opportunity for hearing, reject the certification, in whole or in part, or take such other action as he deems appropriate to achieve adequate enforcement. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily complying with the investigative and surveillance activities prescribed by the Secretary with respect to such safety rules, regulations, orders, and standards.

(c) Agreements with noncertifying States for State agency action; procedure for termination of agreements.

With respect to any railroad facility, equipment, rolling stock, or operation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may enter into an agreement with a State agency to authorize such agency to provide all or any part of the investigative and surveillance activities prescribed by the Secretary as necessary to obtain compliance with any Federal safety rule, regulation, order, or standard applicable to any such railroad facility, equipment, rolling stock, or operation. An agreement entered into under this subsection, or any provision thereof, may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to provide all or any part of the investigative and surveillance activities to which the agreement relates. Such finding and termination shall be published in the Federal Register, and shall become effective no sooner than fifteen days after the date of publication.

(d) Expenditures by Federal government for State programs; maximum amount; preconditions.

Upon application by any State agency which has submitted a certification under subsection (a) of this section, or entered into an agreement under subsection (c) of this section, the Secretary shall pay, out of funds appropriated pursuant to this subchapter or otherwise made available, up to 50 per centum of the cost of the personnel, equipment, and activities of such State agency reasonably required, during the ensuing fiscal year, to carry out a safety program under such certification or agreement. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for the safety program will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding October 16, 1970.

(e) Monitoring by Secretary of State investigative and surveillance practices.

The Secretary is authorized to conduct such monitoring of State investigative and surveillance practices and such other inspection and investigation as may be necessary to aid in the enforcement of the provisions of this subchapter.

(f) Applicability of certification to new or amended rule, regulation, order, or standard.

The certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety rule, regulation, order, or standard for railroads established under this subchapter after the date of such certification until the State agency has submitted an appropriate certification in accordance with the provisions of subsection (a) of this section to provide the necessary inspection and surveillance activities in accordance with the provisions of such subsection. (Pub. L. 91–458, title II, § 206, Oct. 16, 1970, 84 Stat. 972.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 436, 437, 440 of this title.

§ 436. Enforcement of rule, regulation, order, or standard by State agency engaged in investigative and surveillance activities; preconditions; jurisdiction and power of court; exceptions.

In any case in which the Secretary has failed to assess the civil penalty applicable under section 438 of this title, or no civil action has been commenced to obtain injunctive relief under section 439 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this subchapter, within 90 days after the date on which such violation occurred, a State agency participating in investigative and surveillance activities under the provisions of section 435 of this title within the State where the violation occurred, may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard by injunction or other proper process to restrain further violation thereof, or to enjoin compliance therewith, or to assess and collect the civil penalty included in or made applicable to such rule, regulation, order, or standard. The provisions of this section shall not apply in any case in which the Secretary has affirmatively determined, in writing, that no violation has occurred. (Pub. L. 91–458, title II, § 207, Oct. 16, 1970, 84 Stat. 974.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 435, 438, 439 of this title.

§ 437. General powers.

(a) Authority of Secretary.

In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, prescribing recordkeeping and reporting requirements, carrying out and contracting for research, development, testing, evaluations, and training (particularly with respect to those aspects of railroad safety which he finds to be in need of prompt attention), and delegating to any public bodies or qualified persons, functions respecting examination, inspecting, and testing of railroad facilities, equipment, rolling stock, operations, or persons, as he deems necessary to carry out the provisions of this subchapter.

(b) Authority of National Transportation Safety Board; delegation.

The National Transportation Safety Board shall have the authority to determine the cause or probable cause and report the facts, conditions and circumstances relating to accidents investigated under subsection (a) of this section, but may delegate such authority to any office or official of the Board or to any office or official of the Department of Transportation with the approval of the Secretary, as it may determine appropriate.

(c) Inspection and examination by officers, employees, or agents of Secretary or Board of rail facilities, equipment, rolling stock, operations, and pertinent records; display of credentials.

To carry out the Secretary's and the Board's responsibilities under this subchapter, officers, employ-

ees, or agents of the Secreary or the Board, as the case may be, are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested.

(d) Force and effect of orders, rules, regulations, standards, and requirements for purposes of determining liability of common carriers by railroad for injuries to employees.

All orders, rules, regulations, standards, and requirements in force, or prescribed or issued by the Secretary under this subchapter, or by any State agency which is participating in investigative and surveillance activities pursuant to section 435 of this title, shall have the same force and effect as a statute for purposes of the application of sections 53 and 54 of this title, relating to the liability of common carriers by railroad for injuries to their employees. (Pub. L. 91–458, title II, § 208, Oct. 16, 1970, 84 Stat. 974.)

§ 438. Civil penalties.

(a) Unlawful acts.

It shall be unlawful for any railroad to disobey, discharge, or fail to adhere to any rule, regulation, order, or standard prescribed by the Secretary under this subchapter.

(b) Amount.

The Secretary shall include in, or make applicable to, any railroad safety rule, regulation, order, or standard issued under this subchapter a civil penalty for violation thereof in such amount, not less than $250 nor more than $2,500, as he deems reasonable.

(c) Assessment by Secretary; separate offense; procedure for recovery; compromise by Secretary; amount as deductible from any sums owed by United States to violator; payment into Treasury.

Any railroad violating any rule, regulation, order, or standard referred to in subsection (b) of this section shall be assessed by the Secretary the civil penalty applicable to the standard violated. Each day of such violation shall constitute a separate offense. Such civil penalty is to be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the district court of the United States having jurisdiction in the locality where such violation occurred. Civil penalties may, however, be compromised by the Secretary for any amount, but in no event for an amount less than the minimum provided in subsection (b) of this section, prior to referral to the Attorney General. The amount of any such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged. All penalties collected under this subchapter, including penalties collected pursuant to section 436 of this title, shall be covered into the Treasury as miscellaneous receipts.

(d) Subpenas for witnesses.

In any action brought under this subchapter, subpenas for witnesses who are required to attend a United States district court may run into any other district. (Pub. L. 91–458, title II, § 209, Oct. 16, 1970, 84 Stat. 975.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 435, 436 of this title.

§ 439. Injunctive relief; procedure; jurisdiction; criminal contempt proceedings for violations of injunction or restraining order.

(a) The United States district court shall, at the request of the Secretary and upon petition by the Attorney General on behalf of the United States, or upon application by a State agency pursuant to section 436 of this title, have jurisdiction, subject to the provisions of rules 65 (a) and (b) of the Federal Rules of Civil Procedures, to restrain violations of this subchapter or to enforce rules, regulations, orders, or standards established under this subchapter.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section or under section 436 of this title, which violation also constitutes a violation of this subchapter, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure. (Pub. L. 91–458, title II, § 210, Oct. 16, 1970, 84 Stat. 975.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 435, 436 of this title.

§ 440. Annual report by Secretary; contents; recommendations for additional legislation.

(a) The Secretary shall prepare and submit to the President for transmittal to Congress on or before May 1 of each year a comprehensive report on the administration of this subchapter for the preceding calendar year. Such report shall include, but not be restricted to—

(1) a thorough statistical compilation of the accidents and casualties by cause occurring in such year;

(2) a list of Federal railroad safety rules, regulations, orders, and standards issued under this subchapter in effect or established in such year;

(3) a summary of the reasons for each waiver granted under section 431(c) of this title during such year;

(4) an evaluation of the degree of observance of applicable railroad safety rules, regulations, orders, and standards issued under this subchapter;

(5) a summary of outstanding problems confronting the administration of Federal railroad safety rules, regulations, orders, and standards issued under this subchapter in order of priority;

(6) an analysis and evaluation of research and related activities completed (including the policy implications thereof) and technological progress achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions for the enforcement of any Federal railroad safety rule, regulation, order, or standard issued under this subchapter;

(8) the extent to which technical information was disseminated to the scientific community and

consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certifications filed by State agencies under section 435(a) of this title which were in effect during the preceding calendar year, and

(B) certifications filed under section 435(a) of this title which were rejected, in whole or in part, by the Secretary during the preceding calendar year, together with a summary of the reasons for each such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies under section 435(c) of this title which were in effect during the preceding calendar year, and

(B) agreements entered into under section 435(c) of this title which were terminated by the Secretary, in whole or in part, during the preceding calendar year, together with a summary of the reasons for each such termination.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to strengthen the national railroad safety program. (Pub. L. 91-458, title II, § 211, Oct. 16, 1970, 84 Stat. 976.)

§ 441. Authorization of appropriations.

There is authorized to be appropriated to carry out the provisions of this subchapter not to exceed $21,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. (Pub. L. 91-458, title II, § 212, Oct. 16, 1970, 84 Stat. 977.)

Chapter 14.—RAIL PASSENGER SERVICE

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 501. Congressional findings and declaration of purpose.

The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that

rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation (Pub. L. 91–518, title I, § 101, Oct. 30, 1970, 84 Stat. 1328.)

SHORT TITLE

Section 1 of Pub. L. 91–518 provided: "That this Act [enacting this chapter and section 250 of Title 26, amending section 856 of Title 31, and enacting provision set out as a note under section 250 of Title 26] may be cited as the 'Rail Passenger Service Act of 1970'."

§ 502. Definitions.

For the purposes of this chapter—

(1) "Railroad" means a common carrier by railroad, as defined in section 1(3) of Title 49 other than the corporation created by subchapter III of this chapter.

(2) "Secretary" means the Secretary of Transportation or his delegate unless the context indicates otherwise.

(3) "Commission" means the Interstate Commerce Commission.

(4) "Basic system" means the system of intercity rail passenger service designated by the Secretary under subchapter II of this chapter and section 563 (a) of this title.

(5) "Intercity rail passenger service" means all rail passenger service other than (A) commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations, and (B) auto-ferry service characterized by transportation of automobiles and their occupants where contracts for such service have been consummated prior to enactment of this chapter.

(6) "Avoidable loss" means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission pursuant to the provisions of section 553 of Title 5.

(7) "Corporation" means the National Railroad Passenger Corporation created under subchapter III of this chapter.

(8) "Regional transportation agency" means an authority, corporation, or other entity established for the purpose of providing passenger service within a region. (Pub. L. 91–518, title I, § 102, Oct. 30, 1970, 84 Stat. 1328.)

REFERENCES IN TEXT

Enactment of this chapter referred to in the definition of "intercity rail passenger service" means the enactment of Pub. L. 91–518, which was approved on October 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 561 of this title.

SUBCHAPTER II.—BASIC NATIONAL RAIL PASSENGER SYSTEM

§ 521. Designation of system.

In carrying out the congressional findings and declaration of purpose set forth in subchapter I of this chapter, the Secretary, acting in cooperation with other interested Federal agencies and departments, is authorized and directed to submit to the Commission and to the Congress within thirty days after October 30, 1970, his preliminary report and recommendations for the basic system. Such recommendations shall specify those points between which intercity passenger trains shall be operated, identify all routes over which service may be provided, and the trains presently operated over such routes, together with basic service characteristics of operations to be provided within the basic system, taking into account schedules, number of trains, connections, through car service, and sleeping, parlor, dining, and lounge facilities. In recommending the basic system the Secretary shall take into account the need for expeditious intercity rail passenger service within and between all regions of the continental United States, and the Secretary shall consider the need for such service within the States of Alaska and Hawaii and the Commonwealth of Puerto Rico. In formulating such recommendations the Secretary shall consider opportunities for provision of faster service, more convenient service, service to more centers of population, and service at lower cost, by the joint operation, for passsenger service, of facilities of two or more railroad companies; the importance of a given service to overall viability of the basic system; adequacy of other transportation facilities serving the same points; unique characteristics and advantages of rail service as compared to other modes of transportation; the relationship of public benefits of given services to the costs of providing such services; and potential profitability of the service. The exclusion of a particular route, train, or service from the basic system shall not be deemed to create a presumption that the route, train, or service is not required by public convenience and necessity in any proceeding under section 13a of Title 49. (Pub. L. 91–517, title II, § 201, Oct. 30, 1970, 84 Stat. 1329.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 561 of this title.

§ 522. Review of the basic system.

The Commission, the State Commissions, the representatives of the railroads, and labor organizations duly authorized under the Railway Labor Act to represent railroad employees shall, within thirty days after receipt of the preliminary report of the Secretary designating the basic system, review such report consistent with the purposes of this chapter and provide the Secretary with their comments and recommendations in writing. The Secretary shall give due considerations to such comments and recommendations. The Secretary shall, within ninety days after October 30, 1970, submit his final report designating the basic system to the Congress. Such

final report shall include a summary of their recommendations together with his reasons for failing to adopt any such recommendation. The basic system as designated by the Secretary shall become effective for the purposes of this chapter upon the date that the final report of the Secretary is submitted to Congress and shall not be reviewable in any court. (Pub. L. 91–518, title II, § 202, Oct. 30, 1970, 84 Stat. 1329.)

REFERENCES IN TEXT

The Railway Labor Act, referred to in text, is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified to section 151 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 561 of this title.

SUBCHAPTER III.—NATIONAL RAILROAD PASSENGER CORPORATION

§ 541. Establishment of the corporation.

There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be a for profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this chapter at any time is expressly reserved. (Pub. L. 91–518, title III, § 301, Oct. 30, 1970, 84 Stat. 1330.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in Text, is act June 8, 1954, ch. 269, 68 Stat. 177, and is not classified to this Code.

§ 542. Incorporation.

The President of the United States shall appoint not fewer than three incorporators, by and with the advice and consent of the Senate, who shall also serve as the board of directors for one hundred and eighty days following October 30, 1970. The incorporators shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the President. (Pub. L. 91–518, title III, § 302, Oct. 30, 1970, 84 Stat. 1330.)

§ 543. Directors and officers.

(a) Number; qualifications; appointment; compensation and allowances.

The Corporation shall have a board of fifteen directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Eight members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for terms of four years or until their successors have been appointed and qualified, except that the first three members of the board so appointed shall continue in office for terms of two years, and the next three members for terms of three years. Any member appointed to fill a vacancy may be appointed only for the unexpired term of the director whom he succeeds. At all times the Secretary shall be one of the members of the board of directors appointed by the President and at all times at least one such member shall be a consumer representative. Three members of the board shall be elected annually by common stockholders, and four shall be elected annually by preferred stockholders of the Corporation. The members of the board appointed by the President and those elected by common stockholders shall take office on the one hundred and eighty-first day after October 30, 1970. Election of the remaining four members of the board shall take place as soon as practicable after the first issuance of preferred stock by the Corporation. Pending election of the remaining four members, seven members shall constitute a quorum for the purpose of conducting the business of the board. No director appointed by the President may have any direct or indirect financial or employment relationship with any railroad during the time that he serves on the board. Each of the directors not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the board he attends. In addition, each director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the board. No director elected by railroads shall vote on any action of the board of directors relating to any contract or operating relationship between the Corporation and a railroad, but he may be present at meetings of the board at which such matters are voted upon, and he may be included for purposes of determining a quorum and may participate in discussions at any such meeting.

(b) Bylaws.

The board of director is empowered to adopt and amend bylaws governing the operation of the Corporation. Such bylaws shall not be inconsistent with the provisions of this chapter or of the articles of incorporation.

(c) Stock conversion and voting rights.

The articles of incorporation of the Corporation shall provide for cumulative voting for all stockholders and shall provide that, upon conversion of one-fourth of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect four directors and the preferred stockholders shall be entitled to elect three directors; upon the conversion of one-half of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect five directors and the preferred stockholders shall be entitled to elect two directors; upon the conversion of three-fourths of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect six directors and the preferred stockholders shall be entitled to elect one director; and upon conversion of all outstanding shares of preferred stock, the common stockholders shall be entitled to elect seven directors. Any change of directors resulting from such stock conversion shall take effect at the next annual meeting of the Corporation following such stock conversion.

(d) Appointment; tenure; duties of president and other officers.

The Corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may have any direct or indirect employment or financial relationship with any railroad during the time of his employment by the Corporation. (Pub. L. 91–518, title III, § 303, Oct. 30, 1970, 84 Stat. 1330.)

§ 544. Common and preferred stock.

(a) Value; issuance; dividends.

The Corporation is authorized to issue and have outstanding, in such amounts as it shall determine, two issues of capital stock, a common and a preferred, each of which shall carry voting rights and be eligible for dividends. Common stock may be initially issued only to a railroad. Preferred stock may be issued to and held only by any person other than (1) a railroad or (2) an person controlling one or more railroads, as defined in section 1(3)(b) of Title 49. The articles of incorporation of the Corporation shall provide for the following respective rights of each issue of stock:

(A) COMMON STOCK.—Common stock shall have a par value of $10 per share and shall be designated fully paid and nonassessable. No dividends shall be paid on the common stock whenever dividends on the preferred stock are in arrears.

(B)(i) PREFERRED STOCK.—Preferred stock shall have a par value of $100 per share and shall be designated fully paid and nonassessable. Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cumulative so that, if for any dividend period dividends at the rate fixed in the articles of incorporation shall not have been declared and paid or set aside for payment on the preferred shares, the deficiency shall be declared and paid or set apart for payment prior to the making of any dividend or other distribution on the common shares.

(ii) Preferred stock shall be entitled to a liquidation preference over common stock, which shall entitle preferred stockholders to a liquidating payment not less than par value plus all accrued unpaid dividends prior to any payment on liquidation to common stockholders.

(iii) Preferred stock shall be convertible into shares of common stock at such time and upon such terms as the articles of incorporation shall provide.

(b) Limitation on common stock ownership.

At no time after the initial issue is completed shall the aggregate of the shares of common stock of the Corporation owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of Title 49, directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control, exceed 33⅓ per centum of such shares issued and outstanding.

(c) Limitation on preferred stock ownership.

At no time may any stockholder, or any syndicate or affiliated group of such stockholders, own more than 10 per centum of the shares of preferred stock of the Corporation issued and outstanding.

(d) Limitation on redemption and repurchase of shares.

The articles of incorporation shall provide that no shares of any issue of stock may be redeemed or repurchased for five years, following October 30, 1970.

(e) Issuance of nonvoting securities, bonds, debentures and other securities.

The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine.

(f) Inspection rights; exception.

The requirement of section 45(b) of the District of Columbia Business Corporation Act as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold. (Pub. L. 91–518, title III, § 304, Oct. 30, 1970, 84 Stat. 1331.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (f), is act June 8, 1954, ch. 269, 68 Stat. 177 and is not classified to this Code, Section 45(b) such Act is classified to section 29–920(b) of the District of Columbia Code.

§ 545. General powers.

The Corporation is authorized to own, manage, operate, or contract for the operation of intercity trains operated for the purpose of providing modern, efficient, intercity transportation of passengers and to carry mail and express on such trains; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to rail passenger operations. The Corporation shall, consistent with prudent management of the affairs of the Corporation, rely upon railroads to provide the employees necessary to the operation and maintenance of its passenger trains and to the performance of all services and work incidental thereto, to the extent the railroads are able to provide such employees and services in an economic and efficient manner. To carry out its functions and purposes, the Corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act. (Pub. L. 91–518, title III, § 305, Oct. 30, 1970, 84 Stat. 1332.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in text, is act June 8, 1954, ch. 269, 68 Stat. 177 and is not classified to this Code.

§ 546. Laws applicable.

(a) Corporation deemed common carrier subject to Interstate Commerce Act; exceptions.

The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3)

of Title 49 and shall be subject to all provisions of the Interstate Commerce Act other than those pertaining to—

(1) regulation of rates, fares, and charges;

(2) abandonment or extension of lines of railroads utilized solely for passenger service, and the abandonment or extension of operations over such lines of railroads, whether by trackage rights or otherwise;

(3) regulation of routes and service and, except as otherwise provided in this chapter, the discontinuance or change of passenger train service operations.

(b) Provisions of Interstate Commerce Act relating to safety and employee relations.

The Corporation shall be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity and unemployment systems, and other dealings with its employees as any other common carrier subject to part I of the Interstate Commerce Act.

(c) State or other laws relating to rates, routes and service inapplicable.

The Corporation shall not be subject to any State or other law pertaining to the transportation of passengers by railroad as it relates to rates, routes, or service.

(d) District of Columbia laws relating to leases and contracts.

Leases and contracts entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

(e) Certain users and operators of facilities and equipment exempt from prohibitions of existing law.

Persons contracting with the Corporation for the joint use or operation of such facilities and equipment as may be necessary for the provision of efficient and expeditious passenger service shall be and are hereby relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder. (Pub. L. 91–518, title III, § 306, Oct. 30, 1970, 84 Stat. 1332.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (a), is classified to chapters 1, 8, 12, 13 and 19 of Title 49, Transportation.

Part I of the Interstate Commerce Act, referred to in subsec. (b), is classified to section 1 et seq. of Title 49.

§ 547. Jurisdiction of the district courts of the United States to impose sanctions.

(a) If the Corporation or any railroad engages in or adheres to any action, practice, or policy inconsistent with the policies and purposes of this chapter, obstructs or interferes with any activities authorized by this chapter, refuses, fails, or neglects to discharge its duties and responsibilities under this chapter, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which the Corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States or, in a case involving a labor agreement, upon petition of any employee affected thereby, including duly authorized employee representatives, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any violation, conduct, or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this chapter. (Pub. L. 91–518, title III, § 307, Oct. 30, 1970, 84 Stat. 1333.)

§ 548. Reports to the President and the Congress.

(a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from October 30, 1970, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this chapter, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

(b) The Secretary and the Commission shall transmit to the President and the Congress, one year following October 30, 1970, and biennially thereafter, reports on the state of rail passenger service and the effectiveness of this chapter in meeting the requirement for a balanced national transportation system, together with any legislative recommendations. (Pub. L. 91–518, title III, § 308, Oct. 30, 1970, 84 Stat. 1333.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 644 of this title.

SUBCHAPTER IV.—PROVISION OF RAIL PASSENGER SERVICES

§ 561. Assumption of intercity rail passenger service by the Corporation.

(a) Contracts; passenger deficit payments; determination of the amount; referral to the Interstate Commerce Commission; payment schedule.

(1) On or before May 1, 1971, the Corporation is authorized to contract and, upon written request therefor from a railroad, shall tender a contract to relieve the railroad, from and after May 1, 1971, of its entire responsibility for the provision of intercity rail passenger service. On or after March 1, 1973, but before January 1, 1975, the Corporation is authorized to contract, and upon written request therefor, shall tender a contract to relieve the railroad of its entire responsibility for the provision in intercity rail passenger service and such relief shall become effective upon the date on which such contract is entered into. Contracts may be entered into on or before May 1, 1971, notwithstanding the fact that the decision of

the Commission under section 502(6) of this title with respect to avoidable loss has not become final. Any contract entered into before such decision of the Commission has become final shall be subject to adjustment to assure that the contract is consistent with such final decision of the Commission. The contract may be made upon such terms and conditions as necessary to permit the Corporation to undertake passenger service on a timely basis. Upon its entering into a valid contract (including protective arrangements for employees), the railroad shall be relieved of all its responsibilities as a common carrier of passengers by rail in intercity rail passenger service under part I of the Interstate Commerce Act or any State or other law relating to the provision of intercity passenger service: *Provided,* That any railroad discontinuing a train hereunder must give notice in accordance with the notice procedures contained in section 13a(1) of Title 49.

(2) In consideration of being relieved of this responsibility by the Corporation, the railroad shall agree to pay to the Corporation each year for three years an amount equal to one-third of 50 per centum of the fully distributed passenger service deficit of the railroad as reported to the Commission for the year ending December 31, 1969. The payment to the Corporation may be made in cash or, at the option of the Corporation, by the transfer of rail passenger equipment or the provision of future service as requested by the Corporation. Unless the railroad waives all rights to receive stock in exchange for its payments, the railroad shall receive common stock from the Corporation in an amount equivalent in par value to each payment.

(3) In agreeing to pay the amount specified in paragraph (2) of this subsection, a railroad may reserve the right to pay a lesser sum to be determined by calculating either of the following:

(A) 100 per centum of the avoidable loss of all intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969; or

(B) 200 per centum of the avoidable loss of the intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969, covering all intercity service over the routes between those points between which the Secretary, under sections 521 and 522 of this title, has specified that intercity passenger trains shall be operated within the basic system.

If the amount owed the Corporation under either of these alternatives is agreed by the parties to be less than the amount paid pursuant to paragraph (2), the Corporation shall pay the difference to the railroad and the railroad shall surrender to the Corporation an amount of stock, at par value, equivalent to such payment. If the railroad and the Corporation are unable to agree as to the amount owed, the matter shall be referred to the Interstate Commerce Commission for decision. The Commission, upon investigation, shall decide the issue within ninety days following the date of referral, or within such additional time as the Commission may order not to exceed an aggregate of one hundred and eighty days following such date of referral, and its decision shall be binding on both parties.

(4) The payments to the Corporation shall be made in accordance with a schedule to be agreed upon between the parties. Unless the parties otherwise agree, the payments for each of the first twelve months following the date on which the Corporation assumes any of the operational responsibilities of the railroad shall be in cash and not less than one thirty-sixth of the amount owed.

(b) Commencement of operations.

On May 1, 1971, the Corporation shall begin the provision of intercity rail passenger service between points within the basic system unless such service is being provided (i) either by a railroad with which it has not entered into a contract under subsection (a) of this section or (ii) by a regional transportation agency, provided such agency gives satisfactory assurance to the Corporation of the agency's financial and operating capability to provide such service, and of its willingness to cooperate with the Corporation and with other regional transportation agencies on matters of through train service, through car service, and connecting train service. The Corporation may at any time subsequent to May 1, 1971, contract with a regional transportation agency to provide intercity rail passenger service between points within the basic system included within the service of such agency.

(c) Others prohibited from conducting intercity rail passenger service.

No railroad or any other person may, without the consent of the Corporation, conduct intercity rail passenger service over any route over which the Corporation is performing scheduled intercity rail passenger service pursuant to a contract under this section. (Pub. L. 91–518, title IV, § 401, Oct. 30, 1970, 84 Stat. 1334.)

REFERENCES IN TEXT

Section 502(6) of this title, referred to in subsec. (a)(1), was, in the original, section 102(f) of this Act, which, for the purpose of codification, has been translated as section 502(6) of this title.

Part I of the Interstate Commerce Act, referred to in subsec. (a)(1), is classified to section 1 et seq. of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 564, 565 of this title; title 26 section 250.

§ 562. Contracts for the use of tracks and other facilities; authority of the Interstate Commerce Commission to order the use and impose conditions for such use.

(a) The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, if it finds that doing so is necessary to carry out the purposes of this chapter, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation

fixed by the Commission. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed.

(b) To facilitate the initiation of operations by the Corporation within the basic system, the Commission shall, upon application by the Corporation, require a railroad to make immediately available tracks and other facilities. The Commission shall thereafter promptly proceed to fix such terms and conditions as are just and reasonable. (Pub. L. 91–518, title IV, § 402, Oct. 30, 1970, 84 Stat. 1335.)

§ 563. Rail service beyond basic system.

(a) Authority to operate; designation of such service as part of basic system.

The Corporation may provide intercity rail passenger service in excess of that prescribed for the basic system, either within or outside the basic system, including the operation of special and extra passenger trains, if consistent with prudent management. Any intercity rail passenger service provided under this subsection for a continuous period of two years shall be designated by the Secretary as a part of the basic system.

(b) Requests for additional services and sharing of losses due to additional services by State, regional or local agencies.

Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the basic system. The Corporation shall institute such service if the State, regional, or local agency agrees to reimburse the Corporation for a reasonable portion of any losses associated with such services.

(c) Apportionment of costs; authority of Secretary.

For purposes of this section the reasonable portion of such losses to be assumed by the State, regional, or local agency, shall be no less than 66⅔ per centum of, nor more than, the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to, such service. If the Corporation and the State, regional, or local agency are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the intent of this chapter, and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system. (Pub. L. 91–518, title IV, § 403, Oct. 30, 1970, 84 Stat. 1335.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 564 of this title.

§ 564. Discontinuance of service.

(a) Unless it has entered into a contract with the Corporation pursuant to section 561(a)(1) of this title, no railroad may discontinue any intercity passenger train whatsoever prior to January 1, 1975, the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, a Federal or State court, agency, or authority to the contrary notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of Title 49. Upon filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

(b)(1) The Corporation must provide the service included within the basic system until July 1, 1973, to the extent it has assumed responsibility for such service by contract with a railroad pursuant to section 561 of this title.

(2) Except as provided in section 563(a) of this title, service beyond that prescribed for the basic system undertaken by the Corporation upon its own initiative may be discontinued at any time.

(3) If at any time after July 1, 1973, the Corporation determines that any train or trains in the basic system in whole or in part are not required by public convenience and necessity, or will impair the ability of the Corporation to adequately provide other services, such train or trains may be discontinued under the procedures of section 13a of Title 49: *Provided, however,* That at least thirty days prior to any change or discontinuance, in whole or in part, of any service under this subsection, the Corporation shall mail to the Governor of each State in which the train in question is operated, and post in every station, depot, or other facility served thereby notice of the proposed change or discontinuance. The Corporation may not change or discontinue this service if prior to the end of the thirty-day notice period, State, regional, or local agencies request continuation of the service and within ninety days agree to reimburse the Corporation for a reasonable portion of any losses associated with the continuation of service beyond the notice period.

(4) For the purposes of paragraph (3) of this subsection, the reasonable portion of such losses to be assumed by the State, regional, or local agency shall be no less than 66⅔ per centum of, nor more than, the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to, such service. If the Corporation and the State, regional, or local agencies are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the purposes of this chapter and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system. (Pub. L. 91–518, title IV, § 404, Oct. 30, 1970, 84 Stat. 1336.)

§ 565. Protective arrangements for employees.

(a) Duty of railroads.

A railroad shall provide fair and equitable arrangements to protect the interests of employees affected by discontinuances of intercity rail passenger service whether occurring before, on, or after January 1, 1975.

(b) Substantive requirements for protection.

Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights

and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of Title 49. Any contract entered into pursuant to the provisions of this title shall specify the terms and conditions of such protective arrangements. No contract under section 561(a)(1) of this title between a railroad and the Corporation may be made unless the Secretary of Labor has certified to the Corporation that the labor protective provisions of such contract afford affected employees fair and equitable protection by the railroad.

(c) Commencement of protection.

After commencement of operations in the basic system, the substantive requirements of subsection (b) of this section shall apply to the Corporation. The certification by the Secretary of Labor that employees affected have been provided fair and equitable protection as required by this section shall be a condition to the completion of any transaction requiring such protection.

(d) Obligations of contractors; minimum wages; labor, health, and safety standards.

The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this subchapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 333 of Title 40 shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

(e) Contracts not to result in layoff.

The Corporation shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or any railroad providing intercity rail passenger service on October 30, 1970, and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit. (Pub. L. 91–518, title IV, § 405, Oct. 30, 1970, 84 Stat. 1337.)

REFERENCES IN TEXT

Davis-Bacon Act, referred to in subsec. (d), is classified to section 276a et seq. of Title 40, Public Buildings, Property, and Works.

The Railway Labor Act, referred to in subsec. (d), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified to section 151 et seq. of this title.

SUBCHAPTER V.—FINANCIAL INVESTMENT ADVISORY PANEL

§ 581. Appointment of advisory panel.

Within thirty days after October 30, 1970, the President shall appoint a fifteen-man financial advisory panel. Six members of the panel shall represent the business of investment banking, commercial banking, and rail transportation. Two members shall be representatives of the Secretary of the Treasury and seven members shall represent the public in the various regions of the Nation. (Pub. L. 91–518, title V, § 501, Oct. 30, 1970, 84 Stat. 1388.)

§ 582. Function of advisory panel.

The advisory panel appointed by the President shall advise the directors of the Corporation on ways and means of increasing capitalization of the Corporation. (Pub. L. 91–518, title V, § 502, Oct. 30, 1970, 84 Stat. 1338.)

§ 583. Report to Congress.

On or before January 1, 1971, the panel shall submit a report to Congress evaluating the initial capitalization of the Corporation and the prospects for increasing its capitalization. (Pub. L. 91–518, title V, § 503, Oct. 30, 1970, 84 Stat. 1338.)

SUBCHAPTER VI.—FEDERAL FINANCIAL ASSISTANCE

§ 601. Authorization of appropriation.

There is authorized to be appropriated to the Secretary in fiscal year 1971, $40,000,000 to remain available until expended, for payment to the Corporation for the purpose of assisting in—

(1) the initial organization and operation of the Corporation;

(2) the establishment of improved reservations systems and advertising;

(3) servicing, maintenance, and repair of railroad passenger equipment;

(4) the conduct of research and development and demonstration programs respecting new rail passenger services;

(5) the development and demonstration of improved rolling stock; and

(6) essential fixed facilities for the operation of passenger trains on lines and routes included in the basic system over which no through passenger trains are being operated on October 30, 1970, including necessary track connections between lines of the same or different railroads.

(Pub. L. 91–518, title VI, § 601, Oct. 30, 1970, 84 Stat. 1338.)

§ 602. Guaranty of loans.

The Secretary is authorized, on such terms and conditions as he may prescribe, to guarantee any

lender against loss of principal or interest on securities, obligations, or loans issued to finance the upgrading of roadbeds and the purchase by the Corporation or agency of new rolling stock, rehabilitation of existing rolling stock and for other corporate purposes. The maturity date of such securities, obligations, or loans, including all extensions and renewals thereof, shall not be later than twenty years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed $100,000,000. The Secretary shall prescribe and collect from the lending institution a reasonable annual guaranty fee. There are authorized to be appropriated such amounts as necessary to carry out this section not to exceed $100,000,000. (Pub. L. 91–518, title VI, § 602, Oct. 30, 1970, 84 Stat. 1338).

SUBCHAPTER VII.—EMERGENCY FINANCIAL ASSISTANCE

§ 621. Interim authority to provide emergency financial assistance for railroads operating passenger service; Secretary to make loans and guarantee lenders.

(a) For the purpose of permitting a railroad to enter into or carry out a contract entered into under this chapter, the Secretary is authorized, on such terms and conditions as he may prescribe, to (1) make loans to such railroad, or (2) guarantee any lender against loss of principal or interest on any loan to such railroad.

(b) Before making a loan or a guarantee under this section, the Secretary must find, in writing, that—

(1) the loan or guarantee is necessary to carry out the provisions of this chapter;

(2) the proceeds of any loan made or guaranteed under this chapter will be used solely to carry out contracts entered into under this chapter;

(3) the loan or guarantee is not otherwise available on reasonable terms and conditions; and

(4) there is reasonable assurance that the business affairs of the railroad will be conducted in a prudent manner.

(c) (1) In any case in which there is a liquidation of the assets of any railroad which is the recipient of a loan made or guaranteed under this chapter, the United States shall have the first right to redeem that portion of such assets consisting of those rights-of-way, tracks, and other facilities designated by the Secretary to be necessary for the purpose of providing intercity rail passenger service, including services employing innovative technology, within the basic system.

(2) It is the intent of the Congress that, in the case of a loan guarantee under this chapter, the United States shall stand in the same position with respect to other creditors as in the case of a direct loan by the United States giving the United States priority over secured and unsecured creditors.

(d) Interest on loans made under this section shall be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans adjusted to the nearest one-eighth of one per centum.

(e) The maturity date on any loan made or guaranteed under this section, including renewals and extensions thereof, shall not be later than five years from the date of issuance.

(f) The aggregate amount of loans and loan guarantees made under this section shall not exceed $200,000,000. (Pub. L. 91–518, title VII, § 701, Oct. 30, 1970, 84 Stat. 1339.)

§ 622. Authorization of appropriations.

There are hereby authorized to be appropriated such amounts not to exceed $2,000,000 as may be necessary to carry out the purposes of this subchapter. Any sums appropriated shall be available until expended. (Pub. L. 91–518, title VII, § 702, Oct. 30, 1970, 84 Stat. 1339.)

SUBCHAPTER VIII.—MISCELLANEOUS PROVISIONS

§ 641. Adequacy of service.

The Commission is authorized to prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service. Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed $500 for such violation. Each day a violation continues shall constitute a separate offense. (Pub. L. 91–518, title VIII, § 801, Oct. 30, 1970, 84 Stat. 1339.)

§ 642. Effect on pending proceedings.

Upon enactment of this chapter, no railroad may discontinue any intercity rail passenger service whatsoever other than in accordance with the provisions of this chapter, notwithstanding the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any Federal or State court, agency, or authority. (Pub. L. 91–518, title VIII, § 802, Oct. 30, 1970, 84 Stat. 1340.)

§ 643. Separability of provisions.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Pub. L. 91–518, title VIII, § 803, Oct. 30, 1970, 84 Stat. 1340.)

§ 644. Records and audit of the Corporation.

(1) (A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for verifying transactions with the

balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(B) The report of each such independent audit shall be included in the annual report required by section 548(a) of this title. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2)(A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress. (Pub. L. 91-518, title VIII, § 805, Oct. 30, 1970, 84 Stat. 1340.)

Chapter 15.—EMERGENCY RAIL SERVICES

Sec.
661. Definitions.
662. Guarantee of certificates.
(a) Authority of Secretary; prerequisites; procedure; waiver.
(b) Conditions to guarantee.
(c) Certificate as administrative expense; priority of certificate.
(d) Interest rate; date of maturity; other terms and conditions.
(e) Maximum aggregate principal amount outstanding.
(f) Rules and regulations.
663. Inspection of accounts, books, etc., of railroad receiving financial assistance.
664. Issuance of obligations to Secretary of the Treasury
(a) Forms and denominations; maturity dates; terms and conditions; interest rate; purchase and sale of obligations by Secretary of the Treasury; authorization of appropriations.
(b) Revocation of guarantee; legal effect of guarantee; validity and incontestability of guaranteed certificate.
(c) Enforcement by Attorney General of rights accruing to United States because of guarantee.
665. Utilization of services and facilities of Federal departments and agencies; reimbursement; consultation with Interstate Commerce Commission; coordination of activities with Federal departments and agencies.
666. Court supervision of expenditures; findings; report to Secretary.
667. Audit by Comptroller General; report to Congress.
668. Guarantee fees; amount; deposit.
669. Annual report.

§ 661. Definitions.

For the purposes of this chapter—

(1) "Secretary" means the Secretary of Transportation.

(2) "Commission" means the Interstate Commerce Commission.

(3) "Railroad" means any common carrier by railroad subject to part I of the Interstate Commerce Act.

(4) "Certificate" means certificates issued by trustees of a railroad pursuant to section 205(c)(3) of Title 11.

(Pub. L. 91-663, § 2, Jan. 8, 1971, 84 Stat. 1975.)

REFERENCES IN TEXT

Part I of the Interstate Commerce Act, referred to in par. (3), is classified to chapter I of Title 49, Transportation.

SHORT TITLE

Section 1 of Pub. L. 91-663 provided: "That this Act [which enacted this chapter] may be cited as the 'Emergency Rail Services Act of 1970'."

§ 662. Guarantee of certificates.

(a) Authority of Secretary; prerequisites; procedures waiver.

The trustees of any railroad undergoing reorganization under section 205 of Title 11, upon approval of the court, may apply to the Secretary for the guarantee of certificates. The Secretary, after consultation with the Commission, is authorized to guarantee such certificates upon findings in writing that—

(1) cessation of essential transportation services by the railroad would endanger the public welfare;

(2) cessation of such services is imminent;

(3) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary to provide such services than the issuance of such certificates;

(4) such certificates cannot be sold without a guarantee;

(5) the railroad can reasonably be expected to become self-sustaining; and

(6) the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

The Secretary shall publish notice of his intention to make such finding in the Federal Register not less than fifteen days prior to such finding, give interested persons, including agencies of the Federal Government, an opportunity to submit written data, views, or arguments (with or without opportunity for oral presentation), and give consideration to the relevant matter presented. The Secretary for good cause shown and upon a finding that extraordinary circumstances warrant doing so may waive the requirements of the preceding sentence.

(b) Conditions to guarantee.

As a condition to a guarantee, the Secretary, after consultation with the Commission, shall require that:

(1) the proceeds of the sale of certificates guaranteed under this chapter will be used solely for meeting payroll and other expenses which, if not met, would preclude continued provision of essential transportation services by the railroad;

(2) other revenues of the railroad will be used, to the fullest extent possible, for such expenses;

(3) proceeds from the sale of assets will be devoted to the fullest extent possible to the provision of essential transportation services by the railroad; and

(4) in the event of actual or threatened cessation of essential transportation services by the railroad, the Secretary shall have the option to procure by purchase or lease trackage rights over the lines of the railroad and such equipment as may be necessary to provide such services by the Secretary or his assignee, and, in the event of a default in the payment of principal or interest as provided by the certificates, the money paid or expenses incurred by the United States as a result thereof shall be deemed to have been applied to the purchase or lease price. The terms of purchase or lease shall be subject to the approval of the reorganization court and the operation over the lines shall be subject to the approval of the Commission pursuant to the provisions of section 5 of Title 49, but in no event shall the rendition of services by the Secretary or his assignee await the outcome of proceedings before the reorganization court of the Commission.

(c) Certificate as administrative expense; priority of certificate.

The Secretary shall not guarantee any certificate unless the certificate is treated as an expense of administration and receive the highest lien on the railroad's property and priority in payment under the Bankruptcy Act. The rights referred to in the last sentence of section 205(j) of Title 11 shall in no way be affected by this chapter.

(d) Interest rate; date of maturity; other terms and conditions.

A certificate under this chapter shall bear interest at such per annum rate as the Secretary deems reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Federal Government; nor may its maturty date, including all extensions and renewals thereof, be later than fifteen years from the date of original issuance. The Secretary may prescribe such other terms and conditions as he deems appropriate. In each case, the Secretary shall consider the feasibility of requiring the railroad to dispose of nonrailroad assets as a condition to a guarantee.

(e) Maximum aggregate principal amount outstanding.

At any one time the outstanding aggregate principal amount of all certificates guaranteed under this chapter shall not exceed $125,000,000.

(f) Rules and regulations.

The Secretary shall issue such rules and regulations as are appropriate to carry out the authority granted by this chapter. (Pub. L. 91–663, § 3, Jan. 8, 1971, 84 Stat. 1975.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (c), is classified to section 1 et seq. of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 666 of this title.

§ 663. Inspection of accounts, books, etc., of railroad receiving financial assistance.

The Secretary is authorized to, and shall as necessary, inspect and copy all accounts, books, records, memorandums, correspondence, and other documents of any railroad which has received financial assistance under this chapter concerning any matter which may bear upon (1) the ability of such railroad to repay the loan within the time fixed therefor, (2) the interest of the United States in the property of such railroad, and (3) to insure that the purpose of this chapter is being carried out. (Pub. L. 91–663, § 4, Jan. 8, 1971, 84 Stat. 1976.)

§ 664. Issuance of obligations to Secretary of the Treasury.

(a) Forms and denominations; maturity dates; terms and conditions; interest rate; purchase and sale of obligations by Secretary of the Treasury; authorization of appropriations.

To enable the Secretary to carry out his rights and responsibilities under section 662 of this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions,

purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(b) Revocation of guarantee; legal effect of guarantee; validity and incontestability of guaranteed certificate.

Any guarantee made by the Secretary under this chapter shall not be terminated, canceled, or otherwise revoked, except as provided by the terms and conditions prescribed by the Secretary under section 662(d) of this title; shall be conclusive evidence that such guarantee complies fully with the provisions of this chapter, and of the approval and legality of the principal amount, interest rate, and all other terms of the certificates and the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed certificate except for fraud or material misrepresentation on the part of such holder.

(c) Enforcement by Attorney General of rights accruing to United States because of guarantee.

The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States by reason of its having paid money or incurred expenses as a result of making such guarantees. (Pub. L. 91-663, § 5, Jan. 8, 1971, 84 Stat. 1976.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), in Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c-1, and sections 757c-2, 757c-3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

§ 665. Utilization of services and facilities of Federal departments and agencies; reimbursement; consultation with Interstate Commerce Commission; coordination of activities with Federal departments and agencies.

(a) In carrying out the provisions of this chapter the Secretary may use available services and facilities of other departments, agencies, and instrumentalities of the Federal Government with their consent and on a reimbursable basis, and shall consult with the Interstate Commerce Commission in carrying out the provisions of this chapter.

(b) Departments, agencies, and instrumentalities of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the provisions of this chapter. (Pub. L. 91-663, § 6, Jan. 8, 1971, 84 Stat. 1977.)

§ 666. Court supervision of expenditures; findings; report to Secretary.

In addition to other duties prescribed by section 205 of Title 11, the court shall maintain supervision of the expenditure of funds obtained pursuant to section 662 of this title for the purpose of assuring that such funds are used solely for purposes set forth in subsection (b) of such section, shall make periodic findings regarding such expenditures, and shall report those findings to the Secretary. (Pub. L. 91-663, § 7, Jan. 8, 1971, 84 Stat. 1977.)

§ 667. Audit by Comptroller General; report to Congress.

The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to such information, books, records, and documents as he determines necessary effectively to audit financial transactions and operations carried out by the Secretary in the administration of this chapter. The Comptroller General shall make such reports to the Congress on the results of any such audits as are appropriate. (Pub. L. 91-663, § 8, Jan. 8, 1971, 84 Stat. 1977.)

§ 668. Guarantee fees; amount; deposit.

The Secretary shall prescribe a guarantee fee in connection with each loan guaranteed under this chapter which shall be collected from the railroad upon repayment of the loan guaranteed. Such fee shall be in an amount that the Secretary estimates to be necessary to cover the administrative costs of carrying out the provisions of this chapter with respect to such loan. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts. (Pub. L. 91-663, § 9, Jan. 8, 1971, 84 Stat. 1978.)

§ 669. Annual report.

The Secretary shall make an annual report to the President and the Congress with respect to his activities pursuant to this chapter, including an evaluation of the financial conditions of railroads which have outstanding certificates guaranteed under this chapter. The Secretary shall also make a report to the President and the Congress on the financial condition of each railroad having a loan guaranteed under this chapter ninety days after the making of such guarantee and annually thereafter throughout the existence of such loan. (Pub. L. 91-663, § 10, Jan. 8, 1971, 84 Stat. 1978.)

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CROSS REFERENCES

Arbitration of controversies arising out of maritime transactions, see Title 9, Arbitration.

See also Title 33, Navigation and Navigable Waters.

Chapter 1.—ADMINISTRATION OF SHIPPING LAWS

Sec.

1. Repealed.
2. Superintendence of commercial marine and seamen; documentation.
3. Measurement and numbering; tonnage tax.
4. Annual list of vessels; report of increase; report on navigation laws.
5, 6. Repealed.
7. Penalties under laws relating to vessels; informers' rights; manner of ascertaining facts.
8. Refunding of penalties under laws relating to vessels or seamen.

WAIVER OF COMPLIANCE WITH NAVIGATION AND INSPECTION LAWS; TERMINATION DATE

Act Dec. 27, 1950, ch. 1155, §§ 1, 2, 64 Stat. 1120, provided that:

"The head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. The head of such department or agency is authorized to waive compliance with such laws to such extent and in such manner and upon such terms as he may prescribe, either upon his own initiative or upon the written recommendation of the head of any other Government agency, whenever he deems that such action is necessary in the interest of national defense.

"SEC. 2. The authority granted by this Act shall terminate at such time as the Congress by concurrent resolution or the President may designate."

Similar provisions were contained in Joint Res. Mar. 31, 1947, ch. 27, 61 Stat. 33; July 31, 1947, ch. 408, 61 Stat. 685; Feb. 27, 1948, ch. 78, § 2, 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; Joint Res. June 29, 1949, ch. 281, § 1, 63 Stat. 349; June 30, 1950, ch. 427, § 4, 64 Stat. 309.

TEMPORARY SUSPENSION OF NAVIGATION AND INSPECTION LAWS

Act Mar. 31, 1947, ch. 28, 61 Stat. 33, providing for the suspension of navigation and inspection laws as applied to the Department of the Army upon the termination of section 635 of Title 50, Appendix, War and National Defense, was repealed by act Dec. 27, 1950, ch. 1155, § 3, 64 Stat. 1120.

§ 1. Repealed. Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.

Section, acts July 5, 1884, ch. 221, § 1, 23 Stat. 118, June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for a Bureau of Marine Inspection and Navigation in the Department of Commerce.

This Bureau was created by act July 5, 1884, as the Bureau of Navigation. By act June 30, 1932, above, it was consolidated with the Steamboat Inspection Service to form a new bureau to be known as the Bureau of Navigation and Steamboat Inspection, which name was changed to Bureau of Marine Inspection and Navigation by act May 27, 1936. The "Director" of the Bureau of Marine Inspection and Navigation was the designation given to the chief of the bureau by the Secretary of Commerce under act June 30, 1932, § 502(b). The Bureau and the office of its Director were abolished by 1946 Reorg. Plan No. 3, § 104, set out under this section.

TRANSFER OF FUNCTIONS RELATING TO SHIPPING AND NAVIGATION

Sections 101—104 of 1946 Reorg. Plan No. 3, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, provided:

"SECTION 101. *Functions transferred to the United States Coast Guard.*—(a) There are hereby transferred to the Commandant of the Coast Guard those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Com-

merce, which pertain to approval of plans for the construction, repair, and alteration of vessels; approval of materials, equipment, and appliances; classification of vessels; inspection of vessels and their equipment and appliances; issuance of certificates of inspection, and of permits indicating the approval of vessels for operations which may be hazardous to life or property; administration of load line requirements; enforcement of other provisions for the safety of life and property on vessels; licensing and certificating of officers, pilots, and seamen; suspension and revocation of licenses and certificates; investigation of marine casualties; enforcement of manning requirements, citizenship requirements, and requirements for the mustering and drilling of crews, control of logbooks; shipment, discharge, protection, and welfare of merchant seamen; enforcement of duties of shipowners and officers after accidents; promulgation and enforcement of rules for lights, signals, speed, steering, sailing, passing, anchorage, movement, and towlines of vessels and lights and signals on bridges; numbering of undocumented vessels; prescription and enforcement of regulations for outfitting and operation of motorboats; licensing of motorboat operators; regulation of regattas and marine parades; all other functions of such bureau, offices, and boards which are not specified in section 102 of this plan; and all other functions of the Secretary of Commerce pertaining to those functions of the agencies abolished under section 104 of this plan which are not specified in section 102 of this plan, including the remission and mitigation of fines, penalties, and forfeitures incurred under the laws governing these functions and those incurred under the act of December 17, 1941 (55 Stat. 808), as amended [see note under section 353 of Title 47].

"(b) The functions relating to the award of numbers to undocumented vessels vested by law in the collectors of customs are hereby transferred to the Commandant of the Coast Guard.

"SEC. 102. *Functions transferred to Bureau of Customs.*—There are hereby transferred to the Commissioner of Customs those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entry and clearance of vessels and aircraft, regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such bureau, offices, and boards which were performed by the Bureau of Customs on behalf thereof immediately prior to the effective date of Executive Order No. 9083 of February 28, 1942 (7 F. R. 1609) [formerly set out in note under section 601 of Appendix to Title 50]; and the power to remit and mitigate fines, penalties, and forfeitures incurred under the laws governing these functions.

"SEC. 103. *Powers of the Secretary of the Treasury.*—The functions transferred by sections 101 and 102 of this plan may be performed through such officers and employees of the United States Coast Guard and the Bureau of Customs, respectively, as may be designated by the Commandant of the Coast Guard and the Commissioner of Customs, respectively, and shall be performed subject to the direction and control of the Secretary of the Treasury except as otherwise required by law with respect to the United States Coast Guard whenever it operates as a part of the Navy.

"SEC. 104. *Abolition of agencies.*—The Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, local inspectors, assistant inspectors, shipping commissioners, deputy shipping commissioners, and the board of supervising inspectors, the boards of local inspectors, the marine casualty investigation board, and the marine boards are hereby abolished. The Secretary of the Treasury shall provide for winding up those affairs of the said abolished agencies which are not otherwise disposed of herein."

This Reorganization Plan continued on a permanent basis the temporary transfer of functions made during World War II by Ex. Ord. No. 9083, §§ 1—4, Feb. 28, 1942, 7 F. R. 1609, formerly set out in note under section 601 of Title 50, Appendix, War and National Defense.

By Coast Guard General Order 2–46, July 16, 1946, 11 F. R. 7775, and Treas. Dept. Reg. 51491, July 16, 1946, 11 F. R. 7766, the Commandant of the Coast Guard and The Commissioner of Customs each provided that all orders, rules, regulations, permits or other privileges made, issued or granted in respect of all functions transferred to him by 1946 Reorg. Plan No. 3, §§ 101—104 and in effect at the time of such transfer should continue in effect to the same extent as if such transfer had not occurred.

On the basis of 33 C. F. R. ch. I, and 46 C. F. R. ch. I, the Commandant of the Coast Guard appears to have assigned the functions transferred to him as follows:

Functions formerly performed by:	Now assigned to:
Bureau of Marine Inspection and Navigation and its Director	Commandant of the Coast Guard
Board of Supervising Inspectors	Commandant of the Coast Guard
Supervising Inspector	Coast Guard District Commander
Board of Local Inspectors	Officer in Charge, Marine Inspection
Inspectors and Assistant Inspectors	Marine Inspectors (or "inspectors")

Under Coast Guard regulations in 46 C. F. R. § 3.13–1 et seq., it appears that the Coast Guard personnel now performing the duties of the former shipping commissioners are also designated shipping commissioners.

For investigation of Marine casualties and suspension and revocation of licenses and certificates, formerly performed by the Marine Casualty Investigation Board and Marine Boards, see note under section 239 of this title.

Memoranda of the Chief Counsel of the Coast Guard, July 7, 1947, Chief Counsel of the Bureau of Customs, July 14, 1947, and Chief Counsel of the Treasury, July 21, 1947, concurred in the view that the duties of collectors of customs were not affected by 1946 Reorg. Plan No. 3, with the exception of those duties specified in section 101 (b) of the Plan.

TRANSFER OF FUNCTIONS TO SECRETARY OF THE TREASURY

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The plan excepted from the transfer to the Secretary functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

On July 31, 1950, the Secretary of the Treasury issued Treasury Department Order No. 120 directing that officers, employees, and agencies of the Treasury Department shall continue to perform the functions they were authorized to perform prior to the effective date of Reorganization Plan No. 26, 1950, referred to above, and stipulating that authorized regulations and procedures in effect immediately prior to the effective date of the Plan should continue in effect until changed by appropriate authority.

§ 2. Superintendence of commercial marine and seamen; documentation.

The Commandant of the Coast Guard and the Commissioner of Customs shall have general superintendence of the commercial marine and merchant seamen of the United States, so far as vessels and

seamen are not, under existing laws, subject to the supervision of any other officer of the Government. The Commissioner of Customs shall be specially charged with the decision of all questions relating to the issue of registers, enrollments, and licenses of vessels, and to the filing and preserving of those documents; and wherever in this title any of the above-named documents are required to be surrendered they shall be surrendered and returned to the Commissioner of Customs. (July 5, 1884, ch. 221, § 2, 23 Stat. 118; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

In the original "in this title" read "in title forty-eight or fifty of the Revised Statutes." For distribution of the titles (R.S. §§ 4131—4305, 4311—4390) in this Code, see Tables.

CODIFICATION

Section 2 of act July 5, 1884, referred to the Secretary of the Treasury instead of the Secretary of Commerce. By section 10 of act Feb. 14, 1903, all duties, powers, etc., of the head of any department over any bureau transferred to the Department of Commerce and Labor by that act were vested in the head of that department. By section 1 of act Mar. 4, 1913, the Secretary of Commerce and Labor was designated the Secretary of Commerce.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer in the Treasury Department. The Plan excepted, from the transfer, functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"The Commandant of the Coast Guard and the Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation"; and "under the direction of the Secretary of Commerce" was omitted in first sentence and references to the Director in the second sentence were changed to Commissioner of Customs on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Surrender of certificates of registry, enrollment, or licenses, see sections 23, 30, 32, and 267 of this title.

§ 3. Measurement and numbering; tonnage tax.

The Commissioner of Customs shall be charged with the supervision of the laws relating to the admeasurement of vessels, and the assigning of signal letters thereto, and of designating their official number; and on all questions of interpretation growing out of the execution of the laws relating to these subjects, and relating to the collection of tonnage tax, and to the refund of such tax when collected erroneously or illegally, his decision shall be final. (July 5, 1884, ch. 221, § 3, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 18 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Measurement of vessels, see section 71 et seq. of this title.

Numbering of undocumented vessels by the Coast Guard, see section 527 et seq. of this title.

§ 4. Annual list of vessels; report of increase; report on navigation laws.

The Commissioner of Customs shall annually prepare and publish a list of vessels of the United States belonging to the commercial marine, specifying the official number, signal letters, names, rig, tonnage, home port, and place and date of building of every vessel, distinguishing in such list sailing vessels from such as may be propelled by steam or other motive power. He shall also report annually to the Secretary of the Treasury the increase of vessels of the United States, by building or otherwise, specifying their number, rig, and motive power. The Commandant of the Coast Guard and the Commissioner of Customs shall also investigate the operations of the laws relative to navigation, and annually report to the Secretary of the Treasury such particulars as may, in their individual judgment, admit of improvement or may require amendment. (July 5, 1884, ch. 221, § 4, 23 Stat. 119; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation of act July 5, 1884, into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer in the Treasury Department. The Plan excepted from the transfer functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" in first sentence, "The Commandant of the Coast Guard and the Commissioner of Customs" for "He" and "their individual judgment" for "his judgment" in last sentence, and "Secretary of the Treasury" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see not under former section 1 of this title.

§ 5. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 635.

Section, acts July 5, 1884, ch. 221, § 6, 23 Stat. 119; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for a Deputy Commissioner of Navigation and additional clerks in the Bureau of Marine Inspection and Navigation.

§ 6. Repealed. June 17, 1930, ch. 497, title IV, § 651 (a)(1), 46 Stat. 762.

Section, act Sept. 21, 1922, ch. 356, § 581, 42 Stat. 979, related to the authority of officers and agents of the Department of Commerce in the enforcement of the navigation laws.

§ 7. Penalties under laws relating to vessels; informers' rights; manner of ascertaining facts.

The Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, may, upon application therefor, remit or mitigate any fine, penalty, or forfeiture provided for in laws relating to vessels or discontinue any prosecution to recover penalties or relating to forfeitures denounced in such laws, excepting the penalty of imprisonment or of removal from office, upon such terms as he, in his discretion, shall think proper; and all rights granted to informers by such laws shall be held subject to the Commandant's or Commissioner's powers of remission, except in cases where the claims of any informer to the share of any penalty shall have been determined by a court of competent jurisdiction prior to the application for the remission of the penalty or forfeiture; and the Commandant or Commissioner shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he may deem proper. (R. S. § 5294; Dec. 15, 1894, ch. 7, 28 Stat. 595; Mar. 2, 1896, ch. 37, 29 Stat. 39; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 64, 16 Stat. 458.

CODIFICATION

Upon incorporation of R.S. § 5294, as amended by acts Dec. 15, 1894, and Mar. 2, 1896, into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903 and Mar. 4, 1913. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer in the Treasury Department. The Plan excepted from the transfer functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard or the Commissioner of Customs, as the case may be," was substituted for "Secretary of Commerce," and references to the Secretary were changed to Commandant or Commissioner on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Authority of the Commandant of the Coast Guard to remit penalties imposed for violations of regulations adopted for the movements of vessels in St. Mary's River, see section 474 of Title 33, Navigation and Navigable Waters, and note thereunder.

Failure to report rebuilding of vessels outside United States, remission or mitigation of penalty under this section, see section 883a of this title.

Fines subject to remission or mitigation by the Commissioner of Customs when the offense was not willfully committed, see section 320 of this title, and note thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 83k of this title.

§ 8. Refunding of penalties under laws relating to vessels or seamen.

Whenever any fine, penalty, forfeiture, exaction, or charge arising under the laws relating to vessels or seamen has been paid to any collector of customs, or Coast Guard official, or consular officer, and application has been made within one year from such payment for the refunding or remission of the same, the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if on investigation he finds that such fine, penalty, forfeiture, exaction, or charge was illegally, improperly, or excessively imposed, shall have the power, either before or after the same has been covered into the Treasury, to refund so much of such fine, penalty, forfeiture, exaction, or charge as he may think proper, from any moneys in the Treasury not otherwise appropriated. (June 26, 1884, ch. 121, § 26, 23 Stat. 59; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation of act June 26, 1884, into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer in the Treasury Department. The Plan excepted from the transfer functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard official" was inserted and "Commandant of the Coast Guard or the Commissioner of Customs, as the case may be," was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

EFFECT OF OTHER LAWS

Effective July 1, 1935, this section was affected by act June 26, 1934, ch. 756, § 18, 48 Stat. 1231. See section 725q (b) of Title 31, Money and Finance.

Chapter 2.—REGISTRY AND RECORDING

GENERAL PROVISIONS AS TO REGISTRY AND DOCUMENTS

Sec.
11. Vessels entitled to registry; coastwise trade; ocean mail service contracts.
12. Provisional certificates of registry to vessels abroad.
13. Foreign-built vessels admitted to American registry; coastwise trade.
14. Wrecked vessels.
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17. Place of registration.
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35. Documentation of vessels sold or transferred outside the United States.
36. Oath on loss of register; grant of new register.
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38. Penalty for not obtaining new registry.
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43. Transmission of certificate for cancellation.
44. Numbering registers.
45. Numbers for vessels.
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47. "Port" defined.
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53. Fees for privilege of securing change of name.
54. Oath to obtain record of vessel owned by foreigner.
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57 Production of certificate on entry.
58. Penalty for misconduct by officers.
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60. Penalty for fraudulent registry.
61. Documents certifying title; to what vessels issued
62. Making or using forged papers.
63. Unrigged wooden vessels; notation of rebuilding.

INSPECTION, SURVEY, AND MEASUREMENT

71. Admeasurement of vessels.
(a) Readmeasurement.
(b) Pleasure vessels; gross and net tonnages; optional admeasurement of pleasure vessels as vessels used other than exclusively as pleasure vessels.
(c) Vessels not documented for use exclusively as pleasure vessels.
(d) Changes in tonnage; readmeasurement.
(e) Optional redetermination of vessels previously admeasured.
(f) Rules and regulations.
72. Evidence of admeasurement.
73. Repealed.
74. Specification of dimensions in vessel's marine document; manner of measurement.

Sec.
75. Cabins or staterooms excluded from measurement.
76. Repealed.
77. Tonnage.
78, 79. Repealed.
80. Space and accommodations for crew; hospital compartments.
81. Measurement of foreign vessels; certificates.
82. Suspension of provisions as to survey, inspection, and measurement.
83. Gross and net tonnage measurement; definitions.
83a. Spaces omitted from gross tonnage.
83b. Description, location and dimensions of tonnage mark.
83c. Placement of tonnage mark above loadline.
83d. Addition of line to tonnage mark.
83e. When tonnage mark deemed submerged.
83f. Measurement certificates and marine documents reciting tonnages.
83g. Marking line of uppermost complete deck.
83h. Regulations.
83i. Penalty for false statements.
83j. Penalty for failure to display tonnage mark.
83k. Remission of penalties.

CROSS REFERENCES

Corporation meeting certain conditions deemed citizen for purposes of the laws relating to documentation of vessels, see section 883-1 of this title.

GENERAL PROVISIONS AS TO REGISTRY AND DOCUMENTS

§ 11. Vessels entitled to registry; coastwise trade; ocean mail service contracts.

Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Coast Guard as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries, with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, being wholly owned by citizens of the United States and no others or corporations organized and chartered under the laws of the United States, or of any State thereof, of which the President or other chief executive officer and the chairman of the board of directors shall be citizens of the United States and no more of its directors than a minority of the number necessary to constitute a quorum shall be noncitizens, may be registered as directed in this chapter and chapters 3, 4, 5, 6, 7, 8, and 9 of this title. Foreign-built vessels registered pursuant to this section shall not engage in the coastwise trade: *Provided,* That such vessels so admitted under the provisions of this section may contract with the Postmaster General under act March 3, 1891, ch. 519, 26 Stat. 830, so long as such vessels shall in all respects comply with the provisions and requirements of said sections. (R.S. § 4132; Aug. 24, 1912, ch. 390, § 5, 37 Stat. 562; Aug. 18, 1914, ch. 256, § 1, 38 Stat. 698; Sept. 21, 1922, ch. 356, § 321, 42 Stat. 947; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; May 24, 1938, ch. 265, 52 Stat. 437; 1946 Proc. No. 2695, July 4, 1946, 11 F. R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 21, 1959, Pub.L. 86-327, § 1, 73 Stat. 597.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 2, 1 Stat. 288.

REFERENCES IN TEXT

In the original, "this chapter and chapters 3, 4, 5, 6, 7, 8, and 9" reads "this title," meaning title XLVIII of the Revised Statutes. For distribution of the title (R.S. §§ 4131—4305) in this Code, see Tables.

Act Mar. 3, 1891, referred to in last proviso of this section, was repealed by act May 22, 1928, ch. 675, § 414 (c), 45 Stat. 696.

CODIFICATION

Reference to the Philippine Islands preceding the Islands of Guam, etc., was omitted on the authority of 1946 Proc. No. 2695, which proclaimed the independence of the Philippines under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and under which section 1946 Proc. No. 2695 is set out as a note.

R.S. § 4132 was amended by act Aug. 24, 1912, which inserted provisions relating to registering seagoing vessels wherever built engaged in trade with foreign countries and specified islands and being wholly owned by United States citizens or corporations and added provision prohibiting foreign-built vessels engaging in coastwise trade.

Act Aug. 18, 1914, amended R.S. § 4132, by omitting the words "not more than five years old at the time they apply for registry," following the words "have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo."

Act Sept. 21, 1922, repealed a provision of R.S. § 4132 as amended, which related to the free admission of materials for the construction or repair of vessels and the building or repair of their machinery, and articles for their outfit and equipment. A portion of the original text omitted here provided that a foreign built yacht, pleasure boat, or vessel not used or intended to be used for trade admitted to American registry pursuant to this section should not be exempt from the collection of ad valorem duty provided in act Aug. 5, 1909, ch. 6, § 37, 36 Stat. 112. The section referred to was repealed by act Oct. 3, 1913, ch. 16, § IV, S, 38 Stat. 201.

AMENDMENTS

1959—Pub. L. 86-327 redefined citizenship qualification for corporations by substituting requirement that the president or other chief executive officer and the chairman of the board of directors be United States citizens and that no more of the directors than a minority of the number necessary to constitute a quorum be noncitizens for requirement that the president and managing directors be United States citizens.

1938—Act May 24, 1938 in first sentence, added reference to Wake, Midway, and Kingman Reef.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Steamboat-Inspection Service" was changed to "Bureau of Navigation and Steamboat Inspection", and then to "Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Coast Guard" was substituted for "Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Foreign-built vessels admitted to American registry, suspension of provisions as to survey, inspection, and measurement, see section 82 of this title.

Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade, see section 808 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 82 of this title.

§ 12. Provisional certificates of registry to vessels abroad.

Consular officers of the United States and such other persons as may from time to time be designated by the President for the purpose are authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in section 11 of this title.

(a) Such a provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the islands of Guam and Tutuila until the expiration of six months from its date or until ten days after the vessel's arrival at a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement.

(b) The Commissioner of Customs shall prescribe the conditions in accordance with which such provisional certificates shall be issued and the manner in which they shall be surrendered in exchange for certificates of registry at ports of the United States.

(c) The form of such provisional certificate shall be prescribed by the Commissioner of Customs and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the consular officer is able to obtain.

(d) Copies of such provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner of Customs. (Mar. 4, 1915, ch. 172, § 1, 38 Stat. 1193; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Reference to the Philippine Islands following "foreign countries" in subsec. (a) was omitted on authority of 1946 Proc. No. 2695, which proclaimed the independence of the Philippines under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and under which section the 1946 Proc. No. 2695 is set out as a note.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" in subsecs. (c) and (d) was changed to "Director, Bureau of Navigation and Steamboat Inspection," and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Secretary of Commerce" and "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 13. Foreign-built vessels admitted to American registry; coastwise trade.

All foreign-built vessels admitted to American registry, owned on February 1, 1920, by persons citizens of the United States, and all foreign-built vessels owned by the United States on June 5, 1920, when sold and owned by persons citizens of the United States, may engage in the coastwise trade so long as they continue in such ownership, subject to the rules and regulations of such trade. (June 5, 1920, ch. 250, § 22, 41 Stat. 997.)

CODIFICATION

Portions of the original text of this section omitted here repealed act Oct. 6, 1917, ch. 88, 40 Stat. 392, authorizing the United States Shipping Board to permit vessels of foreign registry and foreign built vessels admitted to American registry to engage in the coastwise trade during the war and for 120 days thereafter and to issue permits up to Feb. 1, 1922, for the carrying of passengers in foreign ships between Hawaii and the Pacific Coast.

CROSS REFERENCES

Transportation of merchandise between points in United States in other than domestic-built and documented vessels, see section 883 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 883 of this title.

§ 14. Wrecked vessels.

The Commissioner of Customs may issue a register or enrollment for any vessel wrecked on the coasts of the United States or her possessions or adjacent waters, when purchased by a citizen or citizens of the United States and thereupon repaired in a shipyard in the United States or her possessions, if it shall be proved to the satisfaction of the Commissioner, if he deems it necessary, through a board of three appraisers appointed by him, that the said repairs put upon such vessels[1] are equal to three times the appraised salved value of the vessel: *Provided*, That the expense of the appraisal provided for shall be borne by the owner of the vessel: *Provided further*, That if any of the material matters of fact sworn to or represented by the owner, or at his instance, to obtain the register of any vessel are not true, there shall be a forfeiture to the United States of the vessel in respect to which the oath shall have been made, together with tackle, apparel, and furniture thereof. (R. S. § 4136; Feb. 24, 1915, ch. 57, 38 Stat. 812; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

[1] So in original. Probably should read "vessel."

DERIVATION

Acts Dec. 23, 1852, ch. 4, 10 Stat. 149; July 23, 1866, ch. 213, 14 Stat. 212.

CODIFICATION

R.S. § 4136 was repealed by act Feb. 22, 1906, ch. 500, 34 Stat. 17, and was re-enacted and revised by act Feb. 24, 1915.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 15. Vessels owned by corporations.

Registers for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company; and such registers shall not be vacated or affected by sales of any shares of stock in such company. (R. S. § 4137.)

DERIVATION

Act Mar. 3, 1825, ch. 99, § 2, 4 Stat. 129.

§ 16. New registry on death of officer of corporation.

Upon the death, removal, or resignation of such president or secretary of any incorporated company owning any vessel, a new register shall be taken out for such vessel. (R. S. § 4138.)

DERIVATION

Act Mar. 3, 1825, ch. 99, § 3, 4 Stat. 129.

§ 17. Place of registration.

Every vessel, not enrolled or licensed, shall be registered by the collector of that collection district which includes the port to which such vessel shall belong at the time of her registry; which port shall be deemed to be that at or nearest to which the owner, if there be but one, or if more than one, the husband or acting and managing owner of such vessel, usually resides. (R. S. § 4141.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 3, 1 Stat. 288.

CODIFICATION

Amendment of this section to conform with section 18, see section 18 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of tne Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Place of recording bills of sale, mortgages, etc., see section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 18 of this title.

§ 18. Home ports of vessels of United States.

For the purposes of the navigation laws of the United States and of sections 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title, every vessel of the United States shall have a "home port" in the United States, including Puerto Rico, which port the owner of such vessel, subject to the approval of the Commissioner of Customs, shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment, and license, or license of such vessel, which documents, respectively, are referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force on February 16, 1925, shall be deemed to have been fiixed and determined in accordance with the provisions hereof. Section 17 of this title is amended to conform herewith. (Feb. 16, 1925, ch. 235, § 1, 43 Stat. 947; May 17, 1932, ch. 190, 47 Stat. 158; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; July 12, 1960, Pub. L. 86-624, § 34, 74 Stat. 421.)

AMENDMENTS

1960—Pub. L. 86-624 eliminated words "Alaska, Hawaii, and" preceding "Puerto Rico."

CHANGE OF NAME

Act May 17, 1932, changed the name of "Porto Rico" to "Puerto Rico".

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan. No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation of the Department of Commerce" was changed to "Director, Bureau of Navigation and Steamboat Inspection of the Department of Commerce", and then to "Director of the Bureau of Marine Inspection and Navigation of the Department of Commerce" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation of the Department of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 19. Oath for registry by owner.

In order to the registry of any vessel, an oath shall be taken and subscribed by the owner, or by one of the owners thereof, before the officer authorized to make such registry, declaring, according to the

best of the knowledge and belief of the person so swearing, the name of such vessel, her burden, the place where she was built, if built within the United States, and the year in which she was built; or that she has been captured in war, specifying the time, by a citizen of the United States, and lawfully condemned as prize, producing a copy of the sentence of condemnation, authenticated in the usual forms; or that she has been adjudged to be forfeited for a breach of the laws of the United States, producing a like copy of the adjudication of forfeiture; and declaring his name and place of abode, and if he be the sole owner of the vessel, that such is the case; or if there be another owner, that there is such other owner, specifying his name and place of abode, and that he is a citizen of the United States, and specifying the proportion belonging to each owner; and where an owner resides in a foreign country, in the capacity of a consul of the United States, or as an agent for and a partner in a house or copartnership consisting of citizens of the United States, actually carrying on trade within the United States, that such is the case, that the person so swearing is a citizen of the United States, and that there is no subject or citizen of any foreign prince or state, directly or indirectly, by way of trust, confidence, or otherwise, interested in such vessel, or in the profits or issues thereof; and that the master thereof is a citizen, naming the master, and stating the means whereby or manner in which he is a citizen. (R. S. § 4142.)

DERIVATION

Acts Dec. 31, 1792, ch. 1, § 4, 1 Stat. 289; July 29, 1850, ch. 27, § 5, 9 Stat. 441.

PRIOR LAWS AS TO REGISTRY BONDS

R.S. § 4145, required as a condition precedent to registry that the husband or acting and managing owner, and the master of the vessel, with surety, should give a bond to the United States. It was repealed by act Jan. 16, 1895, ch. 24, § 1, 28 Stat. 624. Section 6 of said repealing act provided that the bonds previously given should not be invalidated.

R.S. § 4175, provided for the cancellation of the bond required by R.S. § 4145, on surrender of the registry of a vessel. R.S. § 4145, having been repealed, section 4175 is no longer operative.

§ 20. Oath by corporate officer or agent of owner.

Previous to granting a register for any vessel owned by any incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act for the company in this behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of the vessel without designating the names of the persons composing the company, when such vessel is owned by a corporation, and the oath of either of said officers or agents shall be deemed sufficient without requiring the oath of any other person interested and concerned in such vessel. (R. S. § 4139; June 24, 1902, ch. 1155, § 1, 32 Stat. 398.)

DERIVATION

Act Mar. 3, 1825, ch. 99, §§ 4, 5, 4 Stat. 129.

CODIFICATION

Prior to amendment by act June 24, 1902, R.S. § 4139 read as follows:

"Previously to granting a register for any vessel, owned by any company, the president or secretary thereof shall swear to the ownership of the vessel, by such company, without designating the names of the persons composing the company; and the oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel."

§ 21. Forfeiture for false swearing.

If any of the matters of fact alleged in the oath taken by an owner to obtain the registry of any vessel, which within the knowledge of the party so swearing are not true, there shall be a forfeiture of the vessel, together with her tackle, apparel, and furniture, in respect to which the oath shall have been made, or of the value thereof to be recovered, with the costs of suit, of the person by whom the oath was made. (R. S. § 4143.)

DERIVATION

Act Dec. 31, 1792, ch. 1, §§ 4, 11, 1 Stat. 289, 293.

§ 22. Oath by master.

If the master of a vessel is within the district where a registry thereof is to be made, when application is made for registering the same, he shall, himself, instead of the owner, or of the agent or attorney, as provided in this chapter, make oath touching his being a citizen and the means whereby or manner in which he is a citizen; in which case, if the master shall knowingly swear to anything untrue, no forfeiture of the vessel, on account of such false oath, shall be incurred, but the master shall be liable to a penalty of $1,000. (R. S. § 4144.)

DERIVATION

Act Dec. 31, 1792, ch. 1, §§ 4, 11, 12, 1 Stat. 289, 293.

§ 23. Surrender of certificate of registry on loss of vessel, or purchase by foreigner.

A certificate of registry shall be solely used for the vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of, to any person whomsoever; and in case the vessel so registered shall be lost, or taken by an enemy, burned, or broken up, or shall be otherwise prevented from returning to the port to which she may belong, the certificate, if preserved, shall be delivered up within eight days after the arrival of the master or person having the charge or command of such vessel within any district of the United States, to the collector of such district; and if any foreigner, or any person for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole, or any part or share of, or interest in such vessel, the same being within a district of the United States, the certificate shall, within seven days after such purchase, change, or transfer of property, be delivered up to the collector of the district; and if any such purchase, change, or transfer of property shall happen when such vessel shall be at any foreign port or place, or at sea, then the master or person having the charge or command thereof shall, within eight days after his arrival within any district of the United States, deliver up the certificate to the collector of such district.

Any master or owner violating the provisions of this section shall be liable to a penalty of not exceeding $500, and the certificate of registry shall be thenceforth void.

The Commissioner of Customs shall have the power to remit or mitigate such penalty if in his opinion it

was incurred without willful negligence or intention of fraud. (R. S. § 4146; Jan. 16, 1895, ch. 24, § 2, 28 Stat. 624; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141. § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 7, 1 Stat. 290.

CODIFICATION

R.S. § 4146, as originally enacted, provided that the conditions of the bond required by R.S. § 4145, as a prerequisite to the registry of a vessel should in each case be that the certificate of the registry should be solely used for the vessel for which it was granted, etc. R.S. § 4145 was repealed by section 1 of act Jan. 16, 1895, and R.S. § 4146 was amended by section 2 of the act, to conform to the repeal of R.S. § 4145, and to include the penalty clause added at the end thereof.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to act Feb. 14, 1903, which transferred to the Secretary of Commerce and Labor, all duties, power, etc., of the Secretary of the Treasury, relating to merchant vessels or yachts, their measurement, registers, etc., and act Mar. 4, 1913, which designated the Secretary of Commerce and Labor the Secretary of Commerce.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Registration, enrollment and licensing of vessels purchased, chartered or leased from Secretary of Commerce, see section 808 of this title.

§ 24. Carpenter's certificate necessary.

In order to the registry of any vessel built within the United States, it shall be necessary to produce a certificate, under the hand of the principal or master carpenter, by whom or under whose direction the vessel has been built, testifying that she was built by him or under his direction, and specifying the place where, the time when, and the person for whom, and describing her build, number of decks and masts, length, breadth, depth, tonnage, and such other circumstances as are usually descriptive of the identity of a vessel; which certificate shall be sufficient to authorize the removal of a new vessel from the district where she may be built to another district in the same or an adjoining State, where the owner actually resides, provided it be with ballast only. (R. S. § 4147.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 8, 1 Stat. 291.

§ 25. Form of register.

When the several matters hereinbefore required, in order to the registering of any vessel, have been complied with, the collector of the district comprehending the port to which she belongs shall make and keep in some proper book a registry thereof, and shall grant a certificate of such registry, as nearly as may be, in the form following:

In pursuance of Chapter 1, Title XLVIII, "Regulation of Commerce and Navigation," of the Revised Statutes of the United States (inserting here the name, occupation, and place of abode of the person by whom the oath was made), having taken and subscribed the oath required by law, and having sworn that he (or she, and if more than one owner, adding the words "together with," and the name or names, occupation or occupations, place or places of abode, of the owner or owners, and the part or proportion of such vessel belonging to each owner) is (or are) the only owner (or owners) of the vessel called the (inserting here her name), of (inserting here the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed or measured) having certified that the said vessel has (inserting here the number of decks) and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here her number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, snow, schooner, sloop, or whatever else, together with her build, and specifying whether she has any or no gallery or head); and the said (naming the owner, or the master, or other person acting in behalf of the owner or owners, by whom the certificate of measurement has been countersigned, as provided in section 72 of this title) having agreed to the description and measurement above specified, the said vessel has been duly registered at the port of (naming the port where registered). Given under my hand and seal, at (naming the said port), this (inserting the particular day), day of (naming the month), in the year (specifying the number of the year, in words, at length. (R. S. § 4155; Jan. 16, 1895, ch. 24, § 1, 28 Stat. 624.)

DERIVATION

Acts Dec. 31, 1792, ch. 1, § 9, 1 Stat. 291; July 29, 1850, ch. 27, § 5, 9 Stat. 441.

REFERENCES IN TEXT

For distribution of "Chapter 1, Title XLVIII, 'Regulation of Commerce and Navigation,' of the Revised Statutes of the United States" (R. S. §§ 4131—4196), referred to in text, see Tables.

CODIFICATION

The words "and sufficient security having been given, according to law" were omitted to conform to act Jan. 16, 1895. The Act repealed R.S. § 4145, requiring a bond as a prerequisite to the registry of a vessel.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 26. Variation from form.

When the master of such vessel himself makes oath touching his being a citizen, the wording of the certificate shall be varied so as to be conformable to the truth of the case. Where a new certificate of registry is granted in consequence of any transfer of a vessel, the words shall be so varied as to refer to the former certificate of registry for her measurement. (R. S. § 4156.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 9, 1 Stat. 291.

§ 27. Blank certificates of registry to be furnished.

It shall be the duty of the Commissioner of Customs to cause to be provided blank certificates of registry, and such other papers as may be necessary, executed in such manner and with such marks as he may direct. No certificate of registry shall be issued, except such as shall have been so provided and marked. (R. S. § 4157; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Mar. 3, 1813, ch. 50, § 1, 2 Stat. 818.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 23 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 28. Issuing of forms.

The Commissioner of Customs shall cause to be transmitted, from time to time, to the collectors of the several districts, a sufficient number of forms of the certificates of registry, attested under the seal of the Bureau of Customs and the hand of the Commissioner of Customs, with proper blanks, to be filled by the collectors, respectively, by whom also the certificate shall be signed and sealed, before they are issued. A copy of each certificate issued shall be transmitted to the Commissioner of Customs, who shall cause a record to be kept of the same. (R. S. § 4158; July 5, 1884, ch. 221, § 2, 23 Stat. 118; Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 10, 1 Stat. 292.

CODIFICATION

Upon incorporation of R.S. § 4158 into the Code, it was changed to conform to act July 5, 1884, giving the Commissioner of Navigation general superintendence of the commercial marine, etc.; section 4 of act Feb. 14, 1903, transferring the Bureau of Navigation to the Department of Commerce and Labor; section 10 of the same act transferring to the Secretary of Commerce and Labor all duties, powers, etc., of the head of any executive department over bureaus thereby transferred, and all duties, powers, etc., relating to merchant vessels, etc.; and act Mar. 4, 1913, changing the designations of the Department and Secretary of Commerce and Labor to Department and Secretary of Commerce.

AMENDMENTS

1930—Act June 17, 1930, repealed provision requiring countersigning of certificates by comptroller of customs or surveyor.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer in the Treasury Department, and the Bureau of Customs, also referred to in this section, is an agency in such Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Secretary of Commerce" and for "Director of the Bureau of Marine Inspection and Navigation", and "Bureau of Customs", was substituted for "Department of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 29. Registry on purchase of vessel.

Whenever any citizen of the United States purchases or becomes owner of any vessel entitled to be registered, such vessel being within any district other than the one in which he usually resides, such vessel shall be entitled to be registered by the collector of the district where she may be, at the time of his becoming owner thereof, upon his complying with the provisions prescribed in this chapter, in order to the registry of vessels. And the oath which is required to be taken may, at the option of such owner, be taken either before the collector of the district comprehending the port to which such vessel may belong, or before the collector of the district within which such vessel may be, either of whom is empowered to administer such oath. (R. S. § 4159.)

DERIVATION

Act Dec. 31, 1792, ch. 1 § 11, 1 Stat. 292.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30 of this title.

§ 30. Surrender of certificate granted to purchaser.

Whenever any vessel, registered in pursuance of the provisions of section 29 of this title, shall arrive within the district comprehending the port to which she belongs, the certificate of registry, so obtained, shall be delivered up to the collector of such district, who, upon the requisites of this chapter in order to the registry of vessels, being complied with, shall grant a new one in lieu of the first. The certificate so delivered up shall forthwith be returned by the collector who receives the same, to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of $100, and the certificate of registry shall be thenceforth void. (R. S. § 4160.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 11, 1 Stat. 292.

REFERENCES IN TEXT

In the original "this chapter" reads "this title," meaning title XLVIII of the Revised Statutes. For distribution of the title (R.S. §§ 4131—4305) in this code, see Tables.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 31. Registry by agent.

Whenever any vessel entitled to be registered is purchased by an agent or attorney for or on account of a citizen of the United States, such vessel being in a district of the United States more than fifty miles distant, taking the nearest usual route by land, from the one comprehending the port to which, by virtue of such purchase, and by force of this chapter, such vessel ought to be deemed to belong, it shall be lawful for the collector of the district where such vessel may be, and he is required, upon the application of such agent or attorney, to proceed to the registering of the vessel, the agent or attorney first complying, on behalf and in the stead of the owner thereof, with the requisites prescribed by this chapter in order to the registry of vessels, except that, in the oath taken by the agent or attorney, instead of swearing that he is owner or an owner of such vessel, he shall swear that he is agent or attorney for the owner thereof, and that he has, in good faith, purchased the vessel for the person whom he names and describes as the owner thereof. (R. S. § 4161.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 12, 1 Stat. 293.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 196, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32 of this title.

§ 32. Surrender of certificate granted to agent.

Whenever any vessel registered in pursuance of the provisions of section 31 of this title, shall arrive within the district comprehending the port to which she belongs, the certificate of registry so obtained shall be delivered up to the collector of such district, who, upon the requirements of this chapter in order to the registry of vessels being complied with, shall grant a new one in lieu of the first. The certificate, so delivered up, shall forthwith be returned to the collector, who shall transmit the same to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of $100, and the certificate of registry shall be thenceforth void. (R. S. § 4162.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 12, 1 Stat. 293.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 33. Forfeiture for false swearing by agent.

If any of the matters of fact alleged in the oath taken by an agent or attorney to obtain the registry of a vessel which are within the knowledge of the party so swearing, are not true, there shall be a forfeiture of vessel, together with her tackle, apparel, and furniture, in respect to which the same was made, or of the value thereof, to be recovered, with costs of suit, of the person by whom such oath was made. (R. S. § 4163.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 12, 1 Stat. 293.

§ 34. Registry on sale under legal process.

Whenever it appears, by satisfactory proof, to the Commissioner of Customs, that any vessel has been sold and transferred by process of law, and that the register of such vessel is retained by the former owner, the Commissioner may direct the collector of the district to which such vessel may belong to grant a new register, under such sale, on the owners complying with such terms and conditions as are by law required for granting such papers; excepting only the delivering up of the former certificate of registry. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel, on a transfer or sale of the same. (R. S. § 4164; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Mar. 2, 1797, ch. 7, 1 Stat. 498.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce," were substituted for "Secretary of the Treasury" because of acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 23 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Register to be kept by Commissioner of Customs, see section 2 of this title.

§ 35. Documentation of vessels sold or transferred outside the United States.

A vessel of the United States which, while outside the limits of a customs collection district of the United States and not in any port designated as a port of documentation outside any such customs collection district, is sold or transferred in whole or in part to a citizen of the United States, may be documented anew as a vessel of the United States in such manner and upon such conditions as may be prescribed by the Secretary of the Treasury: *Provided,* That, if any vessel so sold or transferred is not redocumented while abroad, it shall nevertheless be entitled to all the privileges and benefits of a vessel of the United States up to and for the purpose of its first arrival thereafter within a customs collection district or within a designated port of documentation outside any such customs collection district. (R.S. § 4166; Pub. L. 87–157, Aug. 17, 1961. 75 Stat. 392.)

DERIVATION

Act Mar. 2, 1803, ch. 18, § 3, 2 Stat. 210.

AMENDMENTS

1961—Pub. L. 87–157 authorized documentation, in such manner and upon such conditions as the Secretary of the Treasury may prescribe, of United States vessels sold or transferred outside the limits of a customs collection district and not in any port designated as a port of documentation outside any such customs collection district, limited the period to which such vessel may be entitled to the privileges and benefits of a vessel of the United States from the date of its first arrival in the United States to the date of its first arrival within a customs collection district or within a designated port of documentation outside any such customs collection district, and eliminated proviso which required compliance with all the requisites of law for the registry of vessels and a new certificate for such vessel to be obtained within three days from the time the person in charge of the vessel is required to make his final report upon her first arrival afterward.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 36. Oath on loss of register; grant of new register.

Whenever the certificate of the registry of any vessel is lost, destroyed, or mislaid, the master, or other person having the charge or command thereof, may make oath before the collector of the district where such vessel shall first be after such loss, destruction, or mislaying, in the form following: "I, (inserting here the name of the person swearing), being master (or having the charge or command) of the ship or vessel called the (inserting the name of the vessel), do swear (or affirm) that the said vessel hath been, as I verily believe, registered according to law, by the name of (inserting again the name of the vessel), and that a certificate thereof was granted by the collector of the district of (naming the district where registered), which certificate has been lost (or destroyed, or unintentionally and by mere accident mislaid, as the case may be); and (except where the certificate is alleged to have been destroyed) that the same, if found again, and within my power, shall be delivered up to the collector of the district in which it was granted." Such oath shall be subscribed by the party making the same; and upon such oath being made, and the other requisites of this chapter in order to the registry of vessels being complied with, it shall be lawful for the collector of the district before whom such oath is made, to grant a new register, inserting therein that the same is issued in lieu of the one lost or destroyed. (R. S. § 4167.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 13, 1 Stat. 294.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 37. Surrender of certificate obtained on loss of original.

Whenever a register is granted in lieu of one lost or destroyed, by any other than the collector of the district to which the vessel actually belongs, such register shall, within ten days after her first arrival within the district to which she belongs, be delivered up to the collector of such district, who shall, thereupon, grant a new register in lieu thereof. And in case the master or commander shall neglect to deliver up such register within the time above mentioned, he shall be liable to a penalty of $100; and the former register shall become null and void. (R. S. § 4168.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 13, 1 Stat. 294.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 38. Penalty for not obtaining new registry.

In every case in which a vessel is required to be registered anew, if she shall not be so registered anew, she shall not be entitled to any of the privileges or benefits of a vessel of the United States. And if her former certificate of registry is not delivered up, except where the same may have been destroyed, lost, or unintentionally mislaid, and an oath thereof shall have been made, as prescribed in section 36 of this title, the owner of such vessel shall be liable to a penalty of $500, to be recovered, with costs of suit. (R.S. § 4169.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 14, 1 Stat. 294.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 54 on this section, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

§ 39. New registry on sale or alteration of vessel.

Whenever any vessel, which has been registered, is, in whole or in part, sold or transferred to a citizen of the United States, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, the vessel shall be registered anew, by her former name, according to the directions hereinbefore contained, otherwise she shall cease to be deemed a vessel of the United States. The former certificate of registry of such vessel shall be delivered up to the collector to whom application for such new registry is made, at the time that the same is made, to be by him transmitted to the Commissioner of Customs, who shall cause the same to be canceled. In every such case of sale or transfer, there shall be some instrument of writing, in the nature of a bill of sale, which shall recite, at length, the certificate; otherwise the vessel shall be incapable of being so registered anew. (R. S. § 4170; July 5, 1884, ch. 221, § 2, 23 Stat. 118; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 14, 1 Stat. 294.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of

1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Recording bills of sale, conveyances and mortgages, see section 921 of this title.

§ 40. Change of master; indorsement on certificate of registry.

When the master or person having the charge or command of a registered vessel is changed, the owner, or one of the owners, or the new master of such vessel, shall report such change to the collector of the district where the same has happened, or where the vessel shall first be after the same has happened, and shall produce to him the certificate of registry of such vessel, and shall make oath, showing that such new master is a citizen of the United States, and the manner in which or means whereby he is so a citizen. Thereupon the collector shall indorse upon the certificate of registry a memorandum of such change, specifying the name of such new master, and shall subscribe the memorandum with his name; and if other than the collector of the district by whom the certificate of registry was granted, shall transmit a copy of the memorandum to him, with notice of the particular vessel to which it relates; and the collector of the district, by whom the certificate shall have been granted, shall make a like memorandum of such change in his book of registers, and shall transmit a copy thereof to the Commissioner of Customs. If the change is not reported, or if the oath is not taken, as above directed, the registry of such vessel shall be void, and the master or person having the charge or command of her shall be liable to a penalty of $100. (R. S. § 4171; July 5, 1884, ch. 221, § 2, 23 Stat. 118; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 15, 1 Stat. 295.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932, and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 41. Failure to report sale to foreigners.

If any vessel registered as a vessel of the United States shall be sold or transferred, in whole or in part, by way of trust, confidence, or otherwise, to a subject or citizen of any foreign prince or state, and such sale or transfer shall not be made known, as hereinbefore directed, such vessel, together with her tackle, apparel, and furniture, shall be forfeited. If such vessel, however, be so owned in part only, and it is made to appear to the jury before whom the trial for such forfeiture is had that any other owner of such vessel, being a citizen of the United States, was wholly ignorant of the sale or transfer to or ownership of such foreign subject or citizen, the share or interest of such citizen of the United States shall not be subject to such forfeiture, and the residue only shall be so forfeited. (R. S. § 4172.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 16, 1 Stat. 295.

CROSS REFERENCES

Forfeiture for chartering, selling, transferring, or mortgaging to noncitizen of United States or placing under foreign registry or flag, see section 808 of this title.

§ 42. Oath on entry as to ownership.

Upon the entry of every vessel of the United States from any foreign port, if the same shall be at the port at which the owner or any of the part owners reside, such owner or part owner shall make oath that the register of such vessel contains the name or names of all the persons who are then owners of the vessel; or if any part of such vessel has been

sold or transferred since the granting of such register, that such is the case, and that no foreign subject or citizen has, to the best of his knowledge and belief, any share, by way of trust, confidence, or otherwise, in such vessel. If the owner or any part owner does not reside at the port at which such vessel enters, the master shall make oath to the like effect. If the owner, or part owner, where there is one, or the master, where there is no owner, refuses so to swear, such vessel shall not be entitled to the privileges of a vessel of the United States. (R. S. § 4173.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 17, 1 Stat. 295.

§ 43. Transmission of certificate for cancellation.

Every certificate of registry which is delivered up to a collector on the loss, destruction, or capture of a vessel, or the transfer thereof to a foreigner, shall be forthwith transmitted to the Commissioner of Customs, to be canceled; who, if the same shall have been delivered up to a collector other than of the district in which it was granted, shall cause notice of such delivery to be given to the collector of such district. (R. S. § 4174; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 7, 1 Stat. 290.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 44. Numbering registers.

The collector of each district shall progressively number the certificates of the registry by him granted, beginning anew at the commencement of each year, and shall enter an exact copy of each certificate in a book to be kept for that purpose; and shall, once in three months, transmit to the Commissioner of Customs copies of all the certificates which shall have been granted by him, including the number of each. (R. S. § 4176; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 19, 1 Stat. 296.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 45. Numbers for vessels.

The Commissioner of Customs shall have power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled, and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be liable to a fine of $30 on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked. (R. S. § 4177; June 19, 1886, ch. 421, § 6, 24 Stat. 81; Feb. 14, 1903, ch. 552, § 10, 32

Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act July 28, 1866, ch. 298, § 13, 14 Stat. 331.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 23 of this title.

Act June 19, 1886, substituted the provision for a fine for a provision that the vessel should be no longer recognized as a vessel of the United States.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Commissioner of Customs charged with deciding questions relating to issue of registers, enrollments, and licenses of vessels, see section 2 of this title.

Numbering undocumented vessels, see section 527 et seq. of this title.

Remissions or mitigation of fines, see section 320 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 320 of this title.

§ 46. Names and home ports marked on bow and stern.

The name of every documented vessel of the United States shall be marked upon each bow and upon the stern, and the home port shall also be marked upon the stern. These names shall be painted or gilded, or consist of cut or carved or cast roman letters in light color on a dark ground, or in a dark color on a light ground, secured in place, and to be distinctly visible. The smallest letters used shall not be less in size than four inches. If any such vessel shall be found without these names being so marked the owner or owners shall be liable to a penalty of $10 for each name omitted. (R. S. § 4178; Feb. 21, 1891, ch. 250, § 1, 26 Stat. 765; Jan. 20, 1897, ch. 67, 29 Stat. 491.)

DERIVATION

Acts Dec. 31, 1792, ch. 1, § 3, 1 Stat. 288; June 23, 1874, ch. 467, 18 Stat. 252.

CODIFICATION

R.S. § 4178, as originally enacted provided that the name of every registered vessel, and of the port to which she belonged, should be painted on her stern, on a black ground, in white letters, of not less than three inches in length; and that the owners of any United States vessel found without said names so painted should be liable to a penalty of $50, one-half to the informer, and one-half to the United States. It was amended by act Feb. 21, 1891, to read as set forth here, except that the second sentence thereof read as follows: "These names shall be painted, or carved and gilded, in Roman letters in a light color on a dark ground, or in a dark color on a light ground, and to be distinctly visible. The smallest letters used shall not be less in size than four inches;" and a proviso read as follows: "Provided, however, That the names on each bow may be marked within the year eighteen hundred and ninety-one." The amending act was amended by act Jan. 20, 1897, so as to make the section read as set forth here, except that the section as so amended contained a proviso that the names on each bow might be marked within the year 1897. It was evidently omitted from the present text as temporary and executed.

CROSS REFERENCES

Draft required to be marked on stern and stern port, see section 48 of this title.

Licensed yachts employed as pleasure vessels, etc., required to have names and ports on some conspicuous portion of their hulls, see section 103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47 of this title.

§ 47. "Port" defined.

The word "port," as used in section 46 of this title, in reference to painting the name and port of every registered or licensed vessel on the stern of such vessel, shall be construed to mean either the port where the vessel is registered or enrolled, or the place in the same district where the vessel was built or where one or more of the owners reside. (June 26, 1884, ch. 121, § 21, 23 Stat. 58.)

§ 48. Draft marked on stem and stern posts.

The draft of every registered vessel shall be marked upon the stem and stern post, in English feet or decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line. (Feb. 21, 1891, ch. 250, § 2, 26 Stat. 766; Jan. 20, 1897, ch. 67, 29 Stat. 492.)

CODIFICATION

Act Jan. 20, 1897, omitted the following provision contained in act Feb. 21, 1891, as originally enacted: "The owner, agent, or master of every inspected sea-going steam or sail vessel shall indicate the draught of water at which he shall deem his vessel safe to be loaded for the trade she is engaged in, which limit as indicated shall be stated in the vessel's certificate of inspection, and it shall be unlawful for such vessel to be loaded deeper than stated in said certificate."

The first portion of act Jan. 20, 1897, amended R.S. § 4178, section 46 of this title.

§ 49. Private signals and registry thereof.

If a shipowner desires to use for the purpose of a private code any rockets, lights, or other similar signals, he may register those signals and house flags and funnel marks with the Commissioner of Customs, who shall give public notice from time to time of the signals, house flags, and funnel marks so registered in such manner as he may think requisite for preventing those signals from being mistaken for signals of distress or signals for pilots. The Commissioner of Customs may refuse to register any signals which in his opinion can not easily be distinguished from signals of distress, signals for pilots, or signals prescribed by laws for preventing collisions. (May 28, 1908, ch. 212, § 7, 35 Stat. 426; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Signals for yachts, see section 109 of this title.

§ 50. Change of name of documented vessel.

No master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance deceive or attempt to deceive the public, or any officer or agent of the United States, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name or character of such vessel, on pain of the forfeiture of such vessel. (R. S. § 4179.)

DERIVATION

Act May 5, 1864, ch. 78, § 2, 13 Stat. 64.

§ 51. Change of name of vessels.

The Commissioner of Customs shall be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing. (Feb. 19, 1920, ch. 83, § 1, 41 Stat. 436; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

PRIOR LAWS

Earlier provisions relating to change of name of vessels were contained in acts Mar. 2, 1881, ch. 107, 27 Stat. 377; July 5, 1884, ch. 221, § 5, 23 Stat. 119.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" and "under the direction of the Secretary of Commerce" was omitted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 52. Rules and regulations as to change of name; evidence; publication of order.

The Commissioner of Customs shall establish such rules and regulations and procure such evidence as to age, condition, where built, and pecuniary liability of the vessel as he may deem necessary to prevent injury to public or private interests; and when permission is granted by the Commissioner of Customs, he shall cause the order for the change of name to be published at least in four issues in some daily or weekly paper at the place of documentation, and the cost of procuring evidence and advertising the change of name to be paid by the person or persons desiring such change of name. (Feb. 19, 1920, ch. 83, § 2, 41 Stat. 437; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

PRIOR LAWS

Provisions somewhat similar to those of this section, except that they referred to the Secretary of the Treasury, were contained in act Mar. 2, 1881, ch. 107, § 2, 21 Stat. 377.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932, and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" and a provision for approval of the Secretary of Commerce was omitted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 53. Fees for privilege of securing change of name.

For the privilege of securing such changes of name the following fees shall be paid by the owners of vessels to collectors of customs, to be deposited in the Treasury by such collectors as navigation fees: For vessels ninety-nine gross tons and under, $10; for vessels one hundred gross tons and up to and including four hundred and ninety-nine gross tons, $25; for vessels five hundred gross tons and up to and including nine hundred and ninety-nine gross tons, $50; for vessels one thousand gross tons and up to and including four thousand nine hundred and ninety-nine gross tons, $75; for vessels five thousand gross tons and over, $100. (Feb. 19, 1920, ch. 83, § 3, 41 Stat. 437.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 54. Oath to obtain record of vessel owned by foreigner.

Every vessel built in the United States, and belonging wholly or in part to the subjects of foreign powers, in order to be entitled to the benefits of a ship built and recorded in the United States, shall be recorded in the office of the collector of the district in which such vessel was built, in the manner following: The builder of every such vessel shall make oath before the collector of such district in manner following: "I (inserting here the name of such builder), of (inserting here the place of his residence), shipwright, do swear (or affirm) that (describing here the kind of vessel, as whether ship, brig, snow, schooner, sloop, or whatever else) named (inserting here the name of the ship or vessel), having (inserting here the number of decks), and being in length (inserting here the number of feet), in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measuring (inserting here the number of tons), having (specifying whether any or no) gallery, and (also specifying whether any or no) head, was built by me or under my direction at (naming the place, county, and State), in the United States, in the year (inserting here the number of the year)." Which oath shall be subscribed by the person making the same, and shall be recorded in a book to be kept by the collector for that purpose. (R. S. § 4180.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 20, 1 Stat. 296.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 55. Certificate of record.

A certificate of the record, attested under the hand and seal of the collector, shall be granted to the master of every such vessel, as nearly as may be, of the form following: "In pursuance of Chapter 1, Title XLVIII, 'Regulation of Commerce and Navigation', of the Revised Statutes of the United States, I, (inserting here the name of the collector of the district), of (inserting here the name of the district), in the United States, do certify that (inserting here the name of the builder), of (inserting here the place of his residence, county, and State), having sworn (or affirmed) that the (describing the ship or vessel, as in the certificate of record) named (inserting here her name), whereof (inserting here the name of her master) is, at present master, was built at (inserting here the name of the place, county, and State where built), by him or under his direction, in the year (inserting here the number of the year); and (inserting here the name of the surveyor, or other person, by whom the measurement shall have been made) having certified that the said ship or vessel has (inserting here her number of decks), is in length (inserting here the number of feet), in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measures (inserting here the number of tons): And the said builder and (naming and describing the owner, or master, or agent for the owner or owners, as the case may be, by whom the said certificate shall have been countersigned) having agreed to the said description and admeasurement, the said vessel has been recorded, in the district of (inserting here the name of the district where recorded), in the United States. Witness my hand and seal this (inserting here the day of the month) day of (inserting here the name of the month), in the year (inserting here the number of the year)." Which certificate shall be recorded in the office of the collector, and a duplicate thereof transmitted to the Commissioner of Customs to be recorded in his office. (R. S. § 4182; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 22, 1 Stat. 296.

REFERENCES IN TEXT

"Chapter 1, Title XLVIII, 'Regulation of Commerce and Navigation' ", referred to in the form set out in the text, is chapter 1, Title XLVIII, of the Revised Statutes of the United States (R. S. §§ 4131—4196). For distribution thereof, see Tables.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted in the last sentence for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 56. Change of master or name of recorded vessel; indorsement on certificate of record.

Whenever the master or the name of a vessel so recorded is changed, the owner, part owner, or consignee of such vessel shall cause a memorandum thereof to be indorsed on the certificate of the record, by the collector of the district where such vessel may be, or at which she shall first arrive if such change took place in a foreign country; and a copy thereof shall be entered in the book of records, a transcript whereof shall be transmitted by the collector to the collector of the district where such certificate was granted, if not the same person, who shall enter the same in his book of records, and forward a duplicate of such entry to the Commissioner of Customs; and in such case, until the owner, part owner, or consignee shall cause the memorandum to be made by the collector, in the manner above prescribed, such vessel shall not be deemed a vessel recorded, in pursuance of this chapter. (R. S. § 4183; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 23, 1 Stat. 297.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See note under section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 57. Production of certificate on entry.

The master or other person having the command or charge of any vessel, recorded in pursuance of this chapter, shall, on entry of such vessel, produce the certificate of such record to the collector of the district where she is so entered; and in default thereof the vessel shall not be entitled to the privileges of a recorded vessel. (R. S. § 4184.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 24, 1 Stat. 297.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 58. Penalty for misconduct by officers.

Every collector or officer who knowingly makes, or is concerned in making, any false register or record, or who knowingly grants or is concerned in granting, any false certificate of registry or record of or for any vessel, or any other false document whatever touching the same, contrary to the true intent and meaning of this chapter, or who receives any voluntary reward or gratuity for any of the services performed, pursuant thereto; and every surveyor or other person appointed to measure any vessel, who willfully delivers to any collector or such officer or employee as the Secretary of the Treasury shall designate a false description of such vessel, to be registered or recorded, shall be punishable by a fine of $1,000, and be rendered incapable of serving in any office of trust or profit under the United States. (R.S. § 4187; June 17, 1930, ch. 497, title IV, §§ 523, 651(a)(1), 46 Stat. 740, 762; Aug. 8, 1953, ch. 397, § 2(d), 67 Stat. 508.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 26, 1 Stat. 298.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

CODIFICATION

Upon incorporation into the Code, the words "comptroller of customs" were substituted for "naval officer" to conform to act Sept. 21, 1922, ch. 356, § 523, 42 Stat.

974, which was repealed by section 651(a)(1) of act June 17, 1930. Section 523 of act June 17, 1930, classified to section 1523 of Title 19, Customs Duties, continued naval officers of customs as comptrollers of customs. Section 523 of act June 17, 1930, was amended by act Aug. 8, 1953, which omitted references to comptrollers of customs and substituted reference to the Secretary of the Treasury or such officer or employee as he shall designate. The words "such officer or employee as the Secretary of the Treasury shall designate" were substituted for "comptroller of customs" to reflect such change.

The original text of the portion of this section preceding the semicolon contained an additional clause reading "or who designedly takes any other or greater fees than are by this Title allowed." Fees were allowed the collector and surveyor for certain services by R.S. §§ 4186 and 4187, which seem to have been omitted from the Code as superseded by section 331 of this title. The clause of the original text mentioned above may have been omitted as inoperative in view of section 331.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 59 of this title.

§ 59. Penalty for neglect by officers.

If any person authorized and required by this chapter to perform, as an officer, any act or thing, willfully neglects to do or perform the same according to the true intent and meaning of this chapter, he shall, if not subject to the penalty and disqualification prescribed in section 58 of this title, be punishable by a fine of $500 for the first offense, and by a like fine for the second offense, and shall thenceforth be rendered incapable of holding any office of trust or profit under the United States. (R. S. § 4188.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 26, 1 Stat. 298.

REFERENCES IN TEXT

For explanation of "this chapter", referred to in the text, see note under section 30 of this title.

§ 60. Penalty for fraudulent registry.

Whenever any certificate of registry, enrollment, or license, or other record or document granted in lieu thereof, to any vessel, is knowingly and fraudulently obtained or used for any vessel, such vessel, with her tackle, apparel, and furniture, shall be liable to forfeiture. (R. S. § 4189; Aug. 5, 1935, ch. 438, title III, § 310, 49 Stat. 528.)

DERIVATION

Acts Dec. 31, 1792, ch. 1, § 27, 1 Stat. 298; July 18, 1866, ch. 201, § 24, 14 Stat. 184.

AMENDMENTS

1935—Act Aug. 5, 1935 omitted "not entitled to the benefit thereof" preceding "such vessel".

§ 61. Documents certifying title; to what vessels issued.

No document certifying or proving any vessel to be the property of a citizen of the United States shall be issued, except to vessels duly registered or enrolled and licensed as vessels of the United States, or to vessels which shall be wholly owned by citizens of the United States, and furnished with or entitled to customhouse documents. (R. S. § 4190.)

DERIVATION

Act Mar. 26, 1810, ch. 19, 2 Stat. 568.

CODIFICATION

As originally enacted, this section contained a reference to the issuance of sea letters. The use of such documents was discontinued by Presidential proclamation on April 10, 1815.

§ 62. Making or using forged papers.

Every person who knowingly makes, utters, or publishes any false Mediterranean passport or certificate of registry, or who knowingly avails himself of any such Mediterranean passport or certificate of registry, shall be liable to a penalty of not more than $5,000, and if an officer of the United States, shall thenceforth be incapable of holding any office of trust or profit under the authority of the United States. (R. S. § 4191.)

DERIVATION

Act Mar. 2, 1803, ch. 18, § 1, 2 Stat. 209.

CODIFICATION

As originally enacted, this section contained a reference to the issuance of sea letters. The use of such documents was discontinued by Presidential proclamation on April 10, 1815.

CROSS REFERENCES

Penal provisions as to forging or altering ship's papers or customhouse papers, see section 507 of Title 18, Crimes and Criminal Procedure.

§ 63. Unrigged wooden vessels; notation of rebuilding.

Upon affidavit by a reputable shipbuilder of the United States that an unrigged wooden vessel of the United States has been rebuilt, giving the date and place of such rebuilding, is sound and free from rotten or doted wood in structural parts, properly fastened and calked and in strength and seaworthiness as good as new, the Commissioner of Customs shall include in the list of merchant vessels a notation to that effect. (July 9, 1912, ch. 220, 37 Stat. 189; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

INSPECTION, SURVEY, AND MEASUREMENT

§ 71. Admeasurement of vessels.

(a) Readmeasurement.

Before a vessel is documented under the laws of the United States or issued a certificate of record she shall be admeasured by the Secretary of the Treasury as provided in subsection (b) or (c) of this section. A vessel which has been admeasured need not be readmeasured solely to obtain another document, unless it is a vessel admeasured under subsection (b) of this section which is required to be readmeasured under subsection (c) of this section; but a vessel which is intended to be used exclusively as a pleasure vessel may at the owner's option be readmeasured under subsection (b) of this section.

(b) Pleasure vessels; gross and net tonnages; optional admeasurement of pleasure vessels as vessels used other than exclusively as pleasure vessels.

Subject to the owner's option to have his vessel admeasured under subsection (c) of this section, a vessel which is intended to be used exclusively as a pleasure vessel shall be assigned gross and net tonnages which are the product of its length, breadth, and depth in feet and appropriate coefficients. The Secretary of the Treasury shall prescribe the manner in which the length, breadth, and depth shall be measured and the appropriate coefficients to be applied, taking due account of variations in vessel construction, to the end that, taken as a group and so far as practicable, the resulting gross tonnages shall reasonably reflect the relative internal volumes of the vessels admeasured and the resulting net tonnages shall be in the same ratio to the corresponding gross tonnages as the net and gross tonnages of comparable vessels if admeasured under subsection (c) of this section.

(c) Vessels not documented for use exclusively as pleasure vessels.

A vessel not admeasured under subsection (b) of this section, or a vessel admeasured under subsection (b) of this section which is thereafter to be documented for use other than exclusively as a pleasure vessel, shall be admeasured as prescribed in sections 74, 75 and 77 of this title.

(d) Changes in tonnage; readmeasurement.

Whenever a vessel documented under the laws of the United States undergoes a change affecting tonnage, or its owner or the Secretary of the Treasury alleges error in its tonnage, it shall be readmeasured to the extent necessary and its tonnage redetermined under this section.

(e) Optional redetermination of vessels previously admeasured.

The tonnage of a vessel for which a document or certificate of record has been issued before the effective date of this subsection need not be redetermined solely because of amendments to Federal law enacted at the same time as this subsection; but if it is eligible for admeasurement under subsection (b) of this section its owner shall have the option of having it readmeasured under that subsection.

(f) Rules and regulations.

The Secretary of the Treasury shall make such regulations as may be necessary to carry out the provisions and intent of this section and of sections 72, 74, 75, and 77 of this title. (R. S. 4148; Pub. L. 89–476, § 1, June 29, 1966, 80 Stat. 229.)

DERIVATION

Acts Dec. 31, 1792, ch 1, § 6, 1 Stat. 290; May 6, 1864, ch. 83, § 1, 13 Stat. 69.

REFERENCES IN TEXT

The effective date of subsec. (e), referred to in subsec. (e), is the effective date of Pub. L. 89–476. See Effective Date note below. The amendments to Federal law enacted at the same time as subsec. (e), referred to in subsec. (e), presumably refers to the amendments contained in Pub. L. 89–476, which amended this section and section 77 of this title and repealed sections 73, 76, 78, 79 and 273 of this title.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–476 denominated existing provisions as subsec. (a) and, as so denominated, charged the Secretary of the Treasury with the responsibility for the admeasurement of vessels, inserted reference to mandatory readmeasurement under subsec. (c) and optional readmeasurement under subsec. (b) and struck out provisions excusing measurement of United States vessels previously registered unless the vessel has undergone some alteration as to her burden subsequent to the time of her former registry. See subsec (d) of this section.

Subsecs. (b)—(f). Pub. L. 89–476 added subsecs. (b)—(f).

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3 of Pub. L. 89–476 provided that: "This Act [amending this section and section 77(i) of this title and repealing sections 73, 76, 78, 79, and 273 of this title] shall take effect upon the expiration of ninety days after the date of its enactment [June 29, 1966]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 83a of this title.

§ 72. Evidence of admeasurement.

The Secretary of the Treasury shall prescribe how evidence of admeasurement shall be given. (R.S. 4149; Sept. 29, 1965, Pub. L. 89–219, § 9, 79 Stat. 892.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 6, 1 Stat. 290.

AMENDMENTS

1965—Pub. L. 89–219 substituted provisions authorizing the Secretary of the Treasury to prescribe how evidence of admeasurement shall be given, for provisions which authorized the officer or person by whom a measurement is made to grant a certificate of particulars as to the vessel measured, specified in detail the contents of such certificate, and required the owner, master, or agent of such vessel to countersign the certificate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25, 71 of this title.

§ 73. Repealed. Pub. L. 89–476, § 2(c), June 29, 1966, 80 Stat. 230.

Section, R.S. § 4181, required the collector of customs to cause vessels to be surveyed or measured and required the person performing the measurement to grant a certificate thereof with the certificate to be countersigned by the builder and the owner or the master in testimony of the truth of the particulars contained therein.

EFFECTIVE DATE OF REPEAL

Repeal of section effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89–476, set out as a note under section 71 of this title.

§ 74. Specification of dimensions in vessel's marine document; manner of measurement.

A vessel's marine document shall specify such identifying dimensions, measured in such manner, as the Secretary of the Treasury may prescribe. (R.S. 4150, Sept. 29, 1965, Pub. L. 89–219, § 10, 79 Stat. 892.)

DERIVATION

Act May 6, 1864, ch. 83, § 2, 13 Stat. 69.

AMENDMENTS

1965—Pub. L. 89–219 substituted provisions requiring a vessel's marine document to specify such identifying dimensions, measured in such manner, as the Secretary of the Treasury may prescribe, for provisions which specified the dimensions to be shown in the registry of every vessel and the manner of ascertaining such dimensions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 71, 75 of this title.

§ 75. Cabins or staterooms excluded from measurement.

No part of any vessel shall be required by section 74 of this title to be measured or registered for tonnage that is used for cabins or staterooms, and constructed entirely above the first deck, which is not a deck to the hull. (R. S. § 4151.)

DERIVATION

Act Feb. 28, 1865, ch. 70, 13 Stat. 444.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 71, 83a of this title.

§ 76. Repealed. Pub. L. 89–476, § 2(a), June 29, 1966, 80 Stat. 230.

Section, R.S. § 4152, limited the application of sections relating to the measurement of vessels to vessels required by law to be registered, enrolled, or licensed.

EFFECTIVE DATE OF REPEAL

Repeal of section effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89–476, set out as a note under section 71 of this title.

§ 77. Tonnage.

The tonnage deck, in vessels having three or more decks to the hull, shall be the second deck from below; in all other cases the upper deck of the hull is to be the tonnage deck. All measurements are to be taken in feet and decimal fractions of feet.

The register tonnage of every vessel built within the United States or owned by a citizen or citizens thereof shall be her entire internal cubical capacity in tons of one hundred cubic feet each, to be ascertained as follows: Measure the length of the vessel in a straight line along the upper side of the tonnage deck, from the inside of the inner plank, average thickness, at the side of the stem to the inside of the plank on the stern timbers, average thickness, deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the vessel belongs:

TABLE OF CLASSES

Class one. Vessels of which the tonnage length according to the above measurement is fifty feet or under: into six equal parts.

Class two. Vessels of which the tonnage length according to the above measurement is above fifty feet, and not exceeding one hundred feet: into eight equal parts.

Class three. Vessels of which the tonnage length, according to the above measurement is above one hundred feet, and not exceeding one hundred and fifty feet: into ten equal parts.

Class four. Vessels of which the tonnage length according to the above measurement is above one hundred and fifty feet, and not exceeding two hundred feet: into twelve equal parts.

Class five. Vessels of which the tonnage length according to the above measurement is above two hundred feet, and not exceeding two hundred and fifty feet: into fourteen equal parts.

Class six. Vessels of which the tonnage length according to the above measurement is above two hundred and fifty feet: into sixteen equal parts.

Then, the hold being sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such vessel at each point of division of the length as follows:

Measure the depth at each point of division from a point at a distance of one-third of the round of the beam below such deck; or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber, at the inside of the limber strake, after deducting the average thickness of the ceiling, which is between the bilge planks and limber strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth, at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above, numbering the upper breadth one, and so on down to the lowest breadth; multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the last, or fifth; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts, instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the last, or seventh; multiply the quantities thus obtained by one-third of the common interval between the breadths, and the products shall be deemed the transverse area.

Having thus ascertained the transverse area at each point of division of the length of the vessel, as required above, proceed to ascertain the register tonnage of the vessel in the following manner:

Number the areas successively one, two, three, and so forth, number one being at the extreme limit of the length at the bow, and the last number at the extreme limit of the length at the stern; then, whether the length be divided according to the table into six or sixteen parts, as in classes one and six,

or any intermediate number, as in classes two, three, four and five, multiply the second, and every even-numbered area by four, and the third, and every odd-numbered area, except the first and last, by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantities thus obtained by one-third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the vessel, subject to the additions hereinafter mentioned.

If there be a break, a poop, or any other permanent closed-in space on the upper deck, or the spar deck, available for cargo, or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:

Measure the internal mean length of such space in feet, and divide it into an even number of equal parts of which the distance asunder shall be most nearly equal to those into which the length of the tonnage deck has been divided; measure at the middle of its height the inside breadths, namely, one at each end and at each of the points of division, numbering them successively one, two, three, and so forth; then to the sum of the end breadths add four times the sum of the even-numbered breadths and twice the sum of the odd-numbered breadths, except the first and last, and multiply the whole sum by one-third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height between the planks of the decks, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage decks, ascertained as aforesaid.

If a vessel has a third deck, or spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

Measure in feet the inside length of the space, at the middle of its height, from the plank at the side of the stem to the plank on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided; measure, also at the middle of its height, the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth of the stern; number them successively one, two, three, and so forth, commencing at the stem; multiply the second, and all other even-numbered breadths, by four, and the third, and all the other odd-numbered breadths, except the first and last, by two; to the sum of these products add the first and last breadths, multiply the whole sum by one-third of the common interval between the breadths, and the result will give, in superficial feet, the mean horizontal area of such space; measure the mean height between the plank of the two decks, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the vessel, ascertained as above directed. And if the vessel has more than three decks, the tonnage of each space between decks, above the tonnage deck, shall be severally ascertained in the manner above described, and shall be added to the tonnage of the vessel, ascertained as above directed.

In ascertaining the tonnage of open vessels the upper edge of the upper strake is to form the boundary line of measurement, and the depth shall be taken from an athwartship line, extending from the upper edge of such strake at each division of the length.

From the gross tonnage of every vessel of the United States there shall be deducted—

(a) The tonnage of the spaces or compartments occupied by or appropriated to the use of the crew of the vessel. Every place appropriated to the crew of the vessel shall have a space of not less than seventy-two cubic feet and not less than twelve superficial feet, measured on the deck or floor of that place, for each seaman or apprentice lodged therein. Such place shall be securely constructed, properly lighted, drained, and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from the effluvium of cargo or bilge water; and failure to comply with this provision shall subject the owner to a penalty of $500. Every place so occupied shall be kept free from goods or stores of any kind not being the personal property of the crew in use during the voyage; and if any such place is not so kept free, the master shall forfeit and pay to each seaman or apprentice lodged in that place the sum of 50 cents a day for each day during which any goods or stores as aforesaid are kept or stored in the place after complaint has been made to him by any two or more of the seamen so lodged. No deduction from tonnage as aforesaid shall be made unless there is permanently cut in a beam and over the doorway of every such place the number of men it is allowed to accommodate with these words, "Certified to accommodate seamen."

(b) Any space exclusively for the use of the master certified by the collector to be reasonable in extent and properly constructed, and the words "Certified for the accommodation of master" to be permanently cut in a beam and over the door of such space.

(c) Any space used exclusively for the working of the helm, the capstan, and the anchor gear, or for keeping the charts, signals, and other instruments of navigation and boatswain's stores, and the words "Certified for steering gear", or "Certified for boatswain's stores", or "Certified chart house", as the case may be, to be permanently cut in the beam and over the doorway of each of such spaces.

(d) The space occupied by the donkey engine and boiler, if connected with the main pumps of the ship.

(e) In the case of a ship propelled wholly by sails any space, not exceeding 2½ per centum of the gross tonnage, used exclusively for storage of sails: *Provided,* That spaces deducted shall be certified by the collector to be reasonable in extent and properly and efficiently constructed for the purposes for which they are intended, and the words "Certified

for storage of sails" to be cut on the beam and over the doorway of such space.

(f) In the case of a vessel which is screw propelled in whole or in part, the following deduction shall be made for the space occupied by the propelling machinery:

(1) Thirty-two thirteenths times the tonnage of the propelling-machinery space, if the tonnage of that space is not more than 13 per centum of the gross tonnage of the vessel and if that space is reasonable in extent: *Provided, however,* That, in lieu thereof, the deduction shall be one and three-fourths times the tonnage of the propelling-machinery space, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects;

(2) Thirty-two per centum of the gross tonnage of the vessel, if the tonnage of the propelling-machinery space is more than 13 per centum and less than 20 per centum of the gross tonnage of the vessel; or

(3) Thirty-two per centum of the gross tonnage of the vessel or one and three-fourths times the tonnage of the propelling-machinery space, whichever the owner of the vessel elects, if the tonnage of that space is 20 per centum or more of the gross tonnage of the vessel.

(g) In the case of a vessel which is propelled in whole or in part by paddle wheels, the following deduction shall be made for the space occupied by the propelling machinery:

(1) Thirty-seven twentieths times the tonnage of the propelling-machinery space, if the tonnage of that space is not more than 20 per centum of the gross tonnage of the vessel and if that space is reasonable in extent: *Provided, however,* That, in lieu thereof, the deduction shall be one and one-half times the tonnage of the propelling-machinery space, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects;

(2) Thirty-seven per centum of the gross tonnage of the vessel, if the tonnage of the propelling-machinery space is more than 20 per centum and less than 30 per centum of the gross tonnage of the vessel; or

(3) Thirty-seven per centum of the gross tonnage of the vessel or one and one-half times the tonnage of the propelling-machinery space, whichever the owner elects, if the tonnage of that space is 30 per centum or more of the gross tonnage of the vessel.

(h) If there be a break, a poop, or any other permanent closed-in space on the upper deck available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of that space shall be ascertained and added to the gross tonnage: *Provided,* That nothing shall be added to the gross tonnage for any sheltered space above the upper deck which is under cover and open to the weather; that is, not inclosed.

The cubical contents of the hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of beam to the under side of the hatch. From the aggregate tonnage of the hatchways there shall be deducted one-half of 1 percent of the gross tonnage and the remainder only shall be added to the gross tonnage of the ship exclusive of the tonnage of the hatchways.

(i) On a request in writing to the Commissioner of Customs by the owners of a ship the tonnage of such portion of the space or spaces above the crown of the engine room and above the upper deck as is framed in for the machinery or for the admission of light and air and not required to be added to gross tonnage shall, for the purpose of ascertaining the tonnage of the space occupied by the propelling power, be added to the tonnage of the engine space; but it shall then be included in the gross tonnage; such space or spaces must be reasonable in extent, safe, and seaworthy, and can not be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the ship.

And the proper deduction from the gross tonnage having been made, the remainder shall be deemed the net or register tonnage of such vessels.

In the case of a ship constructed with a double bottom for water ballast, if the space between the inner and outer plating thereof is certified by the collector to be not available for the carriage of cargo, stores, or fuel, then the depth of the vessel shall be taken to be the upper side of the inner plating of the double bottom, and that upper side shall for the purposes of measurement be deemed to represent the floor timber. From the gross tonnage there shall be deducted any other space adapted only for water ballast certified by the collector not to be available for the carriage of cargo (other than ballast water for use for underwater drilling, mining, and related purposes, including production), stores, supplies, or fuel.

Upon application by the owner or master of an American vessel in foreign trade, collectors of customs, under regulations to be approved by the Commissioner of Customs, are authorized to attach to the register of such vessel an appendix stating separately, for use in foreign ports, the measurements of such space or spaces as are permitted to be deducted from gross tonnage by the rules of other nations and are not permitted by the laws of the United States.

In every vessel documented as a vessel of the United States the number denoting her net tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if the number at any time cease to be continued such vessel shall be subject to a fine of $30 on every arrival in a port of the United States if she have not her tonnage number legally carved or permanently marked. (R. S. § 4153; Aug. 5, 1882, ch. 398, § 1, 22 Stat. 300; June 19, 1886, ch. 421, § 5, 24 Stat. 81; Mar. 2, 1895, ch. 173, § 1, 28 Stat. 741; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Feb. 6, 1909, ch. 82, §§ 1, 2, 35 Stat. 613; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502 (b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 4, 1956, ch. 352, §§ 1, 2, 70 Stat. 227; Aug. 14, 1958, Pub. L. 85–654, 72 Stat. 611; Sept. 29, 1965, Pub. L. 89–219, § 11, 79 Stat. 892; June 26, 1966, Pub. L. 89–476, § 2(b), 80 Stat. 230.)

DERIVATION

Act May 6, 1864, ch. 83, § 3, 13 Stat. 70, 72.

CODIFICATION

The section, as enacted in the Revised Statutes, contained all the provisions preceding the paragraph beginning "From the gross tonnage of every vessel of the United States there shall be deducted," etc., and in addition thereto the following paragraph:

"The register of the vessel shall express the number of decks, the tonnage under the tonnage deck, that of the between decks, above the tonnage deck; also that of the poop or other inclosed spaces above the deck, each separately. In every registered United States vessel the number denoting the total registered tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if it at any time cease to be so continued, such vessel shall no longer be recognized as a registered vessel of the United States."

The amendment of the section by Act Aug. 5, 1882, consisted in inserting, before the paragraph above quoted, the following:

"That from the gross tonnage of every vessel of the United States there shall be deducted the tonnage of the spaces or compartments occupied by or appropriated to the use of the crew of the vessel, but the deduction for crew-space shall not, in any case, exceed five per centum of the gross tonnage. And in every such vessel propelled by steam or other power requiring engineroom there shall also be deducted from the gross tonnage of the vessel the tonnage of the space or spaces actually occupied by or required to be inclosed for the proper working of the boilers and machinery, including the shaft trunk or alley in screw-steamers, with the addition in the case of vessels propelled with paddle-wheels of fifty per centum, and in the case of vessels propelled by screws of seventy-five per centum of the tonnage of such space, but in no case shall the deductions from the gross tonnage exceed fifty per centum of such tonnage; and the proper deductions from the gross tonnage having been made, the remainder shall be deemed the net or register tonnage of such vessels. That the register or other official certificate of the tonnage or nationality of a vessel of the United States in addition to what is now required by law to be expressed therein, shall state separately the deductions made from the gross tonnage, and shall also state the net or register tonnage of the vessel. But the outstanding registers or enrollments of vessels of the United States shall not be rendered void by the addition of such new statement of her tonnage, unless voluntarily surrendered, but the same may be added to the outstanding document, or by an appendix thereto, with a certificate of a collector of customs that the original estimate of tonnage is amended."

The amendment by act June 19, 1886, consisted in striking out from the paragraph first quoted the last sentence thereof, and substituting therefor the following: "In every vessel documented as a vessel of the United States the number denoting her net tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if the number at any time cease to be continued, such vessel shall be subject to a fine of thirty dollars on every arrival in a port of the United States if she have not her net tonnage number legally carved or permanently marked."

The amendment by act Mar. 2, 1895, consisted in amending the section, as amended by Act Aug. 5, 1882, ch. 398, § 1, to read substantially as set forth here, beginning with the words, "That from the gross tonnage of every vessel of the United States there shall be deducted," etc., and ending with the words, "as are permitted to be deducted from gross tonnage by the rules of other nations and are not permitted by the laws of the United States," with the exception of the clause appearing in the text after paragraph (h), beginning with the words, "The cubical contents of the hatchway shall be obtained by multiplying the length and breadth together," etc., which was inserted as an amendment by section 1 of act Feb. 6, 1909, and also the clause appearing in the text after the fourth clause of paragraph (i), beginning with the words, "From the gross tonnage there shall be deducted any other space adapted for water ballast only," etc., which was also inserted as an amendment by section 2 of act Feb. 6, 1909.

The provisions of this section, as amended by act Mar. 2, 1895, authorizing collectors of customs to attach to the registers of American vessels in foreign trade appendices stating separately, for use in foreign ports, the measurement of such space or spaces as are permitted to be deducted from gross tonnage by the rules of other nations, and are not permitted by the laws of the United States, superseded similar provisions of act Jan. 21, 1895, ch. 38, 28 Stat. 636.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" in the next to the last paragraph to conform to acts Feb. 14, 1903, and Mar. 4, 1913. Act Feb. 14, 1903, transferred the duties of the Secretary of the Treasury relating to merchant vessels or yachts, their measurement, etc., to the Secretary of Commerce and Labor, and act Mar. 4, 1913, designated the Secretary of Commerce and Labor the Secretary of Commerce.

AMENDMENTS

1966—Subsec. (i). Pub. L. 89–476 struck out provisions requiring the register or other official certificate of the tonnage or nationality of a vessel of the United States to state separately the deductions made from the gross tonnage and the net or register tonnage of the vessel, maintaining the validity of outstanding registers or enrollments notwithstanding the additions of new statements of tonnage unless voluntarily surrendered, permitting the addition of new statements of tonnage by means of appendix and certificate to collector of customs, and requiring the statement, each separately, in the register of vessels of the number of decks and the tonnage under the tonnage deck, above the tonnage deck, and of the poop or other enclosed spaces above the deck.

1965—Pub. L. 89–219 inserted the provisions specifying the deck which is to be deemed the tonnage deck in vessels and requiring all measurements to be taken in feet and decimal fractions of feet.

1958—Subsec. (i). Pub. L. 85–654 inserted "(other than ballast water for use for underwater drilling, mining, and related purposes, including production)" in the fifth paragraph.

1956—Subsec. (f). Act June 4, 1956, § 1, provided deduction for screw-propelled vessels of thirty-two thirteenths times the tonnage of the propelling-machinery space where such space is not more than 13 percent of the gross tonnage, but allowing owners of vessels under construction before June 4, 1956, to elect deduction of one and three-fourths the tonnage of the propelling-machinery space, provided for a deduction of 32 percent of the gross tonnage of the vessel or one and three-fourths times the tonnage of the space where such space is 20 percent or more of the gross tonnage, and eliminated references to paddle-propelled vessels.

Subsec. (g). Act June 4, 1956, § 2, permitted deduction for paddle-propelled vessels of thirty-seven twentieths times the tonnage of the propelling-machinery space where such space is not more than 20 percent of the gross tonnage, but allowing owners of vessel under construction before June 4, 1956, to elect deduction of one and one-half times the tonnage of the propelling-machinery space, and eliminated references to screw-propelled vessels and changed language generally, for purposes of clarity.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–476 effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89–476, set out as a note under section 71 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated

were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to Title 5. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Navigation" in subpar. (i) was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

"Commissioner of Customs" was substituted for "Secretary of Commerce" and for "Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Inspection of crew quarters, see section 660a of this title.

Remission or mitigation of fines, see section 320 of this title.

Space and accommodations for crew of certain vessels, see section 660–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 71, 83a, 320 of this title.

§ 78. Repealed. Pub. L. 89–476, § 2(e), June 29, 1966, 80 Stat. 230.

Section, act Mar. 2, 1895, ch. 173, § 2, 28 Stat. 743, provided for the remeasurement of vessels duly measured before April 1, 1895, in the option of the vessel owner. See section 71(e) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89–476, set out as a note under section 71 of this title.

§ 79. Repealed. Pub. L. 89–476, § 2(f), June 29, 1966, 80 Stat. 230.

Section, acts Mar. 2, 1895, ch. 173, § 4, 28 Stat. 743; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, authorized the Commissioner of Customs to make regulations in connection with measurement and remeasurement of vessels. See section 71(f) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89–476, set out as a note under section 71 of this title.

§ 80. Space and accommodations for crew; hospital compartments.

CODIFICATION

Section is now set out as section 660–1 of this title.

§ 81. Measurement of foreign vessels; certificates.

Whenever it is made to appear to the Commissioner of Customs that the rules concerning the measurement for tonnage of vessels of the United States have been substantially adopted by the government of any foreign country, he may direct that the vessels of such foreign country be deemed to be of the tonnage denoted in their certificates of register or other national papers, and thereupon it shall not be necessary for such vessels to be remeasured at any port in the United States; and when it shall be necessary to ascertain the tonnage of any vessel not a vessel of the United States, the said tonnage shall be ascertained in the manner provided by law for the measurement of vessels of the United States. (R. S. § 4154; Aug. 5, 1882, ch. 398, § 2, 22 Stat. 300; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 64, 1 Stat. 675.

CODIFICATION

Section is from R.S. § 4154, as set forth in act Aug. 5, 1882, which repealed the original section 4154, and enacted the provisions therein set forth as a substitute therefor.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 77 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 82. Suspension of provisions as to survey, inspection, and measurement.

The President of the United States is authorized, whenever in his discretion the needs of foreign commerce may require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of the law requiring survey, inspection, and measurement by officers of the United States of foreign-built vessels admitted to American registry under section 11 of this title. (Aug. 18, 1914, ch. 256, § 2, 38 Stat. 699.)

CODIFICATION

Section comprises the second paragraph, with conforming language changes, of section 2 of act Aug. 18, 1914. The first paragraph of section 2 of act Aug. 18, 1914, is classified to section 236 of this title.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see Ex. Ord. No. 10289, September 17, 1951, 16 F. R. 9499, set out as a note under section 301 of Title 3, The President.

§ 83. Gross and net tonnage measurements; definitions.

As used in sections 83 to 83k of this title:

(a) The term "uppermost complete deck" means the uppermost complete deck of a vessel exposed to sea and weather, which shall be deemed to be

that deck which has permanent means of closing all openings in the weather portions thereof, provided that any opening in the side of the vessel below that deck, other than an opening abaft a transverse watertight bulkhead placed aft of the rudder stock, is fitted with permanent means of watertight closing.

(b) The term "second deck" means the deck next below the uppermost complete deck which is continuous in a fore-and-aft direction at least between peak bulkheads, is continuous athwartships, is fitted as an integral and permanent part of the vessel's structure, and has proper covers to all main hatchways. Interruptions in way of propelling machinery space openings, ladder and stairway openings, trunks, chain lockers, cofferdams, or steps not exceeding a total height of forty-eight inches shall not be deemed to break the continuity of the deck.

(c) The term "trunks" as used in the definition of second deck shall be deemed to refer to hatch or ventilation trunks which do not extend longitudinally completely between main transverse bulkheads.

(d) The term "Secretary" means the Secretary of the Treasury.

(Pub. L. 89–219, § 1, Sept. 29, 1965, 79 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83a, 83b, 83d, 83f, 83h, 83i, 83j of this title.

§ 83a. Spaces omitted from gross tonnage.

In the measurement of a vessel under sections 71, 75, and 77 of this title, upon application of the owner and approval by the Secretary, there shall be omitted from inclusion in the gross tonnage—

(a) those spaces available for the carriage of dry cargo or stores which are located between the uppermost complete deck and the second deck, and other spaces so located which would be omitted from gross tonnage under the provisions of section 77 of this title if above the upper deck, provided that a tonnage mark is placed and displayed on the vessel in accordance with the provisions of sections 83 to 83k of this title, so long as that tonnage mark is not submerged;

(b) those spaces which are located on or above the uppermost complete deck and which are available for the carriage of dry cargo or stores, without regard to whether a tonnage mark is placed or displayed on the vessel or, if placed or displayed, without regard to whether that mark is submerged; and

(c) those spaces which are located on the uppermost complete deck and which are used for cabins or staterooms, provided that a tonnage mark is placed and displayed on the vessel, so long as that tonnage mark is not submerged.

(Pub. L. 89–219, § 2, Sept. 29, 1965, 79 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83b, 83d, 83f, 83g, 83h, 83i, 83j of this title.

§ 83b. Description, location and dimensions of tonnage mark.

The tonnage mark shall be a horizontal line, upon which shall be placed for identification an inverted equilateral triangle, with its apex on the midpoint of the line. The mark shall be placed and displayed on each side of the vessel, subject to such specifications as to location and dimensions as are prescribed in regulations issued under sections 83 to 83k of this title. (Pub. L. 89–219, § 3, Sept. 29, 1965, 79 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83d, 83f, 83h, 83i, 83j of this title.

§ 83c. Placement of tonnage mark above loadline.

No tonnage mark shall be required to be placed or displayed above the statutory summer loadline prescribed in accordance with the applicable loadline convention, except that, when a vessel's statutory loadline is assigned on the assumption that the second deck is the freeboard deck, the tonnage mark may be permitted to be placed and displayed on a line level with the uppermost part of the loadline grid. (Pub. L. 89–219, § 4, Sept. 29, 1965, 79 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83h, 83i, 83j of this title.

§ 83d. Addition of line to tonnage mark.

Except when the tonnage mark is placed and displayed on the vessel at the level prescribed in section 83c of this title, an additional line may be added to the tonnage mark, subject to such specifications as to location and dimensions as are prescribed in regulations issued under sections 83 to 83k of this title. (Pub. L. 89–219, § 5, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83e, 83f, 83h, 83i, 83j of this title.

§ 83e. When tonnage mark deemed submerged.

The tonnage mark shall be deemed to be submerged when the upper edge of the mark is under water, except that if the vessel is marked with the additional line in accordance with section 83d of this title and is in fresh water or in tropical waters the tonnage mark shall not be deemed to be submerged unless the upper edge of the additional line is under water. (Pub. L. 89–219, § 6, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83h, 83i, 83j of this title.

§ 83f. Measurement certificates and marine documents reciting tonnages.

In a case in which a vessel measured under sections 83 to 83k of this title and other applicable statutes has a tonnage mark placed and displayed at a place other than a line level with the uppermost part of the loadline grid, any measurement certificate or marine document reciting tonnages issued to such vessel shall show the gross and net tonnages applicable when the tonnage mark is submerged and the gross and net tonnage applicable when the mark is not submerged. In any other case in which a vessel is measured under sections 83 to 83k of this title and other applicable statutes, any measurement certificate or marine document reciting tonnages issued to

such vessel shall show only one set of gross and net tonnages, taking into account all applicable omissions or exemptions. (Pub. L. 89–219, § 7, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83b, 83d, 83h, 83i, 83j of this title.

§ 83g. Marking line of uppermost complete deck.

In a case in which an application for omission of spaces is filed under section 83a of this title for a vessel for which a statutory loadline is not required and is not assigned, the line of the uppermost complete deck shall be marked in the manner specified for marking the deck line in the international loadline convention in force. (Pub. L. 89–219, § 8, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83h, 83i, 83j of this title.

§ 83h. Regulations.

The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 83 to 83k of this title. (Pub. L. 89–219, § 12, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83i, 83j of this title.

§ 83i. Penalty for false statements.

Any person who makes a false, fictitious, or fraudulent statement or representation in any matter in which such statement or representation is required to be made to the Secretary in any regulation issued under sections 83 to 83k of this title shall be subject to a penalty of not more than $1,000 for each such statement or representation. (Pub. L. 89–892, § 13, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83h, 83j of this title.

§ 83j. Penalty for failure to display tonnage mark.

If any tonnage mark required to be placed and displayed on a vessel in any regulation issued under sections 83 to 83k of this title by the Secretary is not so placed or displayed or if the mark at any time shall cease to be continued on the vessel, such vessel shall be subject to a penalty of $30 on every subsequent arrival in a port of the United States. (Pub. L. 89–219, § 14, Sept. 29, 1965, 79 Stat. 892.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 83, 83a, 83b, 83d, 83f, 83h, 83i of this title.

§ 83k. Remission of penalties.

Any penalty incurred under sections 83 to 83k of this title may be remitted or mitigated by the Secretary under the provisions of section 7 of this title. (Pub. L. 89–219, § 15, Sept. 29, 1965, 79 Stat. 893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 83a, 83b, 83d, 83f, 83h, 83i, 83j of this title.

Chapter 2A.—LOAD LINES FOR AMERICAN VESSELS

LOAD LINES FOR VESSELS MAKING FOREIGN SEA VOYAGES

Sec.
85. Establishment; vessels affected.
85a. Determination of load lines; regulations; material factor in fixing lines.
85b. Marking lines on vessels; approval of marks; certificate.
85c. Vessels so loaded as not to submerge lines or marks.
85d. Foreign vessels; application of sections 85 to 85g.
85e. Recordation by masters of vessels of position of load line mark and actual drafts.
85f. Detention of vessels loaded in violation of sections 85 to 85g.
85g. Penalties for violations of sections 85 to 85g; seizure of vessels.

LOAD LINES FOR VESSELS ENGAGED IN COASTWISE TRADE

88. Establishment; vessels affected; exemptions.
88a. Determination of load-water lines; application of sections 88 to 88i to Great Lakes.
88b. Marking lines on vessels; approval of marks; certificate.
88c. Vessels so loaded as not to submerge lines or marks.
88d. Foreign vessels; application of sections 88 to 88i.
88e. Recordation by masters of positions of load line and actual drafts.
88f. Detention of vessels loaded in violation of sections 88 to 88i.
88g. Penalties for violations of sections 88 to 88i; seizure of vessels.
88h. Effective date.
88i. Short title.

CROSS REFERENCES

Commandant, general powers, see section 93 of Title 14, Coast Guard.

LOAD LINES FOR VESSELS MAKING FOREIGN SEA VOYAGES

§ 85. Establishment; vessels affected.

Load lines are established for the following vessels:

(a) Merchant vessels of one hundred and fifty gross tons or over, loading at or proceeding to sea from any port or place within the United States or its possessions for a foreign voyage by sea, or arriving within the jurisdiction of the United States or its possessions from a foreign voyage by sea, in both cases the Great Lakes excepted.

(b) Merchant vessels of the United States of one hundred and fifty gross tons or over, loading at or proceeding to sea from any foreign port or place for a voyage by sea, the Great Lakes excepted.

(c) Sections 85 to 85g of this title shall not apply to merchant vessels that are being towed and which are carrying neither cargo nor passengers. (Mar. 2, 1929, ch. 508, § 1, 45 Stat. 1492; May 26, 1939, ch. 151 § 1, 53 Stat. 783; Aug. 31, 1962, Pub. L. 87–620, § 1(1), 76 Stat. 415.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–620 included vessels arriving within the jurisdiction of the United States or its possessions from a foreign voyage by sea.

1939—Act May 26, 1939 substituted "one hundred and fifty" for "two hundred and fifty" in subsecs. (a) and (b), and added subsec. (c).

INTERNATIONAL LOAD LINE CONVENTION

Op. Atty. Gen., July 28, 1941, stated that the President has the power to declare the International Load Line Convention, May 1, 1931, 47 Stat. 2228, either inoperative or suspended due to changed conditions arising out of World War II, and upon such declaration the Secretary of Commerce would be free to set load lines pursuant to

sections 85—85g of this title without regard to the convention. Proc. No. 2500, Aug. 9, 1941, declared the International Load Lines Convention suspended and inoperative in the ports and waters of the United States and in so far as the United States is concerned, for the duration of the emergency then existing. Proc. No. 2500 was revoked, eff. Jan. 1, 1946, by Proc. No. 2675, Dec. 21, 1945.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85a, 85b, 85c, 85d, 85e, 85f, 85g, 369 of this title.

§ 85a. Determination of load lines; regulations; material factor in fixing lines.

The Commandant of the Coast Guard is authorized and directed in respect of the vessels defined in section 85 (a) and (b) of this title to establish by regulations from time to time the load water lines and marks thereof indicating the maximum depth to which such vessels may safely be loaded and in establishing such load lines due consideration shall be given to, and differentials made for, the various types and character of vessels and the trades in which they are engaged: *Provided,* That no load line shall be established or marked on any vessel, which load line, in the judgment of the Commandant of the Coast Guard, is above the actual line of safety. Such regulations shall have the force of law. (Mar. 2, 1929, ch. 508, § 2, 45 Stat. 1493; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85c, 85d, 85e, 85f, 85g, 369 of this title.

§ 85b. Marking lines on vessels; approval of marks; certificate.

It shall be the duty of the owner and of the master of every vessel subject to sections 85 to 85g of this title and to the regulations established thereunder to cause the load line or lines so established to be permanently and conspicuously marked upon the vessel in such manner as the Commandant of the Coast Guard shall direct, and to keep the same so marked. The Commandant of the Coast Guard shall appoint the American Bureau of Shipping, or such other American corporation or association for the survey or registry of shipping as may be selected by him, to determine whether the position and manner of marking on such vessels the load line or lines so established are in accordance with the provisions of sections 85 to 85g of this title and of the regulations established thereunder: *Provided, however,* That, at the request of the shipowner, the Commandant of the Coast Guard may appoint, for the purpose aforesaid, any other corporation or association for the survey or registry of shipping which the Commandant of the Coast Guard may approve; or the Commandant of the Coast Guard may appoint for said purpose any officer of the Government, who shall perform such services as may be directed by the Commandant of the Coast Guard. The Commandant of the Coast Guard may, in his discretion, revoke any appointment made pursuant to this section. Such corporation, association, or officer shall, upon approving the position and manner of marking of such load line or lines, issue a certificate, in a form to be prescribed by the Commandant of the Coast Guard, that the same are in accordance with the provisions of sections 85 to 85g of this title and of the regulations established thereunder, and shall deliver a copy thereof to the master of the vessel. It shall be unlawful for any vessel subject to said sections and to said regulations to depart from any port or place designated in section 85 of this title without bearing such mark or marks, approved and certified by such corporation, association, or officer, and without having on board a copy of said certificate. (Mar. 2, 1929, ch. 508, § 3, 45 Stat. 1493; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85c, 85d, 85e, 85f, 85g, 369 of this title.

§ 85c. Vessels so loaded as not to submerge lines or marks.

It shall be unlawful for any vessel subject to sections 85 to 85g of this title and to the regulations established thereunder to be so loaded as to submerge, in sea water, the load line or lines marked pursuant to said sections and to the regulations established thereunder applicable to her voyage; or so as to submerge under like conditions the point where such load line or lines ought to be marked pursuant to

the provisions of said sections and of the regulations established thereunder; or so as in any manner to violate the said regulations. (Mar. 2, 1929, ch. 508, § 4, 45 Stat. 1493.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85d, 85e, 85f, 85g, 369 of this title.

§ 85d. Foreign vessels; application of sections 85 to 85g.

Whenever the Commandant of the Coast Guard shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 85 to 85g of this title, the Commandant of the Coast Guard may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of said sections, except as hereinafter provided: *Provided*, That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under said sections and the regulations made thereunder. (Mar. 2, 1929, ch. 508, § 5, 45 Stat. 1493; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85c, 85e, 85f, 85g, 369 of this title.

§ 85e. Recordation by masters of vessels of position of load line mark and actual drafts.

It shall be the duty of the master of every vessel subject to sections 85 to 85g of this title and to the regulations established thereunder and of every foreign vessel exempted pursuant to section 85d of this title, before departing from her loading port or place for a voyage by sea, to enter in the official log book of such vessel a statement of the position of the load-line mark applicable to the voyage in question and the actual drafts forward and aft at the time of departing from port as nearly as the same can be ascertained. (Mar. 2, 1929, ch. 508, § 6, 45 Stat. 1494.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85c, 85d, 85f, 85g, 369 of this title.

§ 85f. Detention of vessels loaded in violation of sections 85 to 85g.

If any collector of customs or Coast Guard district commander has reason to believe, on complaint or otherwise, that a vessel subject to sections 85 to 85g of this title and to the regulations established thereunder is about to proceed to sea from a port in the United States or its possessions within his district when loaded in violation of section 85c of this title, or that any vessel exempted puruant to section 85d of this title is about to proceed to sea from such port when loaded in violation of the laws and regulations of her country with respect to load line, he may by written order served on the master or officer in charge of such vessel detain her provisionally for the purpose of being surveyed. The collector or Coast Guard district commander shall then serve on the master a written statement of the grounds of her detention and shall appoint three disinterested surveyors to examine the vessel and her loading and to report to him, whereupon the said collector or Coast Guard district commander may release or may by written order served on the master or officer in charge of such vessel detain the vessel until she has been reloaded in whole or in part so as to conform to section 85c of this title; or, in case of a vessel exempted pursuant to section 85d of this title, so as to conform to the laws and regulations of her own country with respect to load line. If the vessel be ordered detained, the master may, within five days, appeal to the Commandant of the Coast Guard; who may, if he desires, order a further survey, and may affirm, set aside, or modify the order of the collector or Coast Guard district commander. Clearance shall be refused to any vessel which shall have been ordered detained. The owner and agent of a vessel surveyed and found in violation of sections 85 to 85g of this title or regulations established thereunder shall bear the cost of the survey in addition to any penalty or fine imposed. (Mar. 2, 1929, ch. 508, § 7, 45 Stat. 1494; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1962, Pub. L. 87-620, § 1(2), 76 Stat. 415.)

AMENDMENTS

1962—Pub. L. 87-620 inserted references to the Coast Guard district commander wherever appearing, and provided that the owner and agent of a vessel in violation of section 85 to 85g of this title, shall bear the costs of the survey in addition to any penalty or fine.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which apppointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317,

set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85c, 85d, 85e, 85g, 369 of this title.

§ 85g. Penalties for violations of sections 85 to 85g; seizure of vessels.

(a) The owner and/or master of any vessel subject to sections 85 to 85g of this title and the regulations established thereunder shall be liable to the United States in a penalty not to exceed $1,000 whenever the vessel is found operating, navigating, or otherwise in use upon the navigable waters of the United States in violation of the provisions of such sections or the regulations established thereunder, or whenever the vessel, if a vessel of the United States, is found operating, navigating, or otherwise in use upon the high seas in violation of the provisions of such sections or the regulations established thereunder. Each day a vessel is in violation of the provisions of such sections shall constitute a separate offense. The Secretary of the department in which the Coast Guard is operating may assess, collect, remit, and mitigate any penalty imposed under such sections.

(b) If the master of any vessel subject to sections 85 to 85g of this title and to the regulations established thereunder, or of any foreign vessel exempted pursuant to section 85d of this title shall fail, before departing from her loading port or place, to enter in the official log book of such vessel the statement required by section 85e of this title, he shall for each offense be liable to the United States in a penalty of $500.

(c) If any person shall knowingly permit or cause or attempt to cause any vessel subject to sections 85 to 85g of this title and to the regulations established thereunder to depart, or if, being the owner, manager, agent, or master of such vessel, he shall fail to take reasonable care to prevent her from departing from her loading port or place when loading in violation of section 85c of this title, or if any person shall knowingly permit or cause or attempt to cause a foreign vessel exempted pursuant to section 85d of this title to depart, or if, being the owner, manager, agent, or master of such vessel, he shall fail to take reasonable care to prevent her from departing from her loading port or place when loaded more deeply than permitted by the laws and regulations of the country to which she belongs, he shall, in respect of each offense, be liable to the United States in a penalty of $1,000 plus a sum computed at the rate of $500 per inch of draft in excess of the vessel's applicable load line.

(d) If the master of any vessel or any other person shall knowingly permit or cause or attempt to cause any vessel to depart from any port or place in the United States or its possessions in violation of any order of detention made pursuant to section 85f of this title, he shall, in respect of each offense, be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment not to exceed three months, or both such fine and imprisonment, in the discretion of the court.

(e) If any person shall conceal, remove, alter, deface, or obliterate, or shall suffer any person under his control to conceal, remove, alter, deface, or obliterate any mark or marks placed on a vessel pursuant to sections 85 to 85g of this title or to the regulations established thereunder, except in the event of lawful change of said marks, or to prevent capture by an enemy, he shall in respect of each offense be guilty of a misdemeanor and shall be punished by a fine not to exceed $2,000, or by imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

(f) Whenever the owner, manager, agent, or master of a vessel shall become subject to a fine or penalty by way of money payment pursuant to the provisions of sections 85 to 85g of this title, the vessel shall also be liable therefor and may be seized and proceeded against in the district court of the United States in any district in which such vessel may be found. (Mar. 2, 1929, ch. 508, § 8, 45 Stat. 1494; May 26, 1939, ch. 151, § 2, 53 Stat. 783; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; Aug. 31, 1962, 87-620, § 1(3), 76 Stat. 415.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-620, § 1(3)(A), substituted provisions imposing liability, not to exceed $1,000, upon the owner and/or master of any vessel subect to sections 85 to 85g of this title, and to regulations thereunder, whenever the vessel is found in use upon navigable waters of the United States in violation of such sections, or if a vessel of the United States, is found in use upon the high seas in violation of such sections, making each day in violation of such sections a separate offense, and authorizing the Secretary of the department in which the Coast Guard is operating to assess, collect, remit, and mitigate any penalty imposed, for provisions setting a $500 penalty for each offense for owners or masters of vessels subject to sections 85 to 85g of this title, and to regulations thereunder, permitting departure from the loading port without complying with section 85b of this title, or if the vessel was exempted pursuant to section 85d of this title, for permitting such departure without having the load lines required by the vessel's country marked upon her, and permitting the Commandant of the Coast Guard to remit or mitigate any such penalty or discontinue prosecution on such terms as he deems proper

Subsec. (b). Pub. L. 87-620, § 1(3)(B), increased the penalty for each offense from $100 to $500, and deleted provisions authorizing the Commandant of the Coast Guard to remit or mitigate any penalty imposed under this subsection.

Subsec. (c). Pub. L. 87-620, § 1(3)(C), increased the penalty from $500 to $1,000 plus $500 per inch of draft in excess of the vessel's applicable load line, and deleted

provisions authorizing the Commandant of the Coast Guard to remit or mitigate any penalty imposed under this subsection.

Subsec. (d). Pub. L. 87-620, § 1(3)(D), increased the fine from $500 to $1,000.

Subsec. (e). Pub. L. 87-620, § 1(3)(E), increased the fine from $1,000 to $2,000.

1939—Subsec. (c). Act May 26, 1939, substituted the words "be liable to the United States in a penalty of $500." for "be guilty of a misdemeanor, unless her going to sea in such condition was, under the circumstances, reasonable and justifiable, and shall be punished by a fine not to exceed $500." and permitted the Secretary of Commerce to remit or mitigate any penalty imposed under subsec. (c).

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 85b, 85c, 85d, 85e, 85f, 369 of this title.

LOAD LINES FOR VESSELS ENGAGED IN COASTWISE TRADE

§ 88. Establishment; vessels affected; exemptions.

(a) Load lines are established for merchant vessels of one hundred and fifty gross tons or over, loading at or proceeding to sea from any port or place within the United States or its possessions for a coastwise voyage by sea. By "coastwise voyage by sea" is meant a voyage on which a vessel in the usual course of her employment preceeds from one port or place in the United States or her possessions to another port or place in the United States or her possessions and passes outside the line dividing inland waters from the high seas, as defined in section 151 of Title 33.

(b) All cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska except those constructed after July 11, 1968 or those converted to either of such services after five years from July 11, 1968 are exempt from the requirements of sections 88 to 88i of this title. (Aug. 27, 1935, ch. 747, § 1, 49 Stat. 888; July 11, 1968, Pub. L. 90-397, § 2, 82 Stat. 341.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-397 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 90-397 added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88a, 88b, 88c, 88d, 88e, 88f, 88g, 88h, 88i of this title.

§ 88a. Determination of load-water lines; application of sections 88 to 88i to Great Lakes.

The Secretary of the department in which the Coast Guard is operating is authorized and directed in respect of the vessels defined above to establish by regulations from time to time the load water lines and marks thereof indicating the maximum depth to which such vessels may safely be loaded. Such regulations shall have the force of law. In establishing such load lines due consideration shall be given to, and differentials made for, the various types and character of vessels and the trades in which they are engaged. In establishing load water lines on passenger vessels due consideration shall be given to, and differentials shall be made for, the age and condition of the vessel, its subdivision and efficacy thereof, and the probable stability of the vessel if damaged: *Provided,* That the load-line provisions of sections 88 to 88i of this title shall apply to the Great Lakes: *Provided further,* That no load line shall be established or marked on any vessel, which load line in the judgment of the Secretary is above the actual line of safety. (Aug. 27, 1935, ch. 747, § 2, 49 Stat. 888; June 20, 1936, ch. 626, 49 Stat. 1543; July 3, 1941, ch. 276, 55 Stat. 578; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1962, Pub. L. 87-620, § 2(1), 76 Stat. 416.)

REFERENCES IN TEXT

The vessels defined above, referred to in the text, means the vessels defined in section 88 of this title.

CODIFICATION

A proviso which was added to this section by act July 3, 1941, allowed load lines different from those established by the International Treaty on Load Lines of 1930 to be established for vessels engaged on a coastwise voyage by sea from port to port in continental United States during the national emergency proclaimed on May 27, 1941, but not after June 30, 1943, was omitted as having expired by its own terms.

AMENDMENTS

1962—Pub. L. 87-620 substituted provisions directing the Secretary of the department in which the Coast Guard is operating to establish load water lines, for provisions directing the Commandant of the Coast Guard to establish load water lines, and provisions that no load-line shall be established which the Secretary judges to be above the actual line of safety, for provisions vesting the Commandant of the Coast Guard with discretion to vary the load-lines from those established by the International Treaty on Load Lines of 1930, with respect to vessels on the Great Lakes, and to steam colliers, tugs, barges, and self-propelled barges in special service on inter-island voyages and on coastwise voyages from port to port in the continental United States, when he believes such changes will not be above the actual line of safety, and eliminated provisions forbidding load-lines giving a lesser freeboard and less buoyance than those established by the International Treaty on Load Lines of 1930.

1936—Act June 20, 1936 required consideration to be given and differentials to be made for the age and condition of passenger vessel, its subdivision and efficacy, and its stability if damaged, in establshing such vessel's load-water line and to insert in the second proviso the words "and to steam colliers, tugs, barges, and self-propelled barges engaged in special services on inter-island voyages

and on coastwise voyages from port to port in the continental United States".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SUSPENSIONS

Suspension of International Load Line Convention, see note under section 85 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88b, 88c, 88d, 88e, 88f, 88g, 88h, 88i of this title.

§ 88b. Marking lines on vessels; approval of marks; certificate.

It shall be the duty of the owner and of the master of every vessel subject to sections 88 to 88i of this title and to the regulations established thereunder to cause the load line or lines so established to be permanently and conspicuously marked upon the vessel in such manner as the Commandant of the Coast Guard shall direct, and to keep the same so marked. The Commandant of the Coast Guard shall appoint the American Bureau of Shipping, or such other American corporation or association for the survey or registry of shipping as may be selected by him, to determine whether the position and manner of marking on such vessels the load line or lines so established are in accordance with the provisions of said sections and of the regulations established thereunder: *Provided, however,* That, at the request of the shipowner, the Commandant of the Coast Guard may appoint, for the purpose aforesaid, any other corporation or association for the survey or registry of shipping which the Commandant of the Coast Guard may approve; or the Commandant of the Coast Guard may appoint for said purpose any officer of the Government, who shall perform such services as may be directed by the Commandant of the Coast Guard. The Commandant of the Coast Guard may, in his discretion, revoke any appointment made pursuant to this section. Such corporation, association or officer shall, upon approving the position and manner of marking of such load line or lines, issue a certificate, in a form to be prescribed by the Commandant of the Coast Guard, that the same are in accordance with the provisions of said sections and of the regulations established thereunder, and shall deliver a copy thereof to the master of the vessel. It shall be unlawful for any vessel subject to said sections and to said regulations to depart from any port or place designated in section 88 of this title without bearing such mark or marks, approved and certified by such corporation, association, or officer, and without having on board a copy of said certificate. (Aug. 27, 1935, ch. 747, § 3, 49 Stat. 888; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88b, 88c, 88d, 88e, 88f, 88g, 88h, 88i of this title.

§ 88c. Vessels so loaded as not to submerge lines or marks.

It shall be unlawful for any vessel subject to sections 88 to 88i of this title and to the regulations established thereunder to be so loaded as to submerge the load line or lines marked pursuant to section 88b of this title and to the regulations established thereunder applicable to her voyage; or to be so loaded as to submerge under like conditions the point where such load line or lines ought to be marked pursuant to the provisions of sections 88—88i of this title and of the regulations established thereunder; or to be so loaded as in any manner to violate the said regulations. (Aug. 27, 1935, ch. 747, § 4, 49 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88d, 88e, 88f, 88g, 88h, 88i of this title.

§ 88d. Foreign vessels; application of sections 88 to 88i.

Whenever the Commandant of the Coast Guard shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88i of this title, the Commandant of the Coast Guard may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of said sections, except as hereinafter provided: *Provided,* That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under said sections and the regulations made thereunder. (Aug. 27, 1935, ch. 747, § 5, 49

Stat. 889; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88e, 88f, 88g, 88h, 88i of this title.

§ 88e. Recordation by masters of positions of load line and actual drafts.

It shall be the duty of the master of every vessel subject to sections 88 to 88i of this title and to the regulations established thereunder and of every foreign vessel exempted pursuant to section 88d of this title, before departing from her loading port or place to provide a ship's record or log book and enter therein a statement of the position of the load line marked applicable to the voyage in question and the actual drafts forward and aft at the time of departing as nearly as the said drafts can be ascertained. (Aug. 27, 1935, ch. 747, § 6, 49 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88d, 88f, 88g, 88h, 88i of this title.

§ 88f. Detention of vessels loaded in violation of sections 88 to 88i.

If any collector of customs or Coast Guard district commander has reason to believe on complaint or otherwise that a vessel subject to the provisions of sections 88 to 88i of this title is about to proceed on a voyage from a port in the United States or its possessions within his district without conforming to the provisions of section 88b of this title, or when loaded in violation of section 88c of this title, or that any vessel exempted pursuant to section 88d of this title is about to proceed on a voyage from such port when loaded in violation of the laws and regulations of her country with respect to load line, he may serve on the master or officer in charge of such vessel a written order detaining the vessel for the purpose of being surveyed to determine whether or not the provisions of sections 88 to 88i of this title are complied with. Where the detention is on the ground that the vessel does not conform to the provisions of section 88b of this title, the collector or Coast Guard district commander shall cause an examination of the vessel to be made, and if from such examination it appears that the vessel is not marked with the load line established in conformity with the provisions of sections 88 to 88i of this title, the collector or Coast Guard district commander shall so notify the master or officer in charge of such vessel and shall detain her until a load line shall have been duly established in accordance with section 88b of this title, provided that in cases of exceptional hardship, subject to regulations issued by the Commandant of the Coast Guard, the collector or Coast Guard district commander may cause a proper load line to be provisionally established by one of the agencies or persons designated under section 88b of this title, which provisional load line shall constitute a compliance with the provisions of sections 88 to 88i of this title only until completion of the particular voyage in which the vessel is at the time engaged. After such establishment or provisional establishment of a load line the collector or Coast Guard district commander shall appoint three disinterested surveyors to examine the loading of the vessel and to report to him whether such vessel is so loaded as to submerge said provisional load line and if from such report it appears that the vessel is so loaded, the collector or Coast Guard district commander may by written order served on the master or officer in charge of said vessel detain the vessel until she has been reloaded in whole or in part so as not to submerge said provisional load line or lines. Where the detention is on the ground of a supposed violation of section 88c or section 88d of this title, the collector or Coast Guard district commander shall appoint three disinterested surveyors to examine the vessel and her loading and to report to him and if from such report it appears that the vessel is loaded in violation of the provisions of section 88c or section 88d of this title, the collector or Coast Guard district commander shall so notify in writing the master or other officer in charge of such vessel and detain the vessel until she has been reloaded in whole or in part so as to conform to the provisions of section 88c or section 88d of this title. If a vessel is ordered detained by a collector or Coast Guard district commander acting under the provisions of this section, the master may within five days appeal to the Commandant of the Coast Guard, who, if he so desires, may order a further survey and may affirm, set aside, or modify the order of the collector or Coast Guard district commander. Clearance shall be refused to any vessel which shall have been ordered detained. The owner and agent of a vessel surveyed and found in violation of sections 88 to 88i of this title or regulations established thereunder shall near the costs of the survey in addition to any penalty or fine imposed. (Aug. 27, 1935, ch. 747, § 7, 49 Stat. 889; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1962, Pub. L. 87-620, § 2(2), 76 Stat. 416.)

AMENDMENTS

1962—Pub. L. 87-620 inserted references to the Coast Guard District Commander wherever appearing, and provided that the owner and agent of a vessel in violation of sections 88 to 88i of this title, shall bear the costs of the survey in addition to any penalty or fine.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the

Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88d, 88e, 88g, 88h, 88i of this title.

§ 88g. Penalties for violations of sections 88 to 88i; seizure of vessels.

(a) The owner and/or master of any vessel subject to sections 88 to 88i of this title and the regulations established thereunder shall be liable to the United States in a penalty not to exceed $1,000 whenever the vessel is found operating, navigating, or otherwise in use upon the navigable waters of the United States, in violation of the provisions of such sections or the regulations established thereunder, or whenever the vessel, if a vessel of the United States, is found operating, navigating, or otherwise in use upon the high seas in violation of the provisions of such sections or the regulations established thereunder. Each day a vessel is in violation of the provisions of such sections shall constitute a separate offense. The Secretary of the Department in which the Coast Guard is operating may assess, collect, remit, and mitigate any penalty imposed under such sections.

(b) If the master of any vessel subject to sections 88 to 88i of this title, or of any foreign vessel exempted pursuant to section 88d of this title, shall fail, before departing from any port or place designated in section 88 of this title, to enter in and make a part of the ship's record or log book the statement required by section 88e of this title, he shall for each offense be liable to the United States in a penalty of $500.

(c) If any person shall knowingly permit or cause or attempt to cause any vessel subject to sections 88 to 88i of this title to depart or arrive, or if, being the owner, manager, agent, or master of such vessel, he shall fail to take reasonable care to prevent her from departing from or arriving at any port or place designated in section 88 of this title when loaded in violation of section 88c of this title, or if any person shall knowingly permit or cause or attempt to cause a foreign vessel exempted pursuant to section 88d of this title to depart or arrive, or if, being the owner, manager, agent, or master of such vessel he shall fail to take reasonable care to prevent her from departing from or arriving at any port or place designated in section 88 of this title when loaded more deeply than permitted by the laws and regulations of the country to which she belongs, he shall, in respect of each offense, be liable to the United States, in a penalty of $1,000 plus a sum computed at the rate of $500 per inch of draft in excess of the vessel's applicable load line unless the vessel's departure or arrival was, under the circumstances, reasonable and justifiable.

(d) If the master of any vessel or any other person shall knowingly permit or cause or attempt to cause any vessel to depart from any port or place in the United States or its possessions in violation of any order of detention made pursuant to section 88f of this title, he shall, in respect of each offense, be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment not to exceed three months, or both such fine and imprisonment, in the discretion of the court.

(e) If any person shall conceal, remove, alter, deface, or obliterate or shall suffer any person under his control to conceal, remove, alter, deface, or obliterate any mark or marks placed on a vessel pursuant to sections 88 to 88i of this title or to the regulations established thereunder, except in the event of lawful change of said marks, or to prevent capture by an enemy, he shall in respect of each offense be guilty of a misdemeanor and shall be punished by a fine not to exceed $2,000, or by imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

(f) Whenever the owner, manager, agent, or master of a vessel shall become subject to a fine or penalty by way of money payment pursuant to the provisions of sections 88 to 88i of this title, the vessel shall also be liable therefor and may be seized and proceeded against in the district court of the United States in any district in which such vessel may be found. (Aug. 27, 1935, ch. 747, § 8, 49 Stat. 890; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1962, Pub. L. 87–620, § 2(3), 76 Stat. 416.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–620, § 2(3)(A), substituted provisions imposing liability, not to exceed $1,000, upon the owner and/or master of any vessel subject to sections 88 to 88i of this title, and to regulations thereunder, whenever the vessel is found in use upon navigable waters of the United States in violation of such sections, or if a vessel of the United States, is found in use upon the high seas in violation of such sections, making each day in violation of such sections a separate offense, and authorizing the Secretary of the department in which the Coast Guard is operating to assess, collect, remit, and mitigate any penalty imposed, for provisions setting a $500 penalty for each offense for owners or masters of vessels subject to sections 88 to 88i of this title, and to regulations thereunder, permitting departure from the loading port without complying with section 88b of this

title, or if the vessel was exempted pursuant to section 88d of this title, for permitting such departure without have the load lines required by the vessel's country marked upon her, and permitting the Commandant of the Coast Guard to remit or mitigate any such penalty or discontinue prosecution on such terms as he deems proper.

Subsec. (b). Pub. L. 87-620, § 2(3)(B), increased the penalty for each offense from $100 to $500, and deleted provisions authorizing the Commandant of the Coast Guard to remit or mitigate any penalty imposed under this subsection.

Subsec. (c). Pub. L. 87-620, § 2(3)(C), increased the penalty from $500 to $1,000 plus $500 per inch of draft in excess of the vessel's applicable load line, and deleted provisions authorizing the Commandant of the Coast Guard to remit or mitigate any penalty imposed under this subsection.

Subsec. (d). Pub. L. 87-620, § 2(3)(D), increased the fine from $500 to $1,000.

Subsec. (e). Pub. L. 87-620, § 2(3)(E), increased the fine from $1,000 to $2,000.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88d, 88e, 88f, 88h, 88i of this title.

§ 88h. Effective date.

The provisions of sections 88 to 88i of this title shall become effective as to vessels of four thousand gross tons and upwards, not later than three months, and as to all other vessels subject hereto, not later than twelve months from and after August 27, 1935. (Aug. 27, 1935, ch. 747, § 9, 49 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88d, 88e, 88f, 88g, 88i of this title.

§ 88i. Short title.

Sections 88 to 88i of this title may be cited as the "Coastwise Load Line Act, 1935". (Aug. 27, 1935, ch. 747, § 9, 49 Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 88a, 88b, 88c, 88d, 88e, 88f, 88g, 88h, of this title.

Chapter 3.—CLEARANCE AND ENTRY

Sec.
91. Granting clearances.
91a. Performance of duties of master by licensed deck officer or purser.
92. Repealed.
93. Form of manifest.
94. Oath of master.
95. Repealed.
96. Form of clearance.
97. State inspection laws.
98. Conveyance of bullion, coin, notes, or bonds for United States.
99. Repealed.
100. Payment of fees on vessels outward bound.
101. Statement of consular services performed without fee filed.
102. Steamboats on Lake Champlain.
103. Pleasure yachts; license; entry and clearance; restrictions.
104. Reciprocal exemption of foreign yachts from charges and tonnage taxes; licenses.
105. Commissions to yachts.
106. Repealed.
107. Licensed yacht must comply with law.
108. Penalty for violation.
109. Signals for yachts.
110. Entry of ferryboats.
111. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers.
112. Passenger vessels trading between ports of United States and foreign ports.
113. Vessels making daily trips on interior waters.

CROSS REFERENCES

Provisions concerning custody and storage of vessels, vehicles, merchandise and baggage seized under laws relating to entry or clearance of vessels, see section 1605 of Title 19, Customs Duties.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 91. Granting clearances.

The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master of other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 nor less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until

the said penalty is paid or secured: *Provided,* That in order that the commerce of the United States may move with expedition and without undue delay, the Commissioner of Customs is authorized to make regulations permitting the master of any vessel taking on cargo for a foreign port or for a port in noncontiguous territory belonging to the United States to file a manifest as hereinbefore provided, and if the manifest be not a complete manifest and it so appears upon such manifest, the collector of customs may grant clearance to the vessel in the case of an incomplete manifest, taking from the owner of the vessel, who may act in the premises by a duly authorized attorney in fact, a bond with security approved by the collector of customs in the penal sum of $1,000, conditioned that the master or someone for him will file a completed outward manifest not later than the fourth business day after the clearance of the vessel. In the event that the said complete outward manifest be not filed as required by the provisions of this section and the regulations made by the Commissioner of Customs in pursuance hereof, then a penalty of $50 for each day's delinquency beyond the allowed period of four days for filing the completed manifest shall be exacted, and if the completed manifest be not filed within the three days following the four-day period, then for each succeeding day of delinquency a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond. (R.S. § 4197; Aug. 5, 1935, ch. 438, title II, § 209, 49 Stat. 526; June 16, 1938, ch. 476, § 1, 52 Stat. 758; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 1, 1954, ch. 1213, title V, § 501(a), 68 Stat. 1140.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 93, 1 Stat. 698.

AMENDMENTS

1954—Act Sept. 1, 1954, exempted undocumented pleasure vessels of the United States from clearance requirements.

1938—Act June 16, 1938, added the proviso and all that follows thereafter.

1935—Act Aug. 5, 1935, substituted the second sentence for "If any vessel bound to a foreign port departs on her voyage to such foreign port without delivering such manifest and obtaining a clearance, as required, the master or other person having the charge or command of such vessel shall be liable to a penalty of $500 for every such offense."

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment of section by act Sept. 1, 1954, effective on and after the thirtieth day following Sept. 1, 1954, see note set out under section 160 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CONSTRUCTION WITH OTHER LAWS

Section 3 of act June 16, 1938, provided that the amendments to this section and section 92 of this title, by sections 1 and 2 of the act, should not affect any other existing law.

CROSS REFERENCES

Bond to deliver cargo at destination named in clearance and to prohibit its use in aiding or comforting persons in insurrection against United States, see section 225 of Title 50, War and National Defense.

Refusing clearance to vessels with suspected cargoes intended for port in possession or under control of insurgents against United States, see section 224 of Title 50, War and National Defense.

Vessels ariving at ports of United States, manifest, requirement, form, and contents, see section 1431 et seq., of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 817d, 817e of this title; title 18 section 965.

§ 91a. Performance of duties of master by licensed deck officer or purser.

Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided,* That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels. (May 4, 1934, ch. 212, 48 Stat. 663.)

CODIFICATION

Section also was formerly set out as section 1435a of Title 19, Customs Duties.

§ 92. Repealed. Pub. L. 87–826, § 3, Oct. 15, 1962, 76 Stat. 953.

Section, R.S. § 4200; acts June 16, 1938, ch. 476, § 2, 52 Stat. 759; June 29, 1938, ch. 821, 52 Stat. 1248; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1961, Pub. L. 87–191, § 1, 75 Stat. 419, related to manifests of shippers. See section 301 et seq. of Title 13, Census.

EFFECTIVE DATE OF REPEAL

Section repealed effective 180 days after Oct. 15, 1962, except that the requirement for oaths in this section shall be repealed Oct. 15, 1962, see section 4 of Pub. L. 87–826, set out as a note under section 301 of Title 13, Census.

SAVINGS PROVISIONS

See section 3 of Pub. L. 87–826, set out as a note under former section 173 of Title 15, Commerce and Trade.

§ 93. Form of manifest.

The form of the report and manifest to be delivered to the collector shall be as follows:

Report and manifest of the cargo laden at the port of on board the , master, bound for port

Marks	Numbers	Packages or articles in bulk	Contents or quantities	Value at the port of exportation

(R. S. § 4199.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 93, 1 Stat. 698

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 94. Oath of master.

The oath to be taken by the master or commander of the vessel shall be as follows:

District of

I (insert the name), master or commander of the (insert the denomination and name of the vessel), bound from the port of (insert the name of the port or place sailing from) to (insert the name of the port or place bound to), do solemnly, sincerely, and truly swear (or affirm, as the case may be) that the manifest of the cargo on board the said (insert denomination and name of the vessel), now delivered by me to the collector of this district, and subscribed with my name, contains, according to the best of my knowledge and belief, a full, just, and true account of all the goods, wares, and merchandise now actually laden on board the said vessel, and of the value thereof; and if any other goods, wares, or merchandise shall be laden or put on board the said (insert denomination and name of vessel) previous to her sailing from this port, I will immediately report the same to the said collector. I do also swear (or affirm) that I verily believe the duties on all the foreign merchandise therein specified have been paid or secured, according to law, and that no part thereof is intended to be relanded within the United States, and that if by distress or other unavoidable accident it shall become necessary to reland the same, I will forthwith make a just and true report thereof to the collector of the customs of the district wherein such distress or accident may happen. So help me God. (R. S. § 4198.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 93, 1 Stat. 698.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 965.

§ 95. Repealed. Pub. L. 87-826, § 3, Oct. 15, 1962, 76 Stat. 953.

Section, acts Apr. 29, 1902, ch. 637, 32 Stat. 172; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; May 17, 1932, ch. 190, 47 Stat. 158; 1946 Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Apr. 7, 1948, ch. 177, 62 Stat. 161, related to manifests in insular trade. See section 301 et seq. of Title 13, Census.

EFFECTIVE DATE OF REPEAL

Repeal of section effective 180 days after Oct. 15, 1962, see section 4 of Pub. L. 87-826, set out as a note under section 301 of Title 13, Census.

SAVINGS PROVISIONS

See section 3 of Pub. L. 87-826, set out as a note under former section 173 of Title 15, Commerce and Trade.

§ 96. Form of clearance.

The form of a clearance, to be granted to a ship or vessel on her departure to a foreign port or place, shall be as follows:

District of , ss,

Port of :

These are to certify all whom it doth concern, that , master or commander of the , burden tons, or thereabouts, mounted with guns, navigated with men built, and bound for , having on board , hath here entered and cleared his said vessel according to law. Given under our hands and seals, at the customhouse of , this day of , one thousand , and in the year of the Independence of the United States of America. (R. S. § 4201.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 93, 1 Stat. 699.

§ 97. State inspection laws.

The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs. (R. S. § 4202.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 93, 1 Stat. 699.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of

1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 98. Conveyance of bullion, coin, notes, or bonds for United States.

All vessels belonging to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States, shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities, as the Government of the United States or any department thereof, or any minister, consul, vice consul, or other agent of the United States abroad, shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees, on arriving at the port of destination; and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business. (R. S. § 4204; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act July 4, 1864, ch. 249, § 10, 13 Stat. 392.

CODIFICATION

The words "or commercial" following "vice consul," were omitted from the code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

§ 99. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section, R. S. § 4205, related to the clearance of vessels laden in whole or in part with live-oak timber.

§ 100. Payment of fees on vessels outward bound.

Previous to a clearance being granted to any vessel, outward bound, the legal fees which shall have accrued on such vessel shall be paid at the offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before a clearance is granted. (R. S. § 4206.)

DERIVATION

Acts Mar. 3, 1797, ch. 9, § 5, 1 Stat. 503; Mar. 2, 1799, ch. 22, § 93, 1 Stat. 699.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Certain fees for certain services to vessels abolished, see section 331 of this title.

§ 101. Statement of consular services performed without fee filed.

It shall be the duty of all masters of vessels for whom any official services shall be performed by any consular officer, without the payment of a fee, to require a written statement of such services from such consular officer, and, after certifying as to whether such statement is correct, to furnish it to the collector of the district in which such vessels shall first arrive on their return to the United States; and if any such master of a vessel shall fail to furnish such statement, he shall be liable to a fine of not exceeding $50, unless such master shall state under oath that no such statement was furnished him by said consular officer. And it shall be the duty of every collector to forward to the Secretary of the Treasury all such statements as shall have been furnished to him, and also a statement of all certified invoices which shall have come to his office, giving the dates of the certificates, and the names of the persons for whom and of the consular officer by whom the same were certified. (R. S. § 4213; June 26, 1884, ch. 121, § 13, 23 Stat. 56.)

DERIVATION

Act Aug. 18, 1856, ch. 127, § 18, 11 Stat. 59.

CODIFICATION

Act June 26, 1884, amended R.S. 4213 by substituting "Secretary of the Treasury" for "Comptroller General".

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Fees for services to American vessels or seamen prohibited, see section 1186 of Title 22, Foreign Relations and Intercourse.

§ 102. Steamboats on Lake Champlain.

The master or person having charge or command of any steamboat on Lake Champlain, when going from the United States into the Province of Quebec, may deliver a manifest of the cargo on board, and take a clearance from the collector of the district through which any such boat shall last pass, when leaving the United States, without regard to the place from which any such boat shall have commenced her voyage, or where her cargo shall have been taken on board. (R. S. § 4208.)

DERIVATION

Acts Mar. 3, 1817, ch. 109, § 3, 3 Stat. 396; May 6, 1822, ch. 56, § 4, 3 Stat. 681.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 103. Pleasure yachts; license; entry and clearance; restrictions.

The Commissioner of Customs may cause yachts used and employed exclusively as pleasure vessels or designed as models of naval architecture, if built and owned so as to be entitled to registry and the benefits thereof as vessels of the United States if such vessels were merchant vessels, to be licensed on terms which will authorize them to proceed from port to port of the United States and to foreign ports without entering or clearing at the customhouse; such license shall be in such form as the Commissioner of Customs may prescribe. Such vessels, so enrolled and licensed, shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall have their name and port placed on some conspicuous portion of their hulls. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this chapter. (R. S. § 4214; Mar. 3, 1883, ch. 133, § 1, 22 Stat. 566; Jan. 16, 1895, ch. 24, § 4, 28 Stat. 625; Aug. 20, 1912, ch. 307, § 1, 37 Stat. 315; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts Aug. 7, 1848, ch. 141, § 2, 9 Stat. 274; June 29, 1870, ch. 170, § 1, 16 Stat. 170.

REFERENCES IN TEXT

In the original "this chapter" reads "this title", meaning title XLVIII of the Revised Statutes. For distribution of the title (R.S. §§ 4131—4305) in this Code, see Tables.

CODIFICATION

The section, as enacted in the Revised Statutes, was as follows:

"The Secretary of the Treasury may cause yachts used and employed exclusively as pleasure-vessels, and designed as models of naval architecture, if entitled to be enrolled as American vessels, to be licensed on terms which will authorize them to proceed from port to port of the United States, and by sea to foreign ports, without entering or clearing at the customhouse. Such license shall be in such form as the Secretary of the Treasury may prescribe. The owner of any such vessel, before taking out such license, shall give a bond, in such form and for such amount as the Secretary of the Treasury shall prescribe, conditioned that the vessel shall not engage in any unlawful trade, nor in any way violate the revenue laws of the United States, and shall comply with the laws in all other respects. Such vessels so enrolled and licensed shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this Title."

It was amended by act Mar. 3, 1883, principally by the addition of a proviso, as follows:

"That all charges for licenses and inspection fees for any pleasure vessel or yacht shall not exceed five dollars, and for admeasurement shall not exceed ten cents per ton." That act also substituted the words "if built and owned in compliance with the provisions of sections forty-one hundred and thirty-three to forty-one hundred and thirty-five," for the words "if entitled to be enrolled as American vessels."

Act Mar. 3, 1883, was amended by act Jan. 16, 1895, to conform to the provisions of that section. See section 107 of this title.

These amendments were superseded by the further amendment of this section by act Aug. 20, 1912, by substituting for the Secretary of the Treasury the Secretary of Commerce and Labor, omitting the provision requiring the owner of the vessel to give bond, and omitting the proviso added by said previous amendment.

R.S. §§ 4133 to 4135, mentioned in the section prior to its incorporation into the Code, prescribed the vessels which should not be entitled to be registered or, if registered, to the benefits of registry. Sections 4133 and 4134 were repealed by act Mar. 3, 1897, ch. 389, § 16, 29 Stat. 691 and, upon incorporation of this section in the Code the words "if built and owned so as to be entitled to registry and the benefits thereof as vessels of the United States if such vessels were merchant vessels" were substituted for the reference to those sections.

Upon incorporation into the Code, the words "Secretary of Commerce" were also substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 104. Reciprocal exemption of foreign yachts from charges and tonnage taxes; licenses.

Whenever it shall be made to appear to the satisfaction of the President of the United States that yachts used and employed exclusively as pleasure vessels and belonging to any resident of the United States are allowed to arrive at and depart from any foreign port and to cruise in the waters of such port without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes or charges for cruising licenses, the Commissioner of Customs may authorize and direct the customs authorities at the various ports of entry of the United States to allow yachts from such foreign port used and employed exclusively as pleasure vessels to arrive at and depart from any port of the United States and to cruise in waters of the United States without the payment of any charges for entering or clearing, dues, duty per ton, or tonnage taxes, but the Commissioner of Customs may, in his discretion, direct that such foreign yachts shall be required to obtain licenses to cruise, in a form prescribed by him, before they shall be allowed under the provisions of this section to cruise in waters of the United States. Such licenses shall be issued without cost to such yachts and shall prescribe such limitations as to length of time, direction, and place of cruising and

action, and such other particulars as the Commissioner of Customs may deem proper. (May 28, 1908, ch. 212, § 5, 35 Stat. 425; Aug. 5, 1909, ch. 6, § 37, 36 Stat. 112; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; June 26, 1948, ch. 673, 62 Stat. 1051.)

CODIFICATION

This section was not amended or repealed by section 36 of the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, 36 Stat. 111, relating to tonnage duties, but so much of it as related to yachts built outside the United States and owned by citizens of the United States was repealed by section 37 of that act, which was itself repealed by the Underwood Tariff Act of Oct. 13, 1913, ch. 16, § IV, S, 38 Stat. 201.

The words "and subports" and "or subport" following "various ports" and "arrive at and depart from any port" respectively, were omitted from the Code.

By subdivision II of the President's plan of reorganization of the Custom Service under the grant of authority contained in act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 434, subports of entry not therein designated ports of entry were abolished and the use of the term "subport of entry" was discontinued.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913.

AMENDMENTS

1948—Act June 26, 1948, removed the discrimination against yachts which do not belong to "regularly organized yacht clubs".

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see Ex. Ord. No. 10289, September 17, 1951, 16 F. R. 9499, set out as a note under section 301 of Title 3, The President.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Provisions relating to tonnage duties, see section 121 et seq. of this title.

§ 105. Commissions to yachts.

For the identification of yachts and their owners, a commission to sail for pleasure in any designated yacht belonging to any regularly organized and incorporated yacht club, stating the exemptions and privileges enjoyed under it, may be issued by the Commissioner of Customs, and shall be a token of credit to any United States official, and to the authorities of any foreign power, for privileges enjoyed under it. (R. S. § 4217; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 29, 1870, ch. 170, § 3, 16 Stat. 170.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 106. Repealed. Sept. 1, 1954, ch. 1213, title V, § 501 (c), 68 Stat. 1140.

Section, R.S. § 4218; acts Aug. 20, 1912, ch. 307, § 1, 37 Stat. 315; Aug. 5, 1935, ch. 438, title III, § 311, 49 Stat. 528, related to entry of yachts on return from foreign countries and delivery of manifest of dutiable articles, and is now covered by section 1441(3) of Title 19, Customs Duties.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on and after the thirtieth day following Sept. 1, 1954, see note set out under section 160 of Title 19, Customs Duties.

§ 107. Licensed yacht must comply with law.

No licensed yacht shall engage in any trade, nor in any way violate the revenue laws of the United States; and every such yacht shall comply with the laws in all respects. (Jan. 16, 1895, ch. 24, § 4, 28 Stat. 625.)

CROSS REFERENCES

Pleasure yachts, license, entry and clearance, see section 103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 108 of this title.

§ 108. Penalty for violation.

Any master or owner violating the provisions of section 107 of this title shall be liable to the penalty of $200, in addition to any other penalty imposed

by law. The Commissioner of Customs shall have power to remit or mitigate any such penalty if in his opinion it was incurred without negligence or intention of fraud. (Jan. 16, 1895, ch. 24, § 5, 28 Stat. 625; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 109. Signals for yachts.

All licensed yachts shall use a signal of the form, size, and colors prescribed by the Secretary of the Navy; and the owners thereof shall at all times permit the naval architects in the employ of the United States to examine and copy the models of such yachts. (R. S. § 4215.)

DERIVATION

Act Aug. 7, 1848, ch. 141, § 3, 9 Stat. 274.

CROSS REFERENCES

Private signals of vessels generally and registry thereof, section 49 of this title.

§ 110. Entry of ferryboats.

Vessels used exclusively as ferryboats carrying passengers, baggage, and merchandise, shall not be required to enter and clear, nor shall the masters of such vessels be required to present manifests, or to pay entrance or clearance fees, or fees for receiving or certifying manifests, but they shall, upon arrival in the United States, be required to report such baggage and merchandise to the proper officer of the customs according to law. (R. S. § 2792.)

DERIVATION

Act June 4, 1872, ch. 280, 17 Stat. 214.

CODIFICATION

The provisions incorporated in this section are also set forth, in part, in section 289 of Title 19, Customs Duties.

Act May 28, 1908, ch. 212, § 1, 35 Stat. 424 added a provision to R.S. § 2792 which is incorporated in sections 112 and 124 of this title, and section 289 of Title 19, Customs Duties.

CROSS REFERENCES

Provisions similar to those of this section so far as it relates to entries, and provisions requiring a report of baggage and merchandise to the collector within 24 hours after arrival, see section 1441 of Title 19, Customs Duties.

§ 111. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers.

Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Commissioner of Customs may prescribe, notwithstanding any other provisions of law: *Provided,* That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel. (R. S. § 2793; Sept. 25, 1941, ch. 423, 55 Stat. 733; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Res. Feb. 10, 1871, No. 27, § 2, 16 Stat. 595.

CODIFICATION

Provisions of this section are also set out as section 288 of Title 19, Customs Duties.

Provision of R.S. § 2793 respecting tonnage duties is set out as section 123 of this title.

AMENDMENTS

1941—Act Sept. 25, 1941, added exception and proviso at end of section.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Vessels not required to make entry, see section 1441 of Title 19, Customs Duties.

§ 112. Passenger vessels trading between ports of United States and foreign ports.

Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from entrance and clearance fees while such service triweekly or oftener is maintained. (R. S. § 2792; May 28, 1908, ch. 212, § 1, 35 Stat. 424.)

DERIVATION

Act June 4, 1872, ch. 280, 17 Stat. 214.

CODIFICATION

The provision which was added to R.S. § 2792 by act May 28, 1908 and which is incorporated in this section is also set forth, in part, in section 124 of this title and section 289 of Title 19, Customs Duties.

Provisions of R.S. § 2792 as originally enacted are set out in section 110 of this title and, in part, in section 289 of Title 19, Customs Duties.

CROSS REFERENCES

Vessels not required to make entry, see section 1441 of Title 19, Customs Duties.

§ 113. Vessels making daily trips on interior waters.

In cases of vessels making regular daily trips between any port of the United States and any port in the Dominion of Canada, wholly upon interior waters not navigable to the ocean, no clearance fees shall be charged against such vessel by the officers of the United States, except upon the first clearing of such vessel in each year. (R. S. § 4221.)

DERIVATION

Act Mar. 3, 1869, ch. 125, § 3, 15 Stat. 322.

CODIFICATION

Provision of R.S. § 4221 respecting tonnage duties is set out as section 125 of this title.

Chapter 4.—TONNAGE DUTIES

Sec.
121. Amount of tonnage duties.
122. Coasting and fishing vessels.
123. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers.
124. Passenger vessels trading between ports of United States and foreign ports.
125. Vessels making daily trips on interior waters.
126. Vessels touching at Canadian ports.
127. Tonnage taxes on foreign vessels coming from Philippines.
128. Light money.
129. Exemption of unregistered vessels owned by citizens.
130. Vessels owned by citizens of Philippines.
131. Rights of Cuban vessels.
132. Vessels not entering by sea.
133. Hospital ships in time of war.
134. Designation by President of hospital ships exempted.
135. Rights under treaties preserved.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 121. Amount of tonnage duties.

Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton, and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

A tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port, not, however, to include vessels in distress or not engaged in trade.

Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: *Provided,* That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter and trade, there shall be paid a duty at the rate of $2 per ton; and none of the duties on tonnage above mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton. (R. S. § 4219; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 250; June 26, 1884, ch. 121, § 14, 23 Stat. 57; Apr. 4, 1888, ch. 61, § 1, 25 Stat. 80; Aug. 5, 1909, ch. 6, § 36, 36 Stat. 111; Mar. 4, 1915, ch. 171, § 1, 38 Stat. 1193.)

DERIVATION

Acts July 20, 1790, ch. 30, § 1, 1 Stat. 135; Apr. 27, 1816, ch. 107, § 6, 3 Stat. 314; Jan. 14, 1817, ch. 3, § 1, 3 Stat. 344; Mar. 1, 1817, ch. 31, § 6, 3 Stat. 352; Mar. 3, 1817, ch. 50, 3 Stat. 369; May 31, 1830, ch. 219, § 1, 4 Stat. 425; July 14, 1862, ch. 163, § 15, 12 Stat. 558; June 28, 1864, ch. 170, 13 Stat. 201; Mar. 3, 1865, ch. 80, § 4, 13 Stat. 493.

CODIFICATION

The first and third paragraphs of this section, with the exception of the proviso in the third paragraph, are from R.S. § 4219.

A portion of that section omitted here provided that, in addition to the tonnage duty thereby imposed there should be paid a tax, at the rate of thirty cents per ton, on vessels entered at any custom house from any foreign port or place.

It was probably omitted as superseded and repealed by act June 26, 1884, as amended by acts June 19, 1886, ch. 421, § 11, 24 Stat. 81; Apr. 4, 1888, and Aug. 5, 1909.

Another portion of the original text, concerning the impairment of rights and privileges of foreign nations under laws and treaties was probably omitted as sufficiently covered by the similar provision near the end of the section.

The second paragraph is from act Aug. 5, 1909, § 36. Portions of that section omitted here, fixed the time of its taking effect, repealed R.S. § 4232, act June 19, 1886, ch. 421, §§ 11 and 12, 24 Stat. 81, and so much of R.S. § 4219 as conflicted therewith, and provided that it should not be construed to amend or repeal R.S. § 2792, as amended, act May 28, 1908, ch. 212, § 5, 35 Stat. 425, or R.S. § 2793. That section was expressly excepted from repeal by Underwood Tariff Act Oct. 13, 1913, ch. 16, § IV, S, 38 Stat. 201.

The proviso in the third paragraph is based on act Mar. 4, 1915. Other provisions of that section are given effect in section 128 of this title, and sections 128 and 131 of Title 19, Customs Duties. See the historical note to section 131 of Title 19.

So much of act June 19, 1886, ch. 421, § 11, 24 Stat. 81, as exempted any yacht built outside the United States, and owned, chartered or used by a citizen of the United States, from the payment of tonnage taxes, was repealed by act Feb. 5, 1897, ch. 167, § 2, 29 Stat. 511. Act June 19, 1886, having been repealed as above stated section 2 of act Feb. 5, 1897, ch. 167, is no longer operative.

Section 12 of act June 19, 1886, which was repealed by the Payne-Aldrich Tariff Act of Aug. 5, 1909, § 36, directed the President to cause the Governments of foreign countries, which, at any of their ports, imposed on American vessels a tonnage tax or light house dues, etc., to be informed of the provisions of section 11, and invited to co-operate with the Government of the United States in abolishing light house dues, etc.

R.S. § 4223, provided that the tonnage duty imposed on all vessels engaged in foreign commerce should be levied but once within a year, and that when paid no further tonnage tax should be collected within one year from the date of such payment, not being applicable, however, to foreign vessels entered in the United States from any foreign port, to and with which vessels of the United States were not ordinarily permitted to enter and trade.

R.S. § 4224, provided that vessels paying tonnage duties once a year should pay them at their first clearance from or entry at, according to priority, a custom house in the United States in each calendar year, but that it should not prevent customs officers from collecting such tonnage duty at the entry of vessels at their respective custom houses during the calendar year if the same had not previously been paid for such year.

Both these sections were repealed by act June 26, 1884, as amended by act June 19, 1886, ch. 421, § 11, 24 Stat. 81.

Act June 19, 1878, ch. 318, 20 Stat. 171, amended R.S. § 2931, by providing that it should not apply to cases of the payment of tonnage tax on vessels where the Secretary of the Treasury and the Attorney General were satisfied that the exaction of the tax was in contravention of treaty provisions. R.S. § 2931, which provided for an appeal to the Secretary of the Treasury from the decision of the collector of customs as to the rate and amount of tonnage duties, etc., was repealed by act June 10, 1890, ch. 407, § 29, 26 Stat. 141. Act June 19, 1878, further provided that the Secretary of the Treasury might draw his warrant for the refund of taxes so illegally exacted, as provided for by R.S. § 3012½. R.S. § 3012½, was also repealed by act June 10, 1890, § 29. By the repeal of R.S. §§ 2931, 3012½, act June 19, 1878, ch. 318, became inoperative.

Act Feb. 10, 1900, ch. 15, § 2, 31 Stat. 27, authorized the Secretary of the Treasury to refund tonnage taxes and light dues imposed on vessels owned by citizens of Cuba entering ports of the United States since Apr. 11, 1899, which had been in excess of the taxes prescribed by act June 19, 1886, ch. 421, § 11, 24 Stat. 81. It was doubtless omitted from the code as executed.

R.S. § 4232, repealed by the same section, provided that mail steamships employed in the mail-service between the United States and Brazil, should be exempt from all port charges and customs dues at the port of departure and arrival in the United States, if and so long as a similar immunity from port charges and custom-house charges was granted by the government of Brazil.

Section 37 of act Aug. 5, 1909, which provided for a tonnage tax on foreign built yachts, pleasure boats or vessels, not used or intended to be used for trade, owned, or chartered for more than six months by citizens of the United States, or, in lieu thereof, an ad valorem duty, and entitled such yachts, etc., upon payment thereof to all the privileges, subjected them to all the requirements prescribed by R.S. §§ 4214, 4215, 4217, 4218, and acts amendatory thereof, in the same manner as if they had been built in the United States, subjected such yachts, etc., to tonnage duty and light money only in the same manner as if they had been built in the United States, repealed so much of act May 28, 1908, ch. 212, § 5, 35 Stat. 425, as related to yachts built outside the United States and owned by citizens of the United States, and provided that the section should not apply to foreign built vessels admitted to American registry, was repealed by the Underwood Tariff Act of Oct. 13, 1913, ch. 16, § IV, S, 38 Stat. 201.

Act June 5, 1920, ch. 250, § 34, 41 Stat. 1007, directed the President to give notice to terminate provisions of treaties or conventions restricting the right of the United States to impose discriminating customs duties and tonnage dues. It was doubtless omitted as temporary and executed.

NON LIABILITY OF CUSTOMS COLLECTORS AND VESSELS BEFORE OCT. 1, 1940

Act May 16, 1947, ch. 71, 61 Stat. 97, made collectors of customs and vessels themselves not liable for failure to collect special tonnage duties or light money under this section or section 128 of this title in connection with the entry prior to Oct. 1, 1940, of any foreign vessel from a foreign port.

CROSS REFERENCES

Cuban vessels, rights of, see section 131 of this title.

Hospital ships in time of war, see section 133 of this title.

Suspension of operation of section by President, see section 141 of this title.

Vessels evading provisions relating to transportation between ports in the United States by foreign vessels, tonnage duties on, see section 1588 of Title 19, Customs Duties.

Vessels not entering by sea to be exempt from tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, see section 132 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 141 of this title.

§ 122. Coasting and fishing vessels.

No vessel belonging to any citizen of the United States, trading from one port within the United States to another port within the United States, or employed in the bank, whale, or other fisheries, shall be subject to tonnage tax or duty, if such vessel be licensed, registered, or enrolled. (R. S. § 4220.)

DERIVATION

Acts July 14, 1870, ch. 255, § 25, 16 Stat. 269; Apr. 18, 1874, ch. 110, 18 Stat. 31.

CROSS REFERENCES

Registry of vessels, see section 11 et seq. of this title.

Regulation of vessels in domestic commerce, see chapter 12 of this title.

§ 123. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers.

Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of tonnage tax, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except

that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Commissioner of Customs may prescribe, notwithstanding any other provisions of law: *Provided,* That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel. (R. S. § 2793; Sept. 25, 1941, ch. 423, 55 Stat. 733; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Res. Feb. 10, 1871, No. 27, § 2, 16 Stat. 595.

CODIFICATION

Provision of R.S. § 2793 respecting payment of entry and clearance fee is set out as section 111 of this title, and section 288 of Title 19, Customs Duties.

AMENDMENTS

1941—Act Sept. 25, 1941, added exception and proviso at end of section.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26,

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Vessels not required to make entry, see section 1441 of Title 19, Customs Duties.

§ 124. Passenger vessels trading between ports of United States and foreign ports.

Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from tonnage taxes while such service triweekly or oftener is maintained. (R. S. § 2792; May 28, 1908, ch. 212, § 1, 35 Stat. 424.)

DERIVATION

Act June 4, 1872, ch. 280, 17 Stat. 214.

CODIFICATION

The provision which was added to R.S. § 2792 by act May 28, 1908, and which is incorporated in this section is also set forth in part in section 112 of this title and section 289 of Title 19, Customs Duties.

Provisions of R.S. § 2792 as originally enacted are set out in section 110 of this title and, in part, in section 289 of Title 19, Customs Duties.

§ 125. Vessels making daily trips on interior waters.

In cases of vessels making regular daily trips between any port of the United States and any port in the Dominion of Canada, wholly upon interior waters not navigable to the ocean, no tonnage fees shall be charged against such vessel by the officers of the United States, except upon the first clearing of such vessel in each year. (R. S. § 4221.)

DERIVATION

Act Mar. 3, 1869, ch. 125, § 3, 15 Stat. 322.

CODIFICATION

Provision of R.S. § 4221 respecting clearance fees is set out as section 113 of this title.

§ 126. Vessels touching at Canadian ports.

No consul or consular agent of the United States shall exact tonnage fees from any vessel of the United States, touching at or near ports in Canada, on her regular voyage from one port to another within the United States, unless such consul or consular agent shall perform some official services, required by law for such vessel when she shall thus touch at a Canadian port. (R. S. § 4222.)

DERIVATION

Res. July 20, 1868, No. 64, 15 Stat. 260.

CROSS REFERENCES

Consular fees for services to American vessels or seamen prohibited, see section 1186 of Title 22, Foreign Relations and Intercourse.

Powers, duties, and liabilities of consular officers generally, see section 1171 et seq. of Title 22.

§ 127. Tonnage taxes on foreign vessels coming from Philippines.

CODIFICATION

Section, act Apr. 29, 1908, ch. 152, § 2, 35 Stat. 70, which provided for levy and collection of tonnage taxes upon all foreign vessels coming into the United States from the Philippine Islands, is obsolete in view of the independence of the Philippine Islands proclaimed by the President of the United States in 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, set out in note under section 1394 of Title 22, Foreign Relations and Intercourse, and issued pursuant to that section.

§ 128. Light money.

A duty of 50 cents per ton, to be denominated "light money", shall be levied and collected on all vessels not of the United States which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: *Provided,* That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. (R. S. § 4225; Mar. 4, 1915, ch. 171, § 1, 38 Stat. 1193.)

DERIVATION

Act Mar. 27, 1804, ch. 57, § 6, 2 Stat. 300.

CODIFICATION

The proviso is from act Mar. 4, 1915. Other provisions of the act are given effect in section 121 of this title and sections 128 and 131 of Title 19, Customs Duties. See note under section 131 of Title 19.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 129 of this title.

§ 129. Exemption of unregistered vessels owned by citizens.

Section 128 of this title shall not be deemed to operate upon unregistered vessels, owned by citizens of the United States, and carrying regular documents, issued from a customhouse of the United States, proving the vessel to be American property. Upon the entry of every such vessel from any foreign port, if the same shall be at the port at which the owner or any of the part owners reside, such owner or part owners shall make oath that the document possessed by such vessel contains the name or names of all the persons who are then the owners of the vessel; or if any part of such vessel has been sold or transferred since the date of such document, that such is the case, and that no foreign subject or citizen has, to the best of his knowledge and belief, any share, by way of trust, confidence, or otherwise, in such vessel. If the owner or any part owner does not reside at the port or place at which such vessel shall enter, then the master shall make oath to the like effect. If the owner or part owner, where there is one, or the master, where there is no owner, shall refuse to so swear, such vessel shall not be entitled to the privileges granted by this section. (R. S. § 4226.)

DERIVATION

Act Mar. 3, 1805, ch. 40, 2 Stat. 339.

SEA LETTERS, USE DISCONTINUED

As originally enacted this section contained a reference to vessels carrying sea letters. The use of such documents was discontinued by Presidential proclamation on Apr. 10, 1815.

§ 130. Vessels owned by citizens of Philippines.

CODIFICATION

Section, act July 1, 1916, ch. 209, § 1, 39 Stat. 286, which related to exemption from tonnage taxes and light dues of vessels owned by citizens of the Philippine Islands, is obsolete in view of the independence of the Philippines, effective July 4, 1946. See 1946 Proc. No. 2695, July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, set out in note under section 1394 of Title 22, Foreign Relations and Intercourse.

§ 131. Rights of Cuban vessels.

Vessels owned by citizens of Cuba and documented as such shall be entitled in ports of the United States to the rights and privileges of vessels of the most favored nation, and they and their cargoes shall be subject to no higher charges in ports of the United States than are imposed on the vessels and cargoes of the most favored nation in the same trade. (Feb. 10, 1900, ch. 15, § 1, 31 Stat. 27.)

CODIFICATION

Section 2 of act Feb. 10, 1900, authorized a refund of taxes and dues previously imposed in excess of those prescribed by act June 19, 1886, ch. 421, § 11, 24 Stat. 81. See note under section 121 of this title.

§ 132. Vessels not entering by sea.

Vessels entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year. (Mar. 8, 1910, ch. 86, 36 Stat. 234.)

CODIFICATION

The original text of this section referred to "the tonnage duty of two cents per ton, not to exceed in the aggregate ten cents per ton in any one year, prescribed by section thirty-six of the Act approved August fifth, nineteen hundred and nine, entitled 'An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.' "

The pertinent provisions of act Aug. 5, 1909, ch. 6, § 36, 36 Stat. 111, so referred to, are incorporated in section 121 of this title.

§ 133. Hospital ships in time of war.

Hospital ships, concerning which the conditions set forth in articles 1, 2, and 3 of the convention concluded at The Hague on July 29, 1899, for the adaptation to maritime warfare of the principles of the Geneva convention of August 22, 1864, are fulfilled, shall, in the ports of the United States and the possessions thereof, be exempted, in time of war, from all dues and taxes imposed on vessels by the laws of the United States, and from all pilotage charges. (Mar. 24, 1908, ch. 96, § 1, 35 Stat. 46.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 134 of this title.

§ 134. Designation by President of hospital ships exempted.

The President of the United States shall by proclamation name the hospital ships to which section 133 of this title shall apply, and shall indicate the time when the exemptions provided for shall begin and end. (Mar. 24, 1908, ch. 96, § 2, 35 Stat. 46.)

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see Ex. Ord. No. 10289, September 17, 1951, 16 F. R. 9499, set out as a note under section 301 of Title 3, The President.

§ 135. Rights under treaties preserved.

Nothing contained in this chapter shall be deemed in anywise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels, or any other duty on vessels. (R. S. § 4227.)

DERIVATION

Acts Apr. 27, 1816, ch. 107, § 6, 3 Stat. 314; Jan. 14, 1817, ch. 3, § 1, 3 Stat. 344; July 14, 1862, ch. 163, § 15, 12 Stat. 558.

REFERENCES IN TEXT

In the original "this chapter" reads "this Title", meaning title XLVIII, sections 4131—4305, of the Revised Statutes, for distribution of which, see Tables.

Chapter 5.—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

Sec.
141. Suspension by President.
142. Retaliatory suspension of commercial privileges to foreign vessels.
143. Retaliation on denial of rights to United States vessels in British North America.
144. Suspension of free passage through Saint Marys Falls Canal; tolls.
145. Collection of tolls.
146. Discriminating duty on merchandise imported in foreign vessels.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 141. Suspension by President.

Upon satisfactory proof being given to the President, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are

imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation, or from any other foreign country; the suspension to take effect from the time of such notification being given to the President, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, shall be continued, and no longer: *Provided,* That the President is authorized to suspend in part the operation of sections 121 and 146 of this title so that foreign vessels from a country imposing partial discriminating tonnage duties upon American vessels, or partial discriminating import duties upon American merchandise, may enjoy in our ports the identical privileges which the same class of American vessels and merchandise may enjoy in said foreign country. (R. S. § 4228; July 24, 1897, ch. 13, 30 Stat. 214.)

DERIVATION

Acts May 24, 1828, ch. 111, § 1, 4 Stat. 308; May 31, 1830, ch. 219, § 2, 4 Stat. 425; July 13, 1832, ch. 207, § 3, 4 Stat. 579.

CODIFICATION

Act July 24, 1897, added the proviso.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see Ex. Ord. No. 10289, September 17, 1951, 16 F. R. 9499, set out as a note under section 301 of Title 3, The President.

NATIONS WHOSE VESSELS ARE EXEMPTED

Nations whose vessels are exempted by treaties or Presidential proclamations from the payment of any higher tonnage duties than are applicable to vessels of the United States, and are exempted from the payment of light money, see 19 C. F. R. § 4.22.

PROC. NO. 2992. KOREA

Proc. No. 2992, Oct. 13, 1952, 17 F.R. 9150, 67 Stat. c15, provided:

Now, therefore, I, Harry S. Truman, President of the United States of America, by virtue of the authority vested in me by the above-quoted statutory provisions [this section] do hereby declare and proclaim that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued so far as respects the vessels of Korea and the produce, manufactures, or merchandise imported in said vessels into the United States from Korea or from any other foreign country; the suspension to take effect from October 1, 1952, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued, and no longer.

CROSS REFERENCES

Discriminating duty on goods imported in foreign vessels, exception, see section 128 of Title 19, Customs Duties.

§ 142. Retaliatory suspension of commercial privileges to foreign vessels.

Whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is authorized to issue his proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel, and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this section, or aiding and abetting any other person in such opposition, shall forfeit $800, and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years. (June 19, 1886, ch. 421, § 17, 24 Stat. 82.)

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Principals, see section 2 of Title 18.

§ 143. Retaliation on denial of rights to United States vessels in British North America.

Whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are or then lately have been unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights; or otherwise unjustly vexed or harassed in said waters, ports, or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places, in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favored nation, or shall be unjustly vexed or harassed, in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favored nation; or whenever the President of the United States shall be satisfied that any other vessels of the United

States, their masters, or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters, or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies as to the President shall seem proper), whether such vessel shall have come directly from said dominions on such destined voyage or by way of some port or place in such destined voyage elsewhere; and also to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion, apply such proclamation to any part or to all of the foregoing named subjects, and may revoke, qualify, limit, and renew such proclamation from time to time as he may deem necessary to the full and just execution of the purposes of this section. Every violation of any such proclamation, or any part thereof, is declared illegal, and all vessels and goods so coming or being within the waters, ports, or places of the United States contrary to such proclamation shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may be enforced and proceeded upon. Every person who shall violate any of the provisions of this section, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court. (Mar. 3, 1887, ch. 339, 24 Stat. 475.)

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 144. Suspension of free passage through Saint Marys Falls Canal; tolls.

With a view of securing reciprocal advantages for the citizens, ports, and vessels of the United States, whenever and so often as the President shall be satisfied that the passage through any canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or the waterways connecting the same, of any vessels of the United States, or of cargoes or passengers in transit to any port of the United States, is prohibited or is made difficult or burdensome by the imposition of tolls or otherwise which, in view of the free passage through the Saint Marys Falls Canal, permitted to vessels of all nations, he shall deem to be reciprocally unjust and unreasonable, he shall have the power, and it shall be his duty, to suspend by proclamation to that effect, for such time and to such extent (including absolute prohibition) as he shall deem just, the right of free passage through the Saint Marys Falls Canal, so far as it relates to vessels owned by the subjects of the Government so discriminating against the citizens, ports, or vessels of the United States, or to any cargoes, portions of cargoes, or passengers in transit to the ports of the Government making such discrimination, whether carried in vessels of the United States or of other nations.

In such case and during such suspension tolls shall be levied, collected, and paid as follows, to wit: Upon freight of whatever kind or description, not to exceed $2 per ton; upon passengers, not to exceed $5 each, as shall be from time to time determined by the President: *Provided,* That no tolls shall be charged or collected upon freight or passengers carried to and landed at Ogdensburg, or any port west of Ogdensburg, and south of a line drawn from the northern boundary of the State of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of the State of Minnesota. (July 26, 1892, ch. 248, § 1, 27 Stat. 267.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 145 of this title.

§ 145. Collection of tolls.

All tolls charged under the provisions of section 144 of this title shall be collected under such regulations as shall be prescribed by the Commissioner of Customs, who may require the master of each vessel to furnish a sworn statement of the amount and kind of cargo and the number of passengers carried and the destination of the same, and such proof of the actual delivery of such cargo or passengers at some port or place within the limits above named as he shall deem satisfactory; and until such proof is furnished such freight and passengers may be considered to have been landed at some port or place outside of those limits, and the amount of tolls which would have accrued if they had been so delivered shall constitute a lien which may be enforced against the vessel in default wherever and whenever found in the waters of the United States. (July 26, 1892, ch. 248, § 2, 27 Stat. 268; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to act Feb. 14, 1903, which transferred certain powers and duties of the Secretary of the Treasury relating to merchant vessels and yachts to the Secretary of Commerce and Labor and act Mar. 4, 1913, which changed the designation of the Secretary of Commerce and Labor to "Secretary of Commerce."

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance

of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in these sections, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 146. Discriminating duty on merchandise imported in foreign vessels.

A discriminating duty of 10 per centum ad valorem, in addition to the duties imposed by law, shall be levied, collected, and paid on all goods, wares, and merchandise which shall be imported on vessels not of the United States; but this discriminating duty shall not apply to goods, wares, and merchandise which shall be imported in vessels not of the United States, entitled by treaty or any act of Congress, to be entered in the ports of the United States on payment of the same duties as shall then be paid on goods, wares, and merchandise imported in vessels of the United States, nor to goods, wares, and merchandise imported in a vessel owned by citizens of the United States, but not a vessel of the United States, if such vessel, after entering an American port, shall before leaving the same be registered as a vessel of the United States. (Oct. 3, 1913, ch. 16, § IV, J, subsec. 1, 38 Stat. 195; Mar. 4, 1915, ch. 171, § 1, 38 Stat. 1193; June 17, 1930, ch. 497, title IV, § 651 (d) (1), 46 Stat. 763.)

CODIFICATION

The provisions incorporated in this section, with portions of the original text omitted here, are set forth in section 128 of Title 19, Customs Duties.

This is from subsec. 1 of the Underwood Tariff Act of Oct. 3, 1913, § IV, J. It was expressly saved from repeal by section 321 of the Tariff Act of 1922 (chapter 3 of Title 19, Customs Duties), but was repealed in part by act Mar. 4, 1915. See note under section 128 of Title 19, Customs Duties.

Subsec. 1 of act Oct. 3, 1913, § IV, J, provided also for a discriminating duty on goods, wares and merchandise produced or manufactured in a foreign country not contiguous to the United States but coming into the United States from such contiguous country. That provision will be found in section 128 of Title 19.

R.S. § 2502 imposed a discriminating duty upon merchandise imported in foreign vessels. It was superseded by subsequent similar provisions in successive tariff acts, the latest of which is incorporated in this section.

Act June 5, 1920, ch. 250, § 34, 41 Stat. 1007, declaring it to be the judgment of Congress that provisions of treaties restricting the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and vessels of the United States, and discriminatory tonnage dues on foreign vessels, and on vessels of the United States, should be terminated, and directing the President to give notice to terminate them, was omitted from the code as temporary or executed.

REPEAL OR AMENDMENT; EXCEPTION

This section is expressly excepted from repeal or amendment by the Tariff Act of 1930 (act June 17, ch. 497, title IV, 46 Stat. 763) which provides in section 651 (d) as follows: "Nothing in this Act shall be construed to amend or repeal any of the following provisions of law: (1) Subsections 1 * * * of paragraph J of Section IV of the Act entitled 'An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes,' approved October 3, 1913 (relating to restrictions on importations in foreign vessels or through contiguous countries), as modified by the Act of March 4, 1915, chapter 171".

CROSS REFERENCES

Authority to suspend operation of section, see section 141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 141 of this title.

Chapter 6.—REGULATION AS TO VESSELS CARRYING STEERAGE PASSENGERS

Sec.
151. Accommodations for steerage passengers in vessels from foreign ports.
152. Berths for passengers.
153. Light, air, and accommodations for passengers.
154. Food.
155. Hospitals, surgeon, and medicine.
156. Discipline and cleanliness; space for exercise of passengers.
156a. Transportation of animals by vessels carrying steerage passengers.
157. Visiting parts of vessel occupied by passengers.
158. Boarding vessel on arrival; passenger lists.
159. Death of passengers; payment to collector for.
160. Inspection and examination of vessels; reports.
161. Vessels carrying emigrant passengers to foreign countries; withholding clearance papers.
162. Fines and penalties; lien on vessel; recovery.
163. Regulations as to boarding arriving vessels before inspection.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 151. Accommodations for steerage passengers in vessels from foreign ports.

It shall not be lawful for the master of any vessel whereon steerage passengers have been taken at any port or place in the foreign country or dominion (ports and places in foreign territory contiguous to the United States excepted) to bring such vessel and passengers to or take from any port or place in the United States unless the compartments, spaces, and accommodations hereinafter mentioned have been provided, allotted, maintained, and used for and by such passengers during the entire voyage, unobstructed by cargo, stores, or goods. The master of a vessel coming to a port or place in the United States in violation of any of the provisions of this section shall be deemed guilty of a misdemeanor; and if the number of steerage passengers carried or brought in the vessel, or in any compartment, space, poop, or deck house thereof, is greater than the number allowed to be carried or brought therein, respectively, as hereinafter prescribed, the said master shall be fined $50 for each and every such passenger in excess of the proper number, and may also be imprisoned not exceeding six months.

In computing the number of passengers carried or brought in any vessel, children under one year of age shall not be included, and two children between one and eight years of age shall be counted as one passenger; and any person brought in such vessel who shall have been, during the voyage, taken from any other vessel wrecked or in distress on the high seas, or have been picked up at sea from any boat, raft, or otherwise, shall not be included in such computation.

Second. The expression "steerage passenger" means all passengers except cabin passengers, and persons shall not be deemed cabin passengers unless the space allotted to their exclusive use is in the proportion of

at least thirty-six clear superficial feet to each passenger.

Third. The expression "lowest passenger deck" means the deck next below the water line; and the expression "passenger deck" includes every deck or portion of a deck which is above the lowest passenger deck, and is appropriated for passengers.

Fourth. A vessel shall not carry passengers, whether cabin or steerage passengers, on more than one deck below the water line.

Fifth. The height between that part of any deck on which steerage passengers are carried and the deck immediately above it shall not be less than six feet.

Sixth. No steerage passengers shall be carried on the lowest passenger deck unless it is efficiently lighted by side scuttles and otherwise to the satisfaction of the inspector.

Seventh. No greater number of steerage passengers shall be carried on the lowest passenger deck than in the proportion of one steerage passenger to every twenty-one clear superficial feet allotted to their use. If, however, the height between the lowest passenger deck and the deck immediately above it is less than seven feet, and the apertures, exclusive of side scuttles, through which light and air are admitted are less in size than in the proportion of three square feet to every one hundred superficial feet of that deck, no greater number of steerage passengers shall be carried on that deck than in the proportion of one steerage passenger to every thirty clear superficial feet thereof, subject to the allowance for measurement of public rooms, lavatories, and bathrooms, if any, provided for by paragraph 10 of this section.

Eighth. No greater number of steerage passengers may be carried on a passenger deck than in the proportion of one steerage passenger to every eighteen clear superficial feet of deck allotted to their use, subject to the allowance for measurement of public rooms, lavatories, and bathrooms, if any, provided for by paragraph 10 of this section. If, however, the height between any passenger deck and the deck immediately above it be less than seven feet, no greater number of steerage passengers may be carried on that deck than in the proportion of one steerage passenger to every twenty-one clear superficial feet thereof, subject to the allowance for measurement of public rooms, lavatories, and bathrooms, if any, provided for by paragraph 10 of this section.

Ninth. A vessel, whatever be the superficial space of the passenger decks and of the lowest passenger deck, shall not carry a greater number of steerage passengers on the whole than in the proportion of one steerage passenger to every five superficial feet of air or promenade space provided on a deck so open as not to be included in the tonnage and approved by the inspector, and this space shall not be counted or included in the area available for any other passengers, or in other areas for steerage passengers prescribed by this section.

Tenth. In the measurement of the passenger decks and of the lowest passenger deck, the space occupied by that part of the personal baggage of the steerage passengers which the inspector permits to be carried there shall be included, and also, on whatever deck located, commodious and suitable dining rooms, lounging rooms, smoking rooms, lavatories, toilet rooms, and bathrooms: *Provided*, That—

(a) The space in any place appropriated to the use of steerage passengers in which they sleep shall not be less than eighteen superficial feet in the case of the lowest passenger deck and fifteen superficial feet in the case of a passenger deck.

(b) Each space so included in the measurement must be clearly marked to the satisfaction of the inspector as being exclusively appropriated for the use of the steerage passengers.

Eleventh. Each separate compartment in which steerage passengers are berthed shall be conspicuously marked, showing the total area of such compartments. (Aug. 2, 1882, ch. 374, § 1, 22 Stat. 186; Dec. 19, 1908, ch. 6, § 1, 35 Stat. 583.)

PRIOR LAWS

R.S. §§ 4252–4277 contained provisions respecting subject matter covered by this chapter. Said sections were repealed by section 14 of act Aug. 2, 1882.

SHORT TITLE

Congress in enacting this chapter provided by section 14 of act Aug. 2, 1882, that it should be popularly known as the "Passenger Act of 1882".

IMMIGRANT PASSENGERS

Provisions different in some respects from those of this section as to the accommodations for immigrant passengers, were made by the Immigration Act of Feb. 20, 1907, ch. 1134, § 42, 34 Stat. 910, to take effect Jan. 1, 1909; but, before that date, said section 42, and so much of sections 43 and 44 of the same Act as provided for the repeal of this section of the Passenger Act of Aug. 2, 1882, were repealed by act Dec. 19, 1908.

CROSS REFERENCES

Explosives on vessels carrying steerage passengers, penalty, see section 2278 of Title 18, Crimes and Criminal Procedure.

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of said Title 18.

Provisions relating to immigration, see section 1151 et seq. of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 152. Berths for passengers.

Sufficient number required.—In every such steamship or other vessel there shall be a sufficient number of berths for the proper accommodation as hereinafter provided, of all such passengers.

Number of tiers; construction and occupancy.—There shall not be on any deck nor in any compartment or space occupied by such passengers more than two tiers of berths. The berths shall be properly constructed, and be separated from each other by partitions, as berths ordinarily are separated, and each berth shall be at least two feet in width and six feet in length; and the interval between the floor or lowest part of the lower tier of berths and the deck beneath them shall not be less than six inches, nor the interval between each tier of berths, and the interval between the uppermost tier and the deck above it, less than two feet six inches; and each berth shall be occupied by not more than one passenger over eight years of age; but double berths of twice the above-mentioned width may be provided, each double berth to be occupied by no more and by none other than two women, or by one woman and two children under the age of eight years, or by

husband and wife, or by a man and two of his own children under the age of eight years, or by two men personally acquainted with each other.

Berths for males.—All the male passengers upwards of fourteen years of age who do not occupy berths with their wives shall be berthed in the fore part of the vessel, in a compartment divided off from the space or spaces appropriated to the other passengers by a substantial and well-secured bulkhead.

Berths for unmarried females.—Unmarried female passengers shall be berthed in a compartment separated from the spaces occupied by other passengers by a substantial and well-constructed bulkhead, the opening or communication from which to an adjoining passenger space shall be so constructed that it can be closed and secured.

Families.—Families shall not be separated except with their consent.

Berths to be numbered.—Each berth shall be numbered serially, on the outside berth board, according to the number of passengers that may lawfully occupy the berth; and the berths occupied by such passengers shall not be removed or taken down until the expiration of twelve hours from the time of entry, unless previously inspected within a shorter period.

Penalties.—For any violation of either of the provisions of this section the master of the vessel shall be liable to a fine of $5 for each passenger carried or brought on the vessel. (Aug. 2, 1882, ch. 374, § 2, 22 Stat. 186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 153. Light, air, and accommodations for passengers.

Light and air.—Every such steamship or other vessel shall have adequate provision for affording light and air to the passenger decks and to the compartments and spaces occupied by such passengers, and with adequate means and appliances for ventilating the said compartments and spaces.

Ventilators.—To compartments having sufficient space for fifty or more of such passengers at least two ventilators, each not less than twelve inches in diameter, shall be provided, one of which ventilators shall be inserted in the forward part of the compartment, and the other in the after part thereof, and shall be so constructed as to ventilate the compartment; and additional ventilators shall be provided for each compartment in the proportion of two ventilators for each additional fifty of such passengers carried or brought in the compartment. All ventilators shall be carried at least six feet above the uppermost deck of the vessel, and shall be of the most approved form and construction. In any steamship the ventilating apparatus provided, or any method of ventilation adopted thereon, which has been approved by the proper emigration officers at the port or place from which said vessel was cleared, shall be deemed a compliance with the foregoing provisions.

Hatchways and companionways.—In all vessels carrying or bringing such passengers there shall be properly constructed hatchways over the compartments or spaces occupied by such passengers, which hatchway shall be properly covered with houses or booby hatches, and the combings or sills of which shall rise at least six inches above the deck; and there shall be proper companionways or ladders from each hatchway leading to the compartments or spaces occupied by such passengers; and the said companionways or ladders shall be securely constructed, and be provided with handrails or strong rope, and, when the weather will permit, such passengers shall have the use of each hatchway situated over the compartment or spaces appropriated to their use.

Caboose and cooking apparatus.—Every vessel carrying or bringing such passengers shall have a properly located and constructed caboose and cooking range, or other cooking apparatus, the dimensions and capacity of which shall be sufficient to provide for properly cooking and preparing the food of all such passengers.

Water-closets.—In every vessel carrying or bringing such passengers there shall be at least two water-closets or privies, and an additional water-closet or privy for every one hundred male passengers on board, for the exclusive use of such male passengers, and an additional water-closet or privy for every fifty female passengers on board, for the exclusive use of the female passengers and young children on board. The aforesaid water-closets and privies shall be properly inclosed and located on each side of the vessel, and shall be separated from passengers' spaces by substantial and properly constructed partitions or bulkheads; and the water-closets and privies shall be kept and maintained in a serviceable and cleanly condition throughout the voyage.

Penalties.—For any violation of either of the provisions of this section, or for any neglect to conform to the requirements thereof, the master of the vessel shall be liable to a penalty not exceeding $250. (Aug. 2, 1882, ch. 374, § 3, 22 Stat. 187.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 154. Food.

Allowance of.—An allowance of good, wholesome, and proper food, with a reasonable quantity of fresh provisions, which food shall be equal in value to one and a half Navy rations of the United States, and of fresh water, not less than four quarts per day, shall be furnished each of such passengers.

Number of meals per day.—Three meals shall be served daily, at regular and stated hours, of which hours sufficient notice shall be given.

Short allowance.—If any such passengers shall at any time during the voyage be put on short allowance for food and water, the master of the vessel shall pay to each passenger $3 for each and every day the passenger may have been put on short allowance, except in case of accidents, where the captain is obliged to put the passengers on short allowance.

Milk for infants.—Mothers with infants and young children shall be furnished the necessary quantity of wholesome milk or condensed milk for the sustenance of the latter.

Tables and seats.—Tables and seats shall be provided for the use of passengers at regular meals.

Penalties.—For every willful violation of any of the provisions of this section the master of the vessel shall be deemed guilty of a misdemeanor and shall

be fined not more than $500 and be imprisoned for a term not exceeding six months. The enforcement of this penalty, however, shall not affect the civil responsibility of the master and owners of the vessel to such passengers as may have suffered from any negligence, breach of contract, or default on the part of such master and owners. (Aug. 2, 1882, ch. 374. § 4, 22 Stat. 188.)

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Navy rations, see section 6081 et seq. of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 155. Hospitals, surgeon, and medicine.

In every such steamship or other vessel there shall be properly built and secured, or divided off from other spaces, two compartments or spaces to be used exclusively as hospitals for such passengers, one for men and the other for women. The hospitals shall be located in a space not below the deck next below the main deck of the vessel. The hospital spaces shall in no case be less than in the proportion of eighteen clear superficial feet for every fifty such passengers who are carried or brought on the vessel, and such hospitals shall be supplied with proper beds, bedding, and utensils, and be kept so supplied throughout the voyage. And every steamship or other vessel carrying or bringing emigrant passengers, or passengers other than cabin passengers, exceeding fifty in number, shall carry a duly qualified and competent surgeon or medical practitioner, who shall be rated as such in the ship's articles, and who shall be provided with surgical instruments, medical comforts, and medicines proper and necessary for diseases and accidents incident to sea voyages, and for the proper medical treatment of such passengers during the voyage, and with such articles of food and nourishment as may be proper and necessary for preserving the health of infants and young children; and the services of such surgeon or medical practitioner shall be promptly given, in any case of sickness or disease, to any of the passengers, or to any infant or young child of any such passengers, who may need his services. For a violation of either of the provisions of this section the master of the vessel shall be liable to a penalty not exceeding $250. (Aug. 2, 1882, ch. 374, § 5, 22 Stat. 188.)

CROSS REFERENCES

Merchant seamen, medicines for, see sections 666 and 667 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 156. Discipline and cleanliness; space for exercise of passengers.

The master of every such steamship or other vessel is authorized to maintain good discipline and such habits of cleanliness among such passengers as will tend to the preservation and promotion of health, and to that end he shall cause such regulations as he may adopt for such purpose to be posted up on board the vessel, in a place or places accessible to such passengers, and shall keep the same so posted up during the voyage. The said master shall cause the compartments and spaces provided for, or occupied by, such passengers to be kept at all times in a clean and healthy condition, and to be, as often as may be necessary, disinfected with chloride of lime, or by some other equally efficient disinfectant. Whenever the state of the weather will permit, such passengers and their bedding shall be mustered on deck, and a clear and sufficient space on the main or any upper deck of the vessel shall be set apart, and so kept, for the use and exercise of such passengers during the voyage. For each neglect or violation of any of the provisions of this section the master of the vessel shall be liable to a penalty not exceeding $250. (Aug 2, 1882, ch. 374, § 6, 22 Stat. 188.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 156a. Transportation of animals by vessels carrying steerage passengers.

Horses, cattle, or other animals taken on board of or brought in any such vessel shall not be carried on any deck below the deck on which passengers are berthed, nor in any compartment in which passengers are berthed, nor in any adjoining compartment except in a vessel built of iron and of which the compartments are divided off by watertight bulkheads extending to the upper deck. For every violation of any of the provisions of this section the master of the vessel shall be deemed guilty of a misdemeanor, and shall be fined not exceeding $1,000, and be imprisoned for a period not exceeding one year. (Aug. 2, 1882, ch. 374, § 8, 22 Stat. 189; June 25, 1948, ch. 645, § 17, 62 Stat. 862.)

CODIFICATION

Section comprises part of section 8 of act Aug. 2, 1882. Provisions of section 8, relating to carriage of explosives and other dangerous articles, formerly set out as section 171 of this title, were repealed by act June 25, 1948, which repeal, by section 20 of such act, became effective on Sept. 1, 1948.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 157. Visiting parts of vessel occupied by passengers.

Neither the officers, seamen, nor other persons employed on any such steamship or other vessel shall visit or frequent any part of the vessel provided or assigned to the use of such passengers, except by the direction or permission of the master of such vessel first made or given for such purpose; and every officer, seaman, or other person employed on board of such vessel who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and may be fined not exceeding $100, and be imprisoned not exceeding twenty days, for each violation; and the master of such vessel who directs or permits any officer, seaman, or other person employed on board the vessel to visit or frequent any part of the vessel provided for or assigned to the use of such passengers or the compartments or spaces occupied by such passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman,

or other person employed on board of the vessel, shall be deemed guilty of a misdemeanor, and may be fined not more than $100 for each time he directs or permits the provisions of this section to be violated. A copy of this section, written or printed in the language or principal languages of the passengers on board, shall, by or under the direction of the master of the vessel, be posted in a conspicuous place on the forecastle and in the several parts of the vessel provided and assigned for the use of such passengers, and in each compartment or space occupied by such passengers, and the same shall be kept so posted during the voyage; and if the said master neglects so to do, he shall be deemed guilty of a misdemeanor, and shall be fined not more than $100. (Aug. 2, 1882, ch. 374, § 7, 22 Stat. 189.)

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 158. Boarding vessel on arrival; passenger lists.

It shall not be lawful for the master of any such steamship or other vessel, not in distress, after the arrival of the vessel within any collection district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, agents of the vessel, and consuls, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers, with their baggage, have been duly landed from the vessel. On the arrival of any such steamship or other vessel within any collection district of the United States, the master shall submit for inspection to the officer of customs who first makes demand therefor, and shall subsequently deliver with his manifest of cargo on entry, a correct list, signed and verified on oath by the master, of all passengers taken on board the vessel at any foreign port or place, specifying, in the manner to be prescribed from time to time by the Commissioner of Customs, the name of each passenger, age (if a child of eight years or under), sex, married or single, location of compartment or space occupied during the voyage (if the passenger be other than a cabin passenger), whether a citizen of the United States, number of pieces of baggage, and if any passenger die on the voyage the list shall specify the name, age, and cause of death of each deceased passenger.

For a violation of either of the provisions of this section, or for permitting or neglecting to prevent a violation thereof, the master of the vessel shall be liable to a fine not exceeding $1,000. (Aug. 2, 1882, ch. 374, § 9, 22 Stat. 189; Feb. 9, 1905, ch. 564, § 1, 33 Stat. 711; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

The first sentence of the first paragraph, and the second paragraph, of this section, are from the first and third paragraphs of section 9 of act Aug. 2, 1882.

The words "On the arrival of any such steamship or other vessel within any collection district of the United States," in the second sentence are from the second paragraph of the same section. The rest of that sentence is from act Feb. 9, 1905, which provided for the list therein specified in lieu of the list prescribed by section 9 of the act of 1882.

Section 2 of act Feb. 9, 1905, provided that the Act should take effect July 1, 1905.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should thereafter be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Penalty for boarding vessels before arrival, see section 2279 of Title 18, Crimes and Criminal Procedure.

Regulations as to boarding arriving vessels before inspection, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections, 160, 161, 163 of this title.

§ 159. Death of passengers; payment to collector for.

In case there shall have occurred on board any such steamship or other vessel any death among such passengers during the voyage, the master or consignees of the vessel shall, within forty-eight hours after the arrival of the vessel within a collection district of the United States, or within twenty-four hours after the entry of the vessel, pay to the collector of customs of such district the sum of $10 for each and every such passenger above the age of eight years who shall have died on the voyage by natural disease; and the master or consignees of any vessel who neglect or refuse to pay such collector, within the times described, the sums of money aforesaid, shall be liable to a penalty of $50 in addition to the sum required to be paid as aforesaid for each passenger whose death occurred on the voyage. All sums of money paid to any collector under the provisions of this section shall be by him paid into the Treasury of the United States in such manner and under such regulations as shall be prescribed by the

Secretary of the Treasury. (Aug. 2, 1882, ch. 374, § 10, 22 Stat. 190.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 160. Inspection and examination of vessels; reports.

The collector of customs of the collection district within which, or the surveyor of the port at which, any such steamship or other vessel arrives, shall direct an inspector or other officer of the customs to make an examination of the vessel, and to admeasure the compartments or spaces occupied by the emigrant passengers, or passengers other than cabin passengers, during the voyage; and such measurement shall be made in the manner provided by law for admeasuring vessels for tonnage; and to compare the number of such passengers found on board with the list of such passengers furnished by the master to the customs officer; and the said inspector or other officer shall make a report to the aforesaid collector or surveyor, stating the port of departure, the time of sailing, the length of the voyage, the ventilation, the number of such passengers on board the vessel, and their native country, respectively; the cubic quantity of each compartment or space, and the number of berths and passengers in each space, the kind and quality of the food furnished to such passengers on the voyage; the number of deaths, and the age and sex of those who died during the voyage, and of what disease; and in case there was any unusual sickness or mortality during the voyage, to report whether the same was caused by any neglect or violation of the provisions of sections 151 to 162 and 171 of this title, or by the want of proper care against disease by the master or owners of the vessel; and the said reports shall be forwarded to the Commissioner of Customs at such times and in such manner as he shall direct. (Aug. 2, 1882, ch. 374, § 11, 22 Stat. 190; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

Section 171 of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 17, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2278 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to act Feb. 14, 1903, which transferred certain powers and duties of the Secretary of the Treasury relating to merchant vessels and yachts to the Secretary of Commerce and Labor and act Mar. 4, 1913, which changed the designation of the Secretary of Commerce and Labor to Secretary of Commerce.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 161 of this title.

§ 161. Vessels carrying emigrant passengers to foreign countries; withholding clearance papers.

The provisions of sections 151 to 162 and 171 of this title shall apply to every steamship or other vessel whereon emigrant passengers, or passengers other than cabin passengers, are taken on board at a port or place in the United States for conveyance to any port or place in a foreign country except foreign territory contiguous to the United States, and shall also apply to any vessel whereon such passengers are taken on board at any port or place of the United States on the Atlantic Ocean or its tributaries for conveyance to a port or place on the Pacific Ocean or its tributaries, or vice versa; and whether the voyage of said vessel is to be continuous from port to port or such passengers are to be conveyed from port to port in part by the way of any overland route through Mexico or Central America; and the said collector of customs may direct an examination of the vessel to be made by an inspector or other officer of the customs, who shall make the examination and report whether the provisions of said sections have been complied with in respect to such vessel, and the said collector is authorized to withhold the clearance of such vessel until the coming in of such report; and if the said report shall show that any of the provisions of said sections have not been complied with, the collector is authorized and directed to withhold the clearance of such vessel until the said provisions are complied with; and if any such vessel leaves the aforesaid port or place without having been duly cleared by the collector of customs, the master shall be deemed guilty of a misdemeanor, and may be fined not exceeding $1,000, and be imprisoned not exceeding one year, and the vessel shall be liable to seizure and forfeiture. (Aug. 2, 1882, ch. 374, § 12, 22 Stat. 191.)

REFERENCES IN TEXT

Section 171 of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 17, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2278 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 160 of this title.

§ 162. Fines and penalties; lien on vessel; recovery.

The amount of the several fines and penalties imposed by sections 151 to 162 and 171 of this title upon the master of any steamship or other vessel carrying or bringing emigrant passengers, or passengers other than cabin passengers, for any violation of the said provisions, shall be liens upon such vessel, and such vessel may be libeled therefor in any district court of the United States where such vessel shall arrive or depart. (Aug. 2, 1882, ch. 374, § 13, 22 Stat. 191; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCES IN TEXT

Section 171 of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 17, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2278 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Reference to circuit court was eliminated to conform to act Mar. 3, 1911, which provided that references to circuit courts should be deemed references to the district courts.

CROSS REFERENCES

Remitting, mitigating or refunding of penalties under laws relating to vessels, see sections 7 and 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 160, 161 of this title.

§ 163. Regulations as to boarding arriving vessels before inspection.

The Commissioner of Customs is authorized and directed to prescribe from time to time and enforce regulations governing the boarding of vessels arriving at the seaports of the United States, before such vessels have been properly inspected and placed in security, and for that purpose to employ any of the officers of the Bureau of Customs. Each person violating such regulations shall be subject to a penalty of not more than $100 or imprisonment not to exceed six months, or both, in the discretion of the court. This section shall be construed as supplementary to section 158 and section 708 of this title. (Mar. 31, 1900, ch. 120, §§ 1—3, 31 Stat. 58; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury," to conform to acts Feb. 14, 1903 and Mar. 4, 1913. See note under section 160 of this title.

Section 4 of act Mar. 31, 1900, provided that the act should take effect thirty days after its passage.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" and "the Bureau of Customs" for "that department" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Chapter 7.—CARRIAGE OF EXPLOSIVES OR DANGEROUS SUBSTANCES

Sec.
170. Regulation of carriage of explosives or other dangerous articles on vessels.
(1) Vessel defined.
(2) Passenger-carrying vessel defined.
(3) Transportation, etc., of certain explosives prohibited.
(4) Transportation, etc., of certain high explosives on passenger-carrying vessels prohibited; exceptions.
(5) Same; non-passenger-carrying vessels.
(6) Transportation, etc., of other explosives or other dangerous articles; exceptions.
(7) Regulations for protection against hazards created by explosives or other dangerous articles.
(8) Masters, owners, etc., required to refuse unlawful transportation of explosives or other dangerous articles.
(9) Publication of, hearings on, and effective date of proposed regulations.
(10) Tendering explosives or other dangerous articles for shipment without divulging true character or in violation of section.
(11) Exemption of vessels from section or regulations when compliance unnecessary for safety.
(12) Agencies charged with enforcement.
(13) Detention of vessels pending compliance with section and regulations; penalty for false swearing.
(14) Violation of section or regulations; penalty; liability of vessel.
(15) Same; increased penalty in event of personal injury or death.
(16) Transportation of motor vehicles carrying gasoline, etc.; penalty for violations.
170a. Same; use by vessels of launches, lifeboats, etc., employing combustible fuel; regulations.
170b. Same; appropriations.
171 to 179. Repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 170. Regulation of carriage of explosives or other dangerous articles on vessels.

(1) Vessel defined.

The word "vessel" as used in this section shall include every vessel, domestic or foreign, regardless of character, tonnage, size, service, and whether self-propelled or not, on the navigable waters of the United States, including its Territories and possessions, but not including the Panama Canal Zone, whether arriving or departing, or under way, moored, anchored, aground, or while in drydock; it shall not include any public vessel which is not engaged in commercial service, nor any vessel subject to the provisions of section 391a of this title, which is constructed or converted for the principal purpose of carrying inflammable or combustible liquid cargo in bulk in its own tanks: *Provided*, That the provisions of subsection (3) of this section shall apply to every such vessel subject to the provisions of section 391a of this title, which is constructed or converted for the principal purpose of carrying inflammable or combustible liquid cargo in bulk in its own tanks.

(2) Passenger-carrying vessel defined.

The phrase "passenger-carrying vessel" as used in this section, when applied to a vessel subject to any provision of the International Convention for Safety of Life at Sea, 1929, means a vessel which carries or is authorized to carry more than twelve passengers.

(3) Transportation, etc., of certain explosives prohibited.

It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any vessel fulminates or other detonating compounds in bulk in dry condition, or explosive compositions that ignite spontaneously or undergo marked decomposition when subjected for forty-eight consecutive hours to a temperature of one hundred and sixty-seven degrees Fahrenheit, or compositions containing an ammonium salt and a chlorate, or other like explosives.

(4) Transportation, etc., of certain high explosives on passenger-carrying vessels prohibited; exceptions.

It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any passenger-carrying vessel any high explosives such as, and including, liquid nitroglycerine, dynamite, trinitrotoluene, picrates, detonating fuzes, fireworks that can be exploded en masse, or other explosives susceptible to detonation by a blasting cap or detonating fuze, except ships' signal and emergency equipment, and samples of such explosives (but not including liquid nitroglycerine) for laboratory or sales purposes in restricted quantities as may be permitted by regulations of the Commandant of the Coast Guard established hereunder.

(5) Same; non-passenger-carrying vessels.

It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any vessel other than a passenger-carrying vessel, any high explosive referred to in subsection (4) of this section except as permitted by the regulations of the Commandant of the Coast Guard established hereunder.

(6) Transportation, etc., of other explosives or other dangerous articles; exceptions.

(a) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use (except as fuel for its own machinery) on board any vessel, except one specifically exempted by paragraph (b) of this subsection, any other explosives or other dangerous articles or substances, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles or substances, hazardous articles, and ships' stores and supplies of a dangerous nature, except as permitted by the regulations of the Commandant of the Coast Guard established hereunder: *Provided*, That all of the provisions of this subsection relating to the transportation, carrying, conveying, storing, stowing, or use of explosives or other dangerous articles or substances shall apply to the transportation, carrying, conveying, storing, stowing, or using on board any passenger vessel of any barrels, drums, or other packages of any combustible liquid which gives off inflammable vapors (as determined by flash-point in open cup tester as used for test of burning oil) at or below a temperature of one hundred and fifty degrees Fahrenheit and above eighty degrees Fahrenheit.

(b) This subsection shall not apply to—

(i) vessels not exceeding fifteen gross tons when not engaged in carrying passengers for hire;

(ii) vessels used exclusively for pleasure;

(iii) vessels not exceeding five hundred gross tons while engaged in the fisheries;

(iv) tugs or towing vessels: *Provided, however*, That any such vessel, when engaged in towing any vessel that has explosives, inflammable liquids, or inflammable compressed gases on board on deck, shall be required to make such provisions to guard against and extinguish fire as shall be prescribed by the Commandant of the Coast Guard;

(v) cable vessels, dredges, elevator vessels, fireboats, ice-breakers, pile drivers, pilot boats, welding vessels, salvage and wrecking vessels;

(vi) inflammable or combustible liquid cargo in bulk: *Provided, however*, That the handling and stowage of any inflammable or combustible liquid cargo in bulk shall be subject to the provisions of section 391a of this title.

(7) Regulations for protection against hazards created by explosives or other dangerous articles.

In order to secure effective provisions against the hazards of health, life, limb, or property created by explosives or other dangerous articles or substances to which subsections (3)—(5) or (6) of this section apply—

(a) The Commandant of the Coast Guard shall by regulations define, describe, name, and classify all explosives or other dangerous articles or substances, and shall establish such regulations as may be necessary to make effective the provisions of this section with respect to the descriptive names, packing, marking, labeling, and certification of such explosives or other dangerous articles or substances; with respect to the specifications of containers for explosives or other dangerous articles or substances; with respect to the marking and labeling of said

containers; and shall accept and adopt for the purposes above mentioned in this subsection such definitions, descriptions, descriptive names, classifications, specifications of containers, packing, marking, labeling, and certification of explosives or other dangerous articles or substances to the extent as are or may be established from time to time by the Interstate Commerce Commission insofar as they apply to shippers by common carriers engaged in interstate or foreign commerce by water. The Commandant of the Coast Guard shall also establish regulations with respect to the marking, handling, storage, stowage, and use of explosives or other dangerous articles or substances on board such vessels; with respect to the disposition of any explosives or other dangerous articles or substances found to be in an unsafe condition; with respect to the necessary shipping papers, manifests, cargo-stowage plans, and the description and descriptive names of explosives or other dangerous articles or substances to be entered in such shipping documents; also any other regulations for the safe transportation, carriage, conveyance, storage, stowage, or use of explosives or other dangerous articles or substances on board such vessels as the Commandant of the Coast Guard shall deem necessary; and with respect to the inspection of all the foregoing mentioned in this paragraph. The Commandant of the Coast Guard may utilize the services of the Bureau for the Safe Transportation of Explosives and Other Dangerous Articles, and of such other organizations whose services he may deem to be helpful.

(b) The transportation, carriage, conveyance, storage, stowage, or use of such explosives or other dangerous articles or substances shall be in accordance with the regulations so established, which shall, insofar as applicable to them, respectively, be binding upon shippers and the owners, charterers, agents, masters, or persons in charge of such vessels, and upon all other persons transporting, carrying, conveying, storing, stowing, or using on board any such vessels any explosives or other dangerous articles or substances: *Provided,* That this section shall not be construed to prevent the transportation of military or naval forces with their accompanying munitions of war and stores.

(c) Nothing contained in this section shall be construed to relieve any vessel subject to the provisions of this section from any of the requirements of title 52 (secs. 4399 to 4500, inclusive) of the Revised Statutes or acts amendatory or supplementary thereto and regulations thereunder applicable to such vessel, which are not inconsistent herewith.

(d) Nothing contained in this section shall be construed as preventing the enforcement of reasonable local regulations now in effect or hereafter adopted, which are not inconsistent or in conflict with this section or the regulations of the Commandant of the Coast Guard established hereunder.

(e) The United States Coast Guard shall issue no permit or authorization for the loading or discharging to or from any vessel at any point or place in the United States, its territories or possessions (not including Panama Canal Zone) of any explosives unless such explosives, for which a permit is required by the regulations promulgated pursuant to this section, are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission under section 835 of Title 18, and unless such permit or authorization specifies that the limits as to maximum quantity, isolation and remoteness established by local, municipal, territorial, or State authorities for each port shall not be exceeded. Nothing herein contained shall be deemed to limit or restrict the shipment, transportation, or handling of military explosives by or for the Armed Forces of the United States.

(8) Masters, owners, etc., required to refuse unlawful transportation of explosives or other dangerous articles.

Any master, owner, charterer, or agent shall refuse to transport any explosives or other dangerous articles or substances in violation of any provisions of this section and the regulations established thereunder, and may require that any container or package which he has reason to believe contains explosives or other dangerous articles or substances be opened to ascertain the facts.

(9) Publication of, hearings on, and effective date of proposed regulations.

Before any regulations or any additions, alterations, amendments, or repeals thereof are made under the provisions of this section, except in an emergency, such proposed regulations shall be published and public hearings with respect thereto shall be held on such notice as the Commandant of the Coast Guard deems advisable under the circumstances. Any additions, alterations, amendments, or repeals of such regulations shall, unless a shorter time is authorized by the Commandant of the Coast Guard, take effect ninety days after their promulgation.

(10) Tendering explosives or other dangerous articles for shipment without divulging true character or in violation of section.

It shall be unlawful knowingly to deliver or cause to be delivered, or tender for shipment to any vessel subject to this section any explosives or any other dangerous articles or substances defined in the regulations of the Commandant of the Coast Guard established hereunder under any false or deceptive descriptive name, marking, invoice, shipping paper, or other declaration and without informing the agent of such vessel in writing of the true character thereof at or before the time such delivery or transportation is made. It shall be unlawful for any person to tender for shipment, or ship on any vessel to which this section applies, any explosives or other dangerous articles or substances the transportation, carriage, conveyance, storage, stowage, or use of which on board vessels is prohibited by this section.

(11) Exemption of vessels from section or regulations when compliance unnecessary for safety.

The Commandant of the Coast Guard may exempt any vessel or class of vessels from any of the provisions of this section or any regulations or parts thereof established hereunder upon a finding by him that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such as to render the application of this section or any of the regulations established hereunder unnecessary for the purposes of safety: *Provided,* That except in an

emergency such exception shall be made for any vessel or class of vessels only after a public hearing.

(12) Agencies charged with enforcement.

The provisions of this section and the regulations established hereunder shall be enforced primarily by the Coast Guard of the Department of the Treasury; which with the consent of the head of any executive department, independent establishment, or other agency of the Government, may avail itself of the use of information, advice, services, facilities, officers, and employees thereof (including the field service) in carrying out the provisions of this section: *Provided*, That no officer or employee of the United States shall receive any additional compensation for such services, except as permitted by law.

(13) Detention of vessels pending compliance with section and regulations; penalty for false swearing.

Any collector of customs may, upon his own knowledge, or upon the sworn information of any reputable citizen of the United States, that any vessel subject to this section is violating any of the provisions of this section or of the regulations established hereunder, by written order served on the master, person in charge of such vessel, or the owner or charterer thereof, or the agent of the owner or charterer, detain such vessel until such time as the provisions of this section and of the regulations established hereunder have been complied with. If the vessel be ordered detained, the master, person in charge, or owner or charterer, or the agent of the owner or charterer thereof, may within five days appeal to the Commandant of the Coast Guard, who may, after investigation, affirm, set aside, or modify the order of such collector. If any reputable citizen of the United States furnishes sworn information to any collector of customs that any vessel, subject to this section, is violating any of the provisions of this section or of the regulations established hereunder, and such information is knowingly false, the person so falsely swearing shall be deemed guilty of perjury.

(14) Violation of section or regulations; penalty; liability of vessel.

Whoever shall knowingly violate any of the provisions of this section or of any regulations established under this section shall be subject to a penalty of not more than $2,000 for each violation. In the case of any such violation on the part of the owner, charterer, agent, master, or person in charge of the vessel, such vessel shall be liable for the penalty and may be seized and proceeded against by way of libel in the district court of the United States in any district in which such vessel may be found.

(15) Same; increased penalty in event of personal injury or death.

When the death or bodily injury of any person results from the violation of this section or any regulations made in pursuance thereof, the person or persons who shall have knowingly violated or caused to be violated such provisions or regulations shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(16) Transportation of motor vehicles carrying gasoline, etc.; penalty for violations.

The transportation by vessels of gasoline or any other inflammable or combustible liquid or inflammable gas when carried by motor vehicles using the same as a source of their own motive power, or motive power for driving auxiliaries forming a part of the vehicle, shall be lawful under the conditions as set forth in the regulations established by the Commandant of the Coast Guard under this section: *Provided, however*, That the motor or motors in any vehicle be stopped immediately after entering the said vessel, and that the same be not restarted until immediately before said vehicle shall leave the vessel after said vessel has been made fast to the wharf or ferry bridge at which she lands. All other fire, if any, in such vehicle shall be extinguished before entering the said vessel and the same shall not be relighted until after said vehicle shall leave the vessel: *Provided further*, That the Commandant of the Coast Guard, may, by regulation, permit the operation on board vessels of motive power for driving auxiliaries forming a part of motor vehicles, under such conditions as he may deem proper: *Provided further*, That any owner, charterer, agent, master, or other person having charge of a vessel shall have the right to refuse to transport motor vehicles the fuel tanks of which contain gasoline or other inflammable or combustible liquid or inflammable gas used as a source of power for the vehicle or its auxiliaries: *Provided further*, That the owner, motor carrier, and operator of any such vehicle in which all fires have not been extinguished or the motor or motors stopped as required by this subsection or regulations established thereunder, and the owner, charterer, agent, master, or person in charge of the vessel on which such vehicle is transported, shall each be liable to a penalty of not more than $500, for which the motor vehicle and vessel, respectively, shall be liable: *And provided further*, That a violation of this subsection shall not subject any person to the penalty provided in subsection (14) or (15) of this section. (R.S. § 4472; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; Feb. 20, 1901, ch. 386, 31 Stat. 799; Feb. 18, 1905, ch. 586, 33 Stat. 720; Mar. 3, 1905, ch. 1457, § 8, 33 Stat. 1031; May 28, 1906, ch. 2565, 34 Stat. 204; Jan. 24, 1913, ch. 10, 37 Stat. 650; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Oct. 22, 1914, ch. 336, 38 Stat. 766; Mar. 29, 1918, ch. 30, 40 Stat. 499; Mar. 2, 1925, ch. 387, 43 Stat. 1093; Oct. 9, 1940, ch. 777, § 1, 54 Stat. 1023; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; July 16, 1952, ch. 887, 66 Stat. 730.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 4, 16 Stat. 441.

REFERENCES IN TEXT

The International Convention for Safety of Life at Sea, 1929, referred to in subsec. (2), is set out in 50 Stat. Pt. 2, p. 1121. A later convention, known as the International Convention for Safety of Life at Sea, 1948, was signed at London on June 10, 1948, and was ratified by the United States Senate on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H. R. 5013, 82nd Cong.). The "International Regulations for Preventing Collisions at Sea, 1948", approved by the 1948 London conference, were adopted by Congress by act Oct. 11, 1951, ch. 495, § 6, 65 Stat. 407, are set out as section 144 et seq. of Title 33, Navigation and Navigable Waters, and, became effective Jan. 1, 1954 under Proc. No. 3030, Aug. 30, 1953, 18 F.R. 4983, set out as a note under section 143 of Title 33.

Revised Statutes, title 52, sections 4399—4500, referred to in subsec. (7) (c), is now contained in sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230—234, 239, 240, 361, 362, 364, 372, 375, 391, 391a, 392, 393, 399, 400, 402—414, 416, 435, 436, 451—453, 460, 461, 462, 467, 470, 471, 473, 477—482, and 489, 491 to 498 of this title.

CODIFICATION

The section as enacted in the Revised Statutes, was as follows: "No loose hay, loose cotton, or loose hemp, camphene, nitroglycerine, naphtha, benzine, benzole, coal-oil, crude or refined petroleum, or other like explosive burning fluids, or like dangerous articles, shall be carried as freight or used as stores on any steamer carrying passengers; nor shall baled cotton or hemp be carried on such steamers unless the bales are compactly pressed and thoroughly covered with bagging of similar fabric, and secured with good rope or iron bands; nor shall gunpowder be carried on any such vessel, except under special license; nor shall oil of vitriol, nitric or other chemical acids be carried on such steamers except on the decks or guards thereof, or in such other safe part of the vessel as shall be prescribed by the inspectors. Refined petroleum, which will not ignite at a temperature less than one hundred and ten degrees of Fahrenheit thermometer, may be carried on board such steamers upon routes where there is no other [practical] [practicable] mode of transporting it, and under such regulations as shall be prescribed by the board of supervising inspectors with the approval of the Secretary of the Treasury; and oil or spirits of turpentine may be carried on such steamers when put up in good metallic vessels, or casks or barrels well and securely bound with iron and stowed in a secure part of the vessel; and friction-matches may be carried on such steamers when securely packed in strong tight chests or boxes, the covers of which shall be well secured by locks, screws, or other reliable fastenings, and stowed in a safe part of the vessel at a secure distance from any fire or heat. All such other provisions shall be made on every steamer carrying passengers or freight, to guard against and extinguish fire, as shall be prescribed by the board of supervising inspectors, and approved by the Secretary of the Treasury."

It was amended by act Feb. 27, 1877, by striking out, after the words "upon routes where there is no other," the word "practical" and substituting therefor the word "practicable."

It was further amended by act Feb. 20, 1901, by adding, at the end of the section as originally enacted, the fourth sentence, including two provisos: "Nothing in the foregoing or following sections of this chapter shall prohibit the transportation by steam vessels of gasoline or any of the products of petroleum when carried by motor vehicles (commonly known as automobiles) using the same as a source of motive power: *Provided, however,* That all fire, if any, in such vehicles or automobiles be extinguished before entering the said vessel, and that the same be not relighted until after said vehicle shall have left the same: *Provided further,* That any owner, master, agent, or other person having charge of passenger steam vessels shall have the right to refuse to transport automobile vehicles the tanks of which contain gasoline, naphtha, or other dangerous burning fluids."

Said last mentioned amendment was itself amended by act Feb. 18, 1905, by changing the first proviso therein to read as follows: "*Provided, however,* That all fire, if any, in such vehicles or automobiles be extinguished immediately after entering the said vessel, and that the same be not relighted until immediately before said vehicle shall leave the vessel."

The section was again amended, by act Mar. 3, 1905, with the exception of the last five provisos and the last sentence and except for a reference therein to the Secretary of Commerce and Labor, by substituting "nitroglycerin" for "nitroglycerine"; "and secured in such manner as shall be prescribed by the regulations established by the Board of Supervising Inspectors with the approval of the Secretary of Commerce and Labor" for "with bagging of similar fabric, and secured with good rope or iron bands"; "fires" for "fire" in first proviso; and "Secretary of Commerce and Labor" for "Secretary of the Treasury".

It was further amended by acts May 28, 1906, Jan. 24, 1913, Oct. 22, 1914, Mar. 29, 1918, and Mar. 2, 1925, by adding the following provisos and last sentence: "*Provided, however,* That nothing in the provisions of this chapter shall prohibit the transportation by vessels not carrying passengers for hire, of gasoline or any of the products of petroleum for use as a source of motive power for the motor boats or launches of such vessels: *Provided further,* That nothing in the foregoing or following sections of this chapter shall prohibit the use, by steam vessels carrying passengers for hire, of lifeboats equipped with gasoline motors, and tanks containing gasoline for the operation of said motor-driven lifeboats: *Provided, however,* That no gasoline shall be carried other than that in the tanks of the life boats: *Provided, further,* That the use of such lifeboats equipped with gasoline motors shall be under such regulations as shall be prescribed by the Board of Supervising Inspectors with the approval of the Secretary of Commerce: *Provided, however,* That nothing in the foregoing or following sections of this chapter shall prohibit the transportation and use by vessels carrying passengers or freight for hire of gasoline or any of the products of petroleum for the operation of engines to supply an auxiliary lighting and wireless system independent of the vessel's main power plant: *Provided further,* That the transportation or use of such gasoline or any of the products of petroleum shall be under such regulations as shall be prescribed by the Board of Supervising Inspectors, with the approval of the Secretary of Commerce: *Provided, however,* That kerosene and lubricating oils made from refined products of petroleum which will stand a fire test of not less than three hundred degrees Fahrenheit may be used as stores on board steamers carrying passengers, under such regulations as shall be prescribed by the Board of Supervising Inspectors with the approval of the Secretary of Commerce. The owner of any automobile in which all fire has not been extinguished and the motors stopped immediately after the automobile has taken its position on any vessel found on navigable waters of the United States and in which such fires do not remain extinguished and the motors remain idle until the vessel is made fast to the wharf or ferry bridge at which she lands shall incur a penalty of not more than $500, for which the automobile shall be liable."

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor." See note under section 2 of this title.

Phrase "and the Philippine Islands" following "Panama Canal Zone" in subsec. (1) was omitted pursuant to Proc. No. 2695, which proclaimed the independence of the Philippines under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and under which section Proc. No. 2695 is set out as a note.

AMENDMENTS

1952—Subsec. (7). Act July 16, 1952, added paragraph (e).

1940—Act Oct. 9, 1940, amended section generally.

EFFECTIVE DATE AND SEPARABILITY OF ACT OCT. 9, 1940

Sections 9 and 10 of act Oct. 9, 1940, which affected this section, sections 170a, 170b, 391a, 401, 402, 414, 466, 468 and 469 of this title and former sections 382—385 of Title 18 (now sections 831—835 of Title 18) provided as follows:

"SEC. 9. The Act shall become effective six months after the date of approval, except as to subsection (7) of section 1 hereof (section 170 (7) of this title), which subsection shall become effective on the date of approval. Such initial regulations as may be necessary to make the Act effective shall be promulgated within ninety days from the date of approval hereof: *Provided, however,* That during any national emergency proclaimed by the President, he may, in his discretion, accelerate any or all provisions of this section.

"SEC. 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of the Act, and the application of the provisions thereof, shall not be affected thereby."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" throughout section and for "Board of Supervising Inspectors and approved by the Secretary of Commerce" in subsec. 6 (b), and "the Bureau of Marine Inspection and Navigation of the Department of Commerce and" following "enforced primarily by" in subsec. (12) was omitted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Carrying or possessing explosives or dangerous weapons on certain vessels prohibited, see section 2277 of Title 18, Crimes and Criminal Procedure.

Crude petroleum carried in double bottom fuel tanks not considered stores or cargo within this section, see section 467 of this title.

Explosives and combustibles, punishment for unlawfully transporting, etc., see section 831 et seq. of Title 18, Crimes and Criminal Procedure.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Foreign private steam vessels subject to this section, see section 362 of this title.

Penalty for failure to comply with provisions, see section 497 of this title.

Perjury and subornation of perjury, see sections 1621 and 1622 of Title 18, Crimes and Criminal Procedure.

Precautions against fire on vessels subject to this section, see section 481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170a, 170b, 362, 391a, 467 of this title.

§ 170a. Same; use by vessels of launches, lifeboats, etc., employing combustible fuel; regulations.

Nothing contained in section 170 of this title shall prohibit the use by any vessel of motorboats, launches, or lifeboats equipped with engines using an inflammable or combustible fuel, nor shall anything contained in said section prohibit such motorboats, launches, or lifeboats from carrying such inflammable or combustible fuel in their tanks: *Provided*, That no such inflammable or combustible fuel for the engines of such motorboats, launches, or lifeboats shall be carried except as may be prescribed by regulations of the Commandant of the Coast Guard: *Provided further*, That the use of such lifeboats shall be under such regulations as shall be prescribed by the Commandant of the Coast Guard. (Oct. 9, 1940, ch. 777, § 2 (b), 54 Stat. 1028; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

EFFECTIVE DATE AND SEPARABILITY

Effective date and and separability of act Oct. 9, 1940, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan. No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 170b of this title.

§ 170b. Same; appropriations.

There are authorized to be appropriated such sums of money as may be necessary to carry out the provisions of sections 170 to 170b, 391a, 402, 414, and 481 of this title and sections 382 to 385 of Title 18. (Oct. 9, 1940, ch. 777, § 8, 54 Stat. 1028.)

REFERENCES IN TEXT

Sections 382—385 of title 18, referred to in the text, were repealed by act June 25, 1948, ch. 645, § 17, 62 Stat. 862, eff. Sept. 1, 1948, and are now covered by sections 831—835 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

"Section 481 of this title" was substituted for "section 463a of this title" on authority of section 3 (a)(8) and (b) of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed section 463a and deemed a reference to it in any other law as a reference to section 481. See References in Other Laws to Repealed Provisions note set out under section 481 of this title.

EFFECTIVE DATE AND SEPARABILITY

Effective date and separability of act Oct. 9, 1940, see note under section 170 of this title.

§ 171. Repealed. June 25, 1948, ch. 645, § 17, 62 Stat. 862, eff. Sept. 1, 1948.

Section, act Aug. 2, 1882, ch. 374, § 8 (part), 22 Stat. 189, related to penalties for carrying explosives or other dangerous articles on vessels carrying steerage passengers, and is now covered by section 2278 of Title 18, Crimes and Criminal Procedure. For remainder of section 8, which was not repealed, see section 156a of this title.

§§ 172 to 179. Repealed. Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

Sections related to the transportation of explosives and inflammable materials.

Sections 172—175 were from R. S. §§ 4278—4280 and 4288.

Section numbers 176 and 177 were never used.

Sections 178 and 179, which constituted former chapter 7A of this title, were from act Aug. 26, 1935, ch. 697, §§ 1, 2, 49 Stat. 868, 869.

Present general provisions relating to the transportation of explosives, etc., by vessels are contained in section 170 of this title.

EFFECTIVE DATE OF REPEAL AND SEPARABILITY

Effective date and separability of act Oct. 9, 1940, repealing these sections, see note under section 170 of this title.

Chapter 8.—LIMITATION OF VESSEL OWNER'S LIABILITY

Sec.
181. Liability of masters as carriers.
182. Loss by fire.
183. Amount of liability; loss of life or bodily injury; privity imputed to owner; "seagoing vessel".
183a. Repealed.
183b. Stipulations limiting time for filing claims and commencing suit.
183c. Stipulations limiting liability for negligence invalid.
184. Apportionment of compensation.
185. Petition for limitation of liability; deposit of value of interest in court; transfer of interest to trustee.
186. Charterer may be deemed owner.
187. Remedies reserved.
188. Limitation of liability of owners applied to all vessels.
189. Limitation of liability of owners of vessels for debts.
190. Stipulations relieving from liability for negligence.
191. Stipulations relieving from exercise of due diligence in equipping vessels.
192. Limitation of liability for errors of navigation, dangers of the sea and acts of God.
193. Bills of lading to be issued; contents.
194. Penalties; liens; recovery.
195. Certain provisions inapplicable to transportation of live animals.
196. Certain laws unaffected.

CROSS REFERENCES

Liability with respect to carriage of goods by sea, see chapter 28 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 11, 1308 of this title; title 38 section 948.

§ 181. Liability of masters as carriers.

If any shipper of platina, gold, gold dust, silver, bullion, or other precious metals, coins, jewelry, bills of any bank or public body, diamonds, or other precious stones, or any gold or silver in a manufactured or unmanufactured state, watches, clocks, or timepieces of any description, trinkets, orders, notes, or securities for payment of money, stamps, maps, writings, title deeds, printings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with any other material, furs, or lace, or any of them, contained in any parcel, or package, or trunk, shall lade the same as freight or baggage, on any vessel, without at the time of such lading giving to the master, clerk, agent, or owner of such vessel receiving the same a written notice of the true character and value thereof, and having the same entered on the bill of lading therefor, the master and owner of such vessel shall not be liable as carriers thereof in any form or manner; nor shall any such master or owner be liable for any such goods beyond the value and according to the character thereof so notified and entered. (R. S. § 4281.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 69, 16 Stat. 458.

CROSS REFERENCES

Amount of liability when nature and value of goods not declared, see section 1304 of this title.

Sections unaffected by sections 190—195 of this title, see section 196 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 196 of this title.

§ 182. Loss by fire.

No owner of any vessel shall be liable to answer for or make good to any person any loss or damage, which may happen to any merchandise whatsoever, which shall be shipped, taken in, or put on board any such vessel, by reason or by means of any fire happening to or on board the vessel, unless such fire is caused by the design or neglect of such owner. (R. S. § 4282.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 1, 9 Stat. 635.

CROSS REFERENCES

Liability of carrier and ship for loss from fire, see section 1304 of this title.

Remedies reserved, see section 187 of this title.

Section unaffected by sections 190—195 of this title, see section 196 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 187, 188, 196, 1308 of this title.

§ 183. Amount of liability; loss of life or bodily injury; privity imputed to owner; "seagoing vessel".

(a) The liability of the owner of any vessel, whether American or foreign, for any embezzlement, loss, or destruction by any person of any property, goods, or merchandise shipped or put on board of such vessel, or for any loss, damage, or injury by collision, or for any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of such owner or owners, shall not, except in the cases provided for in subsection (b) of this section, exceed the amount or value of the interest of such owner in such vessel, and her freight then pending.

(b) In the case of any seagoing vessel, if the amount of the owner's liability as limited under subsection (a) of this section is insufficient to pay all losses in full, and the portion of such amount applicable to the payment of losses in respect of loss of life or bodily injury is less than $60 per ton of such vessel's tonnage, such portion shall be increased to an amount equal to $60 per ton, to be available only for the payment of losses in respect of loss of life or bodily injury. If such portion so increased is insufficient to pay such losses in full, they shall be paid therefrom in proportion to their respective amounts.

(c) For the purposes of this section the tonnage of a seagoing steam or motor vessel shall be her gross tonnage without deduction on account of engine

room, and the tonnage of a seagoing sailing vessel shall be her registered tonnage: *Provided,* That there shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use.

(d) The owner of any such seagoing vessel shall be liable in respect of loss of life or bodily injury arising on distinct occasions to the same extent as if no other loss of life or bodily injury had arisen.

(e) In respect of loss of life or bodily injury the privity or knowledge of the master of a seagoing vessel or of the superintendent or managing agent of the owner thereof, at or prior to the commencement of each voyage, shall be deemed conclusively the privity or knowledge of the owner of such vessel.

(f) As used in subsections (b), (c), (d), and (e) of this section and in section 183b of this title, the term "seagoing vessel" shall not include pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels or their tenders, self-propelled lighters, nondescript self-propelled vessels, canal boats, scows, car floats, barges, lighters, or nondescript non-self-propelled vessels, even though the same may be seagoing vessels within the meaning of such term as used in section 188 of this title. (R. S. § 4283; Aug. 29, 1935, ch. 804, § 1, 49 Stat. 960; June 5, 1936, ch. 521, § 1, 49 Stat. 1479.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 3, 9 Stat. 635.

AMENDMENTS

1936—Act June 5, 1936, amended existing provisions of section generally, provided, that when owner's limited liability is insufficient to pay losses in full and the portion applicable to payment for loss of life or injury is less than $60 per ton, such portion be increased to $60 per ton, and if increased portion is insufficient, proportionate payments be made, added provision imputing privity or knowledge of master, superintendent, or managing agent to owner, construed "seagoing vessel" for purposes of section 183b of this title as well as this section, and designated the amended provisions of section as subsecs. (a)—(f).

1935—Act Aug. 29, 1935, added provisions fixing total liability of owner of sea-going vessel, whether American or foreign, other than tugs, barges, or fishing vessels, for entire loss of life or injuries caused without his fault or privity at not less than $60 for each ton of such vessel or the amount of value of his interest in such vessel and her freight then pending, if the latter be a greater amount; fixed tonnage of steam or motor vessel as her gross tonnage, without deduction for engine room, and tonnage of a sailing vessel as her registered tonnage, not including space for seamen; and imposed on owners, liability for losses of life or injury on distinct occasions to the same extent as if no other loss or injury had arisen.

CROSS REFERENCES

Apportionment of compensation, see section 184 of this title.

Individual liability of shipowner, see section 189 of this title.

Liability of master and owners for damage to passengers, see section 491 of this title.

Longshoremen's and harbor workers' compensation actions, amount of recovery not limited by this section, see section 948 of Title 33, Navigation and Navigable Waters.

Petition for limitation of liability, see section 185 of this title.

Remedies reserved, see section 187 of this title.

Section unaffected by sections 190—195 of this title, see section 196 of this title.

Surrender of vessel, see section 185 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 185, 187, 188, 196, 1308 of this title.

§ 183a. Repealed. June 5, 1936, ch. 521, § 5, 49 Stat. 1481.

Section, act Aug. 29, 1935, ch. 804, § 2, 49 Stat. 960, related to imputation to owner of privity or knowledge of master, superintendent or managing agent. Similar provisions are contained in section 183(e) of this title.

§ 183b. Stipulations limiting time for filing claims and commencing suit.

(a) It shall be unlawful for the manager, agent, master, or owner of any sea-going vessel (other than tugs, barges, fishing vessels and their tenders) transporting passengers or merchandise or property from or between ports of the United States and foreign ports to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of, or filing claims for loss of life or bodily injury, than six months, and for the institution of suits on such claims, than one year, such period for institution of suits to be computed from the day when the death or injury occurred.

(b) Failure to give such notice, where lawfully prescribed in such contract, shall not bar any such claim—

(1) If the owner or master of the vessel or his agent had knowledge of the injury, damage, or loss and the court determines that the owner has not been prejudiced by the failure to give such notice; nor

(2) If the court excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor

(3) Unless objection to such failure is raised by the owner.

(c) If a person who is entitled to recover on any such claim is mentally incompetent or a minor, or if the action is one for wrongful death, any lawful limitation of time prescribed in such contract shall not be applicable so long as no legal representative has been appointed for such incompetent, minor, or decedent's estate, but shall be applicable from the date of the appointment of such legal representative: *Provided, however,* That such appointment be made within three years after the date of such death or injury. (R.S. § 4283A, as added Aug. 29, 1935, ch. 804, § 3, 49 Stat. 960.)

CROSS REFERENCES

Seagoing vessel defined for purposes of this section, see section 183(f) of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 188, 1308 of this title.

§ 183c. Stipulations limiting liability for negligence invalid.

It shall be unlawful for the manager, agent, master, or owner of any vessel transporting passengers between ports of the United States or between any such port and a foreign port to insert in any rule, regulation, contract, or agreement any provision or limitation (1) purporting, in the event of loss of life or bodily injury arising from the negligence or fault of such owner or his servants, to relieve such owner,

master, or agent from liability, or from liability beyond any stipulated amount, for such loss or injury, or (2) purporting in such event to lessen, weaken, or avoid the right of any claimant to a trial by court of competent jurisdiction on the question of liability for such loss or injury, or the measure of damages therefor. All such provisions or limitations contained in any such rule, regulation, contract, or agreement are declared to be against public policy and shall be null and void and of no effect. (R. S. § 4283B, as added June 5, 1936, ch. 521, § 2, 49 Stat. 1480.)

CROSS REFERENCES

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 188, 1308 of this title.

§ 184. Apportionment of compensation.

Whenever any such embezzlement, loss, or destruction is suffered by several freighters or owners of goods, wares, merchandise, or any property whatever, on the same voyage, and the whole value of the vessel, and her freight for the voyage, is not sufficient to make compensation to each of them, they shall receive compensation from the owner of the vessel in proportion to their respective losses; and for that purpose the freighters and owners of the property, and the owner of the vessel, or any of them, may take the appropriate proceedings in any court, for the purpose of apportioning the sum for which the owner of the vessel may be liable among the parties entitled thereto. (R. S. § 4284; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251.)

DERIVATION

Acts Mar. 3, 1851, ch. 43, § 4, 9 Stat. 635.

CODIFICATION

Act Feb. 27, 1877, amended R.S. § 4284 by substituting the word "owners" for "owner" in the expression "freighters and owners of the property."

CROSS REFERENCES

Remedies reserved, see section 187 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 187, 188, 1308 of this title.

§ 185. Petition for limitation of liability; deposit of value of interest in court; transfer of interest to trustee.

The vessel owner, within six months after a claimant shall have given to or filed with such owner written notice of claim, may petition a district court of the United States of competent jurisdiction for limitation of liability within the provisions of this chapter and the owner (a) shall deposit with the court, for the benefit of claimants, a sum equal to the amount or value of the interest of such owner in the vessel and freight, or approved security therefor, and in addition such sums, or approved security therefor, as the court may from time to time fix as necessary to carry out the provisions of section 183 of this title, or (b) at his option shall transfer, for the benefit of claimants, to a trustee to be appointed by the court his interest in the vessel and freight, together with such sums, or approved security therefor, as the court may from time to time fix as necessary to carry out the provisions of section 183 of this title. Upon compliance with the requirements of this section all claims and proceedings against the owner with respect to the matter in question shall cease. (R. S. § 4285; June 5, 1936, ch. 521, § 3, 49 Stat. 1480.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 4, 9 Stat. 635.

REFERENCES IN TEXT

In the original "this chapter" refers to Chapter 6 of Title XLVIII of the Revised Statutes. For distribution of the chapter (R.S. §§ 4252—4289) in this Code, see Tables.

AMENDMENTS

1936—Act June 5, 1936, substituted provisions of this section for former provisions which provided that it should be deemed a sufficient compliance on the part of an owner with the requirements of this chapter relating to his liability for embezzlement, loss, or destruction of any property, goods, or merchandise, if he transferred his interest in such vessel and freight, for the benefit of claimants, to a trustee appointed by court, after which all claims against the owner should cease.

CROSS REFERENCES

Remedies reserved, see section 187 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 187, 188, 1308 of this title.

§ 186. Charterer may be deemed owner.

The charterer of any vessel, in case he shall man, victual, and navigate such vessel at his own expense, or by his own procurement, shall be deemed the owner of such vessel within the meaning of the provisions of this chapter relating to the limitation of the liability of the owners of vessels; and such vessel, when so chartered, shall be liable in the same manner as if navigated by the owner thereof. (R. S. § 4286.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 5, 9 Stat. 636.

REFERENCES IN TEXT

In the original "this chapter" reads "this title", meaning Title XLVIII of the Revised Statutes. For distribution of the Title (R.S. §§ 4131—4305) in this Code, see Tables.

CROSS REFERENCES

Remedies reserved, see section 187 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 187, 188, 1308 of this title.

§ 187. Remedies reserved.

Nothing in sections 182, 183 and 184 to 186 of this title shall be construed to take away or affect the remedy to which any party may be entitled, against the master, officers, or seamen, for or on account of any embezzlement, injury, loss, or destruction of merchandise, or property, put on board any vessel, or on account of any negligence, fraud, or other malversation of such master, officers, or seamen, respectively, nor to lessen or take away any responsibility to which any master or seaman of any vessel may by law be liable, notwithstanding such master or seaman may be an owner or part owner of the vessel. (R. S. § 4287.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 6, 9 Stat. 636.

REFERENCES IN TEXT

In the original, "sections 182, 183, 184, 185, and 186 of this title" reads "the five preceding sections" meaning R.S. §§ 4283—4286, which are classified to sections 182, 183, 184, 185 and 186 of this title.

CROSS REFERENCES

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 188, 1308 of this title.

§ 188. Limitation of liability of owners applied to all vessels.

Except as otherwise specifically provided therein, the provisions of sections 182, 183, 183b to 187, and 189 of this title shall apply to all seagoing vessels, and also to all vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters. (R. S. § 4289; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320; June 19, 1886, ch. 421, § 4, 24 Stat. 80; June 5, 1936, ch. 521, § 4, 49 Stat. 1481.)

DERIVATION

Act Mar. 3, 1851, ch. 43, § 7, 9 Stat. 636.

REFERENCES IN TEXT

In the original, "sections 182, 183, 183b—187" reads "the nine preceding sections", meaning R.S. §§ 4282–4288. R.S. §§ 4282, 4283, 4283A, 4283B, 4284, 4285, 4286, and 4287 which are classified to sections 182, 183, 183b–187 of this title, respectively. R.S. § 4288, which was classified to section 175 of this title, was repealed by act Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

CODIFICATION

Section, as enacted in the Revised Statutes, was as follows: "The provisions of this Title relating to the limitation of the liability of the owners of vessels, shall not apply to the owners of any canal-boat, barge, or lighter, or to any vessel of any description whatsoever used in rivers or inland navigation."

It was amended, by striking out the words "this Title," and inserting the words "the seven preceding sections," by act Feb. 18, 1875.

It was further amended, to read in substance as set forth here, after the enactment of act June 26, 1884, ch. 121, § 18, 23 Stat. 57, classified to section 189 of this title, by act June 19, 1886.

AMENDMENTS

1936—Act June 5, 1936 substituted "Except as otherwise specifically provided therein, the provisions of the nine preceding sections" for the words "The provisions of the seven preceding sections".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 183, 1308 of this title.

§ 189. Limitation of liability of owners of vessels for debts.

The individual liability of a shipowner shall be limited to the proportion of any or all debts and liabilities that his individual share of the vessel bears to the whole; and the aggregate liabilities of all the owners of a vessel on account of the same shall not exceed the value of such vessels and freight pending: *Provided,* That this provision shall not prevent any claimant from joining all the owners in one action; nor shall the same apply to wages due to persons employed by said shipowners. (June 26, 1884, ch. 121, § 18, 23 Stat. 57.)

CODIFICATION

This section was part of the Shipping Act of 1884.

The original text of the proviso read as follows: *"Provided,* That this provision shall not affect the liability of any owner incurred previous to the passage of this act, nor prevent any claimant from joining all the owners in one action; nor shall the same apply to wages due to persons employed by said shipowners."

The provision concerning liabilities previously incurred was probably omitted as obsolete.

CROSS REFERENCES

Other provisions relating to the liability of vessels, their owners, agents, or charterers, see sections 190 to 195 of this title.

Section as applicable to all seagoing vessels and all vessels used on lakes or rivers or on inland navigation, see section 188 of this title.

Vessels within application of this section, see section 188 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 188 of this title.

§ 190. Stipulations relieving from liability for negligence.

It shall not be lawful for the manager, agent, master, or owner of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to insert in any bill of lading or shipping document any clause, covenant, or agreement whereby it, he, or they shall be relieved from liability for loss or damage arising from negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge. Any and all words or clauses of such import inserted in bills of lading or shipping receipts shall be null and void and of no effect. (Feb. 13, 1893, ch. 105, § 1, 27 Stat. 445.)

CODIFICATION

This was the first section of the Harter Act.

Sections 2–5 and 7 of the Act are set forth as sections 191 to 195 of this title.

Section 8 of the Act provided that the Act should take effect from and after July 1, 1893.

Section 6 provided that the Act should not be held to modify or repeal R.S. §§ 4281–4283 (sections 181 to 183 of this title) or any other statute defining the liability of vessels, their owners, or representatives. It was evidently given effect by including the statutes referred to in the Code.

SHORT TITLE

Sections 190—196 of this title are popularly known as the "Harter Act".

CROSS REFERENCES

Clause, covenant or agreement relieving carrier or ship from liability for loss or damage arising from negligence, fault or failure in duties and obligations provided, to be null and void, see section 1303 (8) of this title.

Transportation of live animals, section inapplicable, see section 195 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 195, 196, 1311 of this title.

§ 191. Stipulations relieving from exercise of due diligence in equipping vessels.

It shall not be lawful for any vessel transporting merchandise or property from or between ports of the United States of America and foreign ports, her owner, master, agent, or manager, to insert in any bill of lading or shipping document any covenant or agreement whereby the obligations of the owner or owners of said vessel to exercise due diligence[1] properly equip, man, provision, and outfit said vessel, and

[1] Probably should read "to".

to make said vessel seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo and to care for and properly deliver same, shall in any wise be lessened, weakened, or avoided. (Feb. 13, 1893, ch. 105, § 2, 27 Stat. 445.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 196, 1311 of this title.

§ 192. Limitation of liability for errors of navigation, dangers of the sea and acts of God.

If the owner of any vessel transporting merchandise or property to or from any port in the United States of America shall exercise due diligence to make the said vessel in all respects seaworthy and properly manned, equipped, and supplied, neither the vessel, her owner or owners, agent, or charterers, shall become or be held responsible for damage or loss resulting from faults or errors in navigation or in the management of said vessel nor shall the vessel, her owner or owners, charterers, agent, or master be held liable for losses arising from dangers of the sea or other navigable waters, acts of God, or public enemies, or the inherent defect, quality, or vice of the thing carried, or from insufficiency of package, or seizure under legal process, or for loss resulting from any act or omission of the shipper or owner of the goods, his agent or representative, or from saving or attempting to save life or property at sea, or from any deviation in rendering such service. (Feb. 13, 1893, ch. 105, § 3, 27 Stat. 445.)

CROSS REFERENCES

Liabilities and immunities of carrier and ship, see section 1304 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 196, 1311 of this title.

§ 193. Bills of lading to be issued; contents.

It shall be the duty of the owner or owners, masters, or agent of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to issue to shippers of any lawful merchandise a bill of lading, or shipping document, stating, among other things, the marks necessary for identification, number of packages, or quantity, stating whether it be carrier's or shipper's weight, and apparent order or condition of such merchandise or property delivered to and received by the owner, master, or agent of the vessel for transportation, and such document shall be prima facie evidence of the receipt of the merchandise therein described. (Feb. 13, 1893, ch. 105, § 4, 27 Stat. 445.)

CROSS REFERENCES

Bills of lading for carriage of goods by sea, see section 1303 of this title.

Section inapplicable to the transportation of live animals, see section 195 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 195, 196, 1311 of this title.

§ 194. Penalties; liens; recovery.

For a violation of any of the provisions of sections 190 to 193 of this title the agent, owner, or master of the vessel guilty of such violation, and who refuses to issue on demand the bill of lading provided for, shall be liable to a fine not exceeding $2,000. The amount of the fine and costs for such violation shall be a lien upon the vessel, whose agent, owner, or master is guilty of such violation, and such vessel may be libeled therefor in any district court of the United States, within whose jurisdiction the vessel may be found. One-half of such penalty shall go to the party injured by such violation and the remainder to the Government of the United States. (Feb. 13, 1893, ch. 105, § 5, 27 Stat. 446.)

REFERENCES IN TEXT

Sections 190 to 193 of this title, referred to in the text, originally read "of this act", meaning act Feb. 13, 1893, which is classified to sections 190 to 198 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 196, 1311 of this title.

§ 195. Certain provisions inapplicable to transportation of live animals.

Sections 190 and 193 of this title shall not apply to the transportation of live animals. (Feb. 13, 1893, ch. 105, § 7, 27 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 196, 1311 of this title.

§ 196. Certain laws unaffected.

Sections 190 to 195 of this title shall not be held to modify or repeal sections 181 to 183 of this title, or any other statute defining the liability of vessels, their owners, or representatives. (Feb. 13, 1893, ch. 105, § 6, 27 Stat. 446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1311 of this title.

Chapter 9.—LOG BOOKS

Sec.
201. Entries.
202. Mode of making entries.
203. Penalty for omitting entries.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11 of this title.

§ 201. Entries.

Every vessel making voyages from a port in the United States to any foreign port, or, being of the burden of seventy-five tons or upward, from a port on the Atlantic to a port on the Pacific, or vice versa, shall have an official log book; and every master of such vessel shall make, or cause to be made therein, entries of the following matters, that is to say:

First. Every legal conviction of any member of his crew, and the punishment inflicted.

Second. Every offense committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, together with such statement concerning the reading over such entry, and concerning the reply, if any, made to the charge, as is required by the provisions of section 702 of this title.

Third. Every offense for which punishment is inflicted on board, and the punishment inflicted.

Fourth. A statement of the conduct, character, and qualifications of each of his crew; or a statement that he declines to give an opinion of such particulars.

Fifth. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment.

Sixth. Every case of death happening on board, with the cause thereof.

Seventh. Every birth happening on board, with the sex of the infant, and the names of the parents.

Eighth. Every marriage taking place on board, with the names and ages of the parties.

Ninth. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof.

Tenth. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom.

Eleventh. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and the sum received for it.

Twelfth. In every case of collision in which it is practicable so to do, the master shall, immediately after the occurrence, cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book. Such entry shall be made in the manner prescribed in section 202 of this title, and failure to make such entry shall subject the offender to the penalties prescribed by section 203 of this title. (R. S. § 4290; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; Feb. 14, 1900, ch. 19, § 1, 31 Stat. 29.)

DERIVATION

Act June 7, 1872, ch. 322, § 58, 17 Stat. 275.

CODIFICATION

The section was amended by act Feb. 27, 1877, by striking out, at the end of the last line of paragraph "Second," the word "thirty," and inserting in lieu thereof the word "ninety-seven."

It was further amended by act Feb. 14, 1900, by adding paragraph "Twelfth." Section 2 of act Feb. 14, 1900, provided that the act should take effect 60 days after its passage.

CROSS REFERENCES

Record made in regular course of business, see section 1732 of Title 28, Judiciary and Judicial Procedure.

Waiver of compliance with navigation and vessel inspection laws for war purposes, see note preceding former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 202. Mode of making entries.

Every entry required to be made in the official log book shall be signed by the master and by the mate, or some other one of the crew, and every entry in the official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein, in respect of any occurrence happening previously to the arrival of the vessel at her final port, be made more than twenty-four hours after such arrival. (R. S. § 4291.)

DERIVATION

Act June 7, 1872, ch. 322, § 59, 17 Stat. 276.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 544 of this title.

§ 203. Penalty for omitting entries.

If in any case the official log book is not kept in the manner required, or if any entry directed to be made in any such log book is not made at the time and in the manner directed, the master shall, for each such offense, be liable to a penalty of not more than $25; and every person who makes, or procures to be made, or assists in making, any entry in any official log book in respect of any occurrence happening previously to the arrival of the vessel at her final port of discharge, more than twenty-four hours after such arrival, shall, for each offense, be liable to a penalty of not more than $150. (R. S. § 4292.)

DERIVATION

Act June 7, 1872, ch. 322, § 60, 17 Stat. 276.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 544 of this title.

Chapter 10.—REGULATION OF PILOTS AND PILOTAGE

Sec.
211. State regulation of pilots.
212. Pilots on boundaries between States.
213. Discrimination in pilotage rates not allowed.
214. Licenses of pilots of steam vessels.
215. State regulations as to licenses of pilots of steam vessels and pilot charges.

§ 211. State regulation of pilots.

Until further provision is made by Congress, all pilots in the bays, inlets, rivers, harbors, and ports of the United States shall continue to be regulated in conformity with the existing laws of the States respectively wherein such pilots may be, or with such laws as the States may respectively enact for the purpose. (R. S. § 4235.)

DERIVATION

Act Aug. 7, 1789, ch. 9, § 4, 1 Stat. 54.

CROSS REFERENCES

State laws as rules of decision, see section 1652 of Title 28, Judiciary and Judicial Procedure.

§ 212. Pilots on boundaries between States.

The master of any vessel coming into or going out of any port situate upon waters which are the boundary between two States, may employ any pilot duly licensed or authorized by the laws of either of the States bounded on such waters, to pilot the vessel to or from such port. (R. S. § 4236.)

DERIVATION

Act Mar. 2, 1837, ch. 22, 5 Stat. 153.

§ 213. Discrimination in pilotage rates not allowed.

No regulations or provisions shall be adopted by any State which shall make any discrimination in the rate of pilotage or half-pilotage between vessels sailing between the ports of one State and vessels sailing between the ports of different States, or any discrimination against vessels propelled in whole or in part by steam, or against national vessels of the United States; and all existing regulations or provisions making any such discrimination are annulled and abrogated. (R. S. § 4237.)

DERIVATION

Act July 13, 1866, ch. 177, 14 Stat. 93.

§ 214. Licenses of pilots of steam vessels.

Whenever any person claiming to be a skillful pilot of steam vessels offers himself for a license, the Coast Guard shall make diligent inquiry as to his character

and merits, and if satisfied, from personal examination of the applicant, with the proof that he offers that he possesses the requisite knowledge and skill, and is trustworthy and faithful, it shall grant him a license for the term of five years to pilot any such vessel within the limits prescribed in the license; but such license shall be suspended or revoked upon satisfactory evidence of negligence, unskillfulness, inattention to the duties of his station, or intemperance, or the willful violation of any provision of title 52 of the Revised Statutes. (R. S. § 4442; May 28, 1896, ch. 255, § 2, 29 Stat. 188; Oct. 22, 1914, ch. 334, 38 Stat. 765; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts Feb. 28, 1871, ch. 100, § 18, 16 Stat. 447; Apr. 17, 1874, ch. 107, 18 Stat. 30.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Upon incorporation into the Code the words "five years" were substituted for "one year" to conform to act May 28, 1896, as amended by act Oct. 22, 1914. See section 225 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to inspectors was changed to Coast Guard on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 215. State regulations as to licenses of pilots of steam vessels and pilot charges.

No State or municipal government shall impose upon pilots of steam vessels any obligation to procure a State or other license in addition to that issued by the United States, or any other regulation which will impede such pilots in the performance of the duties required by title 52 of the Revised Statutes; nor shall any pilot charges be levied by any such authority upon any steamer piloted as provided by title 52 of the Revised Statutes; and in no case shall the fees charged for the pilotage of any steam vessel exceed the customary or legally established rates in the State where the same is performed Nothing in title 52 of the Revised Statutes shall be construed to annul or affect any regulation established by the laws of any State, requiring vessels entering or leaving a port in any such State, other than coastwise steam vessels, to take a pilot duly licensed or authorized by the laws of such State, or of a State situate upon the waters of such State. (R. S. § 4444.)

DERIVATION

Acts Feb. 28, 1871, ch. 100, § 51, 16 Stat. 455; Apr. 17, 1874, ch. 107, 18 Stat. 30.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

Chapter 10A.—REGULATION OF GREAT LAKES PILOTS AND PILOTAGE

Sec.
216. Definitions.
216a. Pilot requirement.
(a) Registered pilots for designated waters.
(b) Registered pilots or other qualified officers for nondesignated waters.
(c) Canadian reciprocity.
216b. Registration of United States pilots.
(a) Qualifications, terms and conditions.
(b) Documentary evidence.
(c) Duration; revocation or suspension.
(d) Equitable participation of United States and Canadian pilots.
(e) Pools for pilotage services.
216c. Rates, charges, conditions and terms for services.
(a) Regulations.
(b) Joint provisions.
(c) Basis of determination.
216d. Arrangements between United States and Canada subject to concurrence of Secretary of State.
216e. Violations; civil penalties; enforcement.
216f. Operation without registered pilots.
216g. State regulation of pilots prohibited; other laws applicable; laker vessels.
216h. Advisory Committee.
(a) Membership; qualifications; term.
(b) Meetings; authority to review and recommend.
(c) Compensation; expenses.
216i. Use of Federal agency facilities on reimbursable basis.

§ 216. Definitions.

As used in this chapter:

(a) "Great Lakes" means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far east as Saint Regis, and adjacent port areas.

(b) "Secretary" means the Secretary of Transportation.

(c) "United States registered pilot" means a person, other than a member of the regular complement of a vessel, who holds an unlimited master's license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued by the head of the Department in which the Coast Guard is operating under regulations issued by him, and is registered by the Secretary as provided in section 216b of this title.

(d) "Canadian registered pilot" means a person, other than a member of the regular complement of a vessel, who holds a master's certificate or equivalent license authorizing navigation on the Great Lakes and pilotage on routes specified therein, issued by the appropriate agency of Canada, and is

registered by a designated agency of Canada on substantially the same basis as registration by the Secretary under the provisions of section 216b of this title.

(e) "Other officer" means the master or any other member of the regular complement of the vessel concerned who is qualified for the navigation of the Great Lakes waters described in section 216a(b) of this title and who is either licensed by the head of the Department in which the Coast Guard is operating under regulations issued by him or certificated by an appropriate agency of Canada.

(f) "Foreign vessels" means all foreign merchant vessels except Canadian vessels whose operations are exclusively upon the Great Lakes or between ports in the Great Lakes and the St. Lawrence River, or whose operations while predominantly as aforesaid fail of being exclusively so only because of an occasional voyage to a port or ports in the maritime provinces of Canada in the Canadian coastal trade. (Pub. L. 86–555, § 2, June 30, 1960, 74 Stat. 259.)

EFFECTIVE DATE

Section 13 of Pub. L. 86–555 provided that: "This Act [this chapter] shall become effective upon the date of its enactment [June 30, 1960], except that the pilotage provisions of this Act [this chapter] shall not become effective until the first day of the fourth month following the issuance of regulations pursuant hereto by the Secretary."

SHORT TITLE

Section 1 of Pub. L. 86–555 provided that Pub. L. 86–555, which added this chapter, may be cited as the "Great Lakes Pilotage Act of 1960."

SEPARABILITY OF PROVISIONS

Section 12 of Pub. L. 86–555 provided that: "If a provision of this Act [this chapter] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act [this chapter] and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Secretary of Transportation" was substituted for "Secretary of Commerce" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under this chapter relating generally to pilotage to the Secretary of Transportation. See section 1655(a)(4) of Title 49, Transportation.

§ 216a. Pilot requirement.

(a) Registered pilots for designated waters.

The President shall designate and by proclamation announce those United States waters of the Great Lakes in which registered vessels of the United States and foreign vessels shall be required to have in their service a United States registered pilot or a Canadian registered pilot for the waters concerned, who shall, subject to the customary authority of the master, direct the navigation of the vessel in those waters. These designations shall be made with due regard to the public interest, the effective utilization of navigable waters, marine safety, and the foreign relations of the United States.

(b) Registered pilots or other qualified officers for nondesignated waters.

In those United States waters of the Great Lakes which are not designated by the President in accordance with subsection (a) of this section, there shall be on board registered vessels of the United States and foreign vessels, a United States registered pilot or Canadian registered pilot or other officer qualified for the waters concerned who shall be available to direct the navigation of the vessel in such undesignated waters at the discretion of and subject to the customary authority of the master.

(c) Canadian reciprocity.

The authority extended in subsections (a) and (b) of this section to Canadian registered pilots or to other officers certificated by Canada to serve on registered vessels of the United States and foreign vessels in United States waters of the Great Lakes shall be in effect only so long as Canada extends reciprocity to United States registered pilots or to other officers licensed by the United States, in regard to requirements established for the pilotage of Canadian waters of the Great Lakes. (Pub. L. 86–555, § 3, June 30, 1960, 74 Stat. 259.)

PROCLAMATION NO. 3385. DESIGNATION OF RESTRICTED WATERS

Proc. No. 3385, Dec. 22, 1960, 25 F.R. 13681, as amended by Proc. No. 3855, June 10, 1968, 33 F.R. 8535, provided:

Whereas, pursuant to section 3(a) of the Great Lakes Pilotage Act of 1960 (Public Law 86–555; 74 Stat. 259) [subsection (a) of this section], the President is directed to designate and by proclamation announce those United States waters of the Great Lakes in which registered vessels of the United States and foreign vessels shall be required to have in their service a United States registered pilot or a Canadian registered pilot for the waters concerned; and

Whereas the aforesaid section 3(a) [subsection (a) of this section] provides that these designations shall be made with due regard to the public interest, the effective utilization of navigable waters, marine safety, and the foreign relations of the United States:

Now, therefore, I, Dwight D. Eisenhower, President of the United States of America, acting under and by virtue of the authority vested in me by section 3(a) of the Great Lakes Pilotage Act of 1960 [subsection (a) of this section], do hereby designate and proclaim the following areas in which registered vessels of the United States and foreign vessels shall be required to have in their service a United States registered pilot or a Canadian registered pilot for the waters concerned, on and after the effective date of regulations issued by the Secretary of Transportation pursuant to the Act:

(1) *District 1.* All United States waters of the St. Lawrence River between the international boundary at St. Regis and a line at the head of the river running (at approximately 127° true) between Carruthers Point Light and South Side Light extended to the New York shore.

(2) *District 2.* All United States waters of Lake Erie westward of a line running (at approximately 026° true) from Sandusky Pierhead Light at Cedar Point to Southeast Shoal Light; all waters contained within the arc of a circle of one mile radius eastward of Sandusky Pierhead Light; the Detroit River; Lake St. Clair; the St. Clair River, and northern approaches thereto south of latitude 43°05′30″ N.

(3) *District 3.* All United States waters of the St. Marys River, Sault Sainte Marie Locks and approaches thereto between latitude 45°59′ N. at the southern approach and longitude 84°33′ W. at the northern approach.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this twenty-second day of December in the year of our Lord nineteen [SEAL] hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fifth.

DWIGHT D. EISENHOWER

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 216, 216e of this title.

§ 216b. Registration of United States pilots.

(a) Qualifications, terms and conditions.

The registration of United States pilots shall be carried out by the Secretary under such regulations as to qualifications, terms, and conditions which will assure adequate and efficient pilotage service, provide for equitable participation of United States registered pilots with Canadian registered pilots in the pilotage of vessels to which this chapter applies, and provide fair and reasonable opportunity for registration. Each applicant must, as a prerequisite, be the holder of an appropriate master's license as described in section 216(c) of this title. In addition, the qualifications, terms, and conditions to be met by each applicant shall include, but not be limited to, availability for service when required and agreement to comply with all applicable regulations issued by the Secretary pursuant to this chapter. Such qualifications, terms, and conditions shall not include matters relating to a pilot's professional competency nor be inconsistent with his duties under the license issued to him by the Coast Guard, which matters shall remain the responsibility of the Coast Guard.

(b) Documentary evidence.

The Secretary shall issue documentary evidence of registration to United States registered pilots and such evidence shall be in their possession at all times when in the service of a vessel. Further, this evidence of registration shall describe the part or parts of the Great Lakes within which the holder is authorized to perform pilotage under this chapter and such description shall not be inconsistent with the terms of the pilotage authorization in his license.

(c) Duration; revocation or suspension.

The Secretary shall establish by regulation the period of validity of registration of United States registered pilots. When the Secretary determines on the record, after notice and opportunity for a hearing, that a United States registered pilot has violated any regulation pursuant to this chapter, he may revoke or suspend the registration of such pilot. The basis for such revocation or suspension of a pilot's registration shall not extend to or include matters which may be the basis for revocation or suspension of his license by the Coast Guard under section 239 of this title, or under any other law or regulation administered or prescribed by the Coast Guard, except that upon revocation or suspension by the Coast Guard the Secretary shall revoke or suspend the pilot's registration. The Secretary shall advise the Coast Guard of the name and Coast Guard license number of each pilot who has been registered or whose registration has been revoked or suspended. The Coast Guard shall advise the Secretary of the name of any registered pilot whose license has been revoked or suspended.

(d) Equitable participation of United States and Canadian pilots.

The Secretary is authorized to enter into arrangements with an appropriate agency of Canada for equitable participation by United States registered pilots with Canadian registered pilots in the pilotage services required by both countries for vessels navigating the Great Lakes. To that end, the Secretary is further authorized to arrange with an appropriate agency of Canada for the number of pilots who shall be registered in each country.

(e) Pools for pilotage services.

Notwithstanding the provisions of any other law, the Secretary may authorize the formation of a pool or pools by a voluntary association or associations of United States registered pilots to provide such arrangements and facilities as may be necessary or desirable for the efficient dispatching of vessels and rendering of pilotage services required under the provisions of this chapter. The Secretary may—

(i) establish such rules and regulations for the operation of a pool or pools as he may deem necessary;

(ii) require that pooling be coordinated on a reciprocal basis with similar arrangements established by the appropriate agency of Canada;

(iii) limit the number of pools;

(iv) audit and inspect the administration and operation of a pool or pools;

(v) prescribe uniform systems of accounts for a pool or pools.

(Pub. L. 86–555, § 4, June 30, 1960, 74 Stat. 260.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 216 of this title.

§ 216c. Rates, charges, conditions and terms for services.

(a) Regulations.

The Secretary is authorized and directed to establish by regulations the rates, charges, and any other conditions or terms for services performed by registered pilots to meet the provisions of this chapter.

(b) Joint provisions.

The Secretary is authorized to arrange with the appropriate agency of Canada for the establishment of joint or identical rates, charges, and any other conditions or terms for services by registered pilots in the waters of the Great Lakes.

(c) Basis of determination.

The rates, charges, and any other conditions or terms for pilotage services by registered pilots established by the Secretary in accordance with subsections (a) and (b) of this section shall be fair and equitable, giving due consideration to the public

interest and the reasonable cost and expense of providing and maintaining such facilities and arrangements as are required for the efficient performance of pilotage services in accordance with the provisions of this chapter. (Pub. L. 86-555, § 5, June 30, 1960, 74 Stat. 261.)

§ 216d. Arrangements between United States and Canada subject to concurrence of Secretary of State.

Any written arrangements between the Secretary and the appropriate agency of Canada under the provisions of this chapter shall be subject to the concurrence of the Secretary of State. (Pub. L. 86-555, § 6, June 30, 1960, 74 Stat. 261.)

§ 216e. Violations; civil penalties; enforcement.

(a) Any owner, master, or person in charge of a vessel subject to this chapter who permits the navigation of the vessel by a person not a registered pilot in the waters designated by the President pursuant to section 216a(a) of this title or who permits the navigation of the vessel without having on board a registered pilot or other officer in the waters described in section 216a(b) of this title shall be liable to the United States in a civil penalty not exceeding $500 for each violation, for which sum the vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction thereof. Each day the vessel shall be so navigated shall constitute a separate violation. This subsection shall be enforced by the head of the Department in which the Coast Guard is operating.

(b) Any person, not a registered pilot, who directs the navigation of a vessel subject to this chapter in the waters designated by the President pursuant to section 216a(a) of this title, shall be subject to a civil penalty in an amount not exceeding $500 for each violation. Each day such person so directs the navigation of such vessel shall constitute a separate violation. This subsection shall be enforced by the head of the Department in which the Coast Guard is operating.

(c) A person who violates any regulation issued pursuant to sections 216b and 216c of this title shall be liable to the United States in a civil penalty not exceeding $500 for each violation. The provisions of this subsection shall be enforced by the Secretary, who may, upon application therefor, remit or mitigate the penalty provided for herein, upon such terms as he, in his discretion, shall think proper. (Pub. L. 86-555, § 7, June 30, 1960, 74 Stat. 261.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 216f. Operation without registered pilots.

Notwithstanding any other provision of this chapter, a vessel may be navigated in the United States waters of the Great Lakes without a United States or Canadian registered pilot when—

(a) the Secretary, or his designee, with the concurrence of the head of the Department in which the Coast Guard is operating, or his designee, notifies the master that a United States or Canadian registered pilot is not available, or

(b) the vessel or its cargo is in distress or jeopardy.

(Pub. L. 86-555, § 8, June 30, 1960, 74 Stat. 261.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 216g. State regulation of pilots prohibited; other laws applicable; laker vessels.

(a) No State, municipal, or other local authority shall have any power to require the use of pilots or to regulate any aspect of pilotage in any of the waters specified in this chapter.

(b) Nothing in this chapter shall apply to any vessel of the United States which, in its navigation of waters to which this chapter is applicable, is required by any other Act to have in its service and on board pilots or other navigating officers licensed by the United States for such waters.

(c) The exceptions in section 216f of this title applying to Canadian vessels shall be effective only so long as Canada permits enrolled vessels of the United States to be navigated on Canadian waters of the Great Lakes solely by qualified officers licensed by the head of the Department in which the Coast Guard is operating. (Pub. L. 86-555, § 9, June 30, 1960, 74 Stat. 262.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 216h. Advisory Committee.

(a) Membership; qualifications; term.

The Secretary is authorized to appoint an Advisory Committee of three public members, each of whom shall have had at least five years of practical experience in maritime operations. The term for which a member may be appointed or reappointed shall not exceed five years.

(b) Meetings; authority to review and recommend.

The Advisory Committee shall meet at the call of the Secretary. The Advisory Committee may review proposed pilotage regulations and policies and make such recommendations as are deemed appropriate.

(c) Compensation; expenses.

Members of the Advisory Committee shall be compensated at a rate not exceeding $75 per day when actually engaged in the performance of their duties, together with their necessary travel expenses while going to and from meetings and when engaged on

business at the call of the Secretary. (Pub. L. 86–555, § 10, June 30, 1960, 74 Stat. 262.)

§ 216i. Use of Federal agency facilities on reimbursable basis.

The Secretary may use, with their consent, the available services, equipment, personnel, and facilities of agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate. (Pub. L. 86–555, § 11, June 30, 1960, 74 Stat. 262.)

Chapter 11.—OFFICERS AND CREWS OF VESSELS

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§ 221. Vessels of United States and officers defined; officers to be citizens.

Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States, and entitled to the benefits and privileges appertaining to such vessels; but no such vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States or a corporation created under the laws of any of the States thereof, and be commanded by a citizen of the United States. And all the officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States. The word "officers" shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen, or whose naturalization as a citizen shall not have been fully completed. In cases where on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer. (R. S. § 4131; June 26, 1884, ch. 121, § 1, 23 Stat. 53; May 28, 1896, ch. 255, §§ 1, 3, 29 Stat. 188, 189.)

DERIVATION

Act Dec. 31, 1792, ch. 1, § 1, 1 Stat. 287.

CODIFICATION

R.S. § 4131, as originally enacted, was as follows: "Vessels registered pursuant to law, and no others, except such as shall be duly qualified, according to law, for carrying on the coasting trade and fisheries, or one of them, shall be deemed vessels of the United States, and entitled to the benefits and privileges appertaining to such vessels; but they shall not enjoy the same longer than they shall continue to be wholly owned by citizens and to be commanded by a citizen of the United States. And officers of vessels of the United States shall in all cases be citizens of the United States."

It was amended by act June 26, 1884, by changing the last clause to read as follows: "All the officers of vessels of the United States shall be citizens of the United States, except that in cases where, on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel

to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer."

It was again amended by act May 28, 1896, § 1, to read as set forth in this section with the exception of the last sentence. Section 3 of that act repealed conflicting laws, but provided that this should not be construed to modify or repeal the provision of the act June 26, 1884, therein quoted, and set forth as the last sentence of this section.

Aliens who had declared their intention to become citizens of the United States, and who had had a permanent residence in the United States for at least six months immediately prior to the granting of a license, were entitled to be licensed, as if already naturalized, to serve as engineers or pilots upon any steam-vessel, subject to inspection under the provisions of act Feb. 28, 1871, ch. 100, 16 Stat. 440, which were incorporated into the Revised Statutes under Title LII, "Regulation of Steam-Vessels," by act Apr. 17, 1874, ch. 107, 18 Stat. 30. The act was superseded by this section, as amended by act May 28, 1896, § 1, to read as set forth here.

CROSS REFERENCES

Coasting trade or fisheries, vessels of United States entitled to privileges of vessels employed in, see section 251 of this title.

General provisions as to registry, see section 11 et seq. of this title.

Licenses to, and ownership of boats by, Indians though not citizens of United States, see section 237 of this title.

Nationality and naturalization, see section 1401 et seq. of Title 8, Aliens and Nationality.

Nationality of officers and crew of vessels of United States, see sections 672, 672a, and 1132 of this title.

President may suspend requirement that watch of vessels shall be United States citizens, see section 236 of this title.

Staff officer, only United States citizens as, see section 242 of this title.

§ 222. Complement of officers and crew of vessels; penalties.

No vessel of the United States subject to the provisions of title 52 of the Revised Statutes or to the inspection laws of the United States shall be navigated unless she shall have in her service and on board such complement of licensed officers and crew including certificated lifeboat men, separately stated, as may in the judgment of the Coast Guard be necessary for her safe navigation. The Coast Guard shall make in the certificate of inspection of the vessel an entry of such complement of officers and crew including certificated lifeboat men, separately stated, which may be changed from time to time by indorsement on such certificate by the Coast Guard by reason of change of conditions or employment. Such entry or indorsement shall be subject to a right of appeal, under regulations to be made by the Commandant of the Coast Guard, to the Commandant of the Coast Guard, who shall have the power to revise, set aside, or affirm the said determination.

If any such vessel is deprived of the services of any number of the crew including certificated lifeboat men, separately stated, without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the vessel may proceed on her voyage if, in the judgment of the master, she is sufficiently manned for such voyage: *Provided*, That the master shall ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same grade or of a higher rating with those whose places they fill. If the master shall fail to explain in writing the cause of such deficiency in the crew including certificated lifeboat men, separately stated, to the Coast Guard within twelve hours of the time of the arrival of the vessel at her destination, he shall be liable to a penalty of $50. If the vessel shall not be manned as provided in this section, the owner shall be liable to a penalty of $100, or in case of an insufficient number of licensed officers to a penalty of $500. (R. S. § 4463; Apr. 2, 1908, ch. 123, § 1, 35 Stat. 55; Mar. 3, 1913, ch. 118, § 1, 37 Stat. 732; Mar. 4, 1915, ch. 153, § 14, 38 Stat. 1182; May 11, 1918, ch. 72 § 1, 40 Stat. 548; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 14, 16 Stat. 446.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4436, as enacted, was as follows: "No steamer carrying passengers shall depart from any port unless she shall have in her service a full complement of licensed officers and full crew, sufficient at all times to manage the vessel, including the proper number of watchmen. But if any such vessel, on her voyage, is deprived of the services of any licensed officer, without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the deficiency may be temporarily supplied, until others licensed can be obtained."

It was amended by act Apr. 2, 1908, to read as set forth here, except for the subsequent changes hereinafter mentioned. As so amended the last sentence of the section read: "If the vessel shall have been insufficiently manned in the judgment of the local inspectors, the master shall be liable to a penalty of one hundred dollars, or in case of an insufficient number of licensed officers to a penalty of five hundred dollars."

The proviso was inserted, and the last sentence of the section was changed to read as set forth here, by amendment by act Mar. 3, 1913; and the words "including certificated lifeboat men, separately stated," were added to the section following the word "crew," wherever said word occurred in the section, by act Mar. 4, 1915.

The amendment by act May 11, 1918, consisted in changing the word "any," at the beginning of the section, to "no," in striking out the word "not," after the words "of the United States shall," and in striking out the words "and Labor," after the words "Secretary of Commerce."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "local inspectors who inspect the vessel" in first sentence and for "local inspectors" in second sentence and in second paragraph, and third sentence of first paragraph was changed to

provide for appeal to the Commandant of the Coast Guard under regulations of the Commandant instead of appeal under regulations of the Secretary of Commerce to the supervising inspector and from him to the Director of the Bureau of Marine Inspection and Navigation, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Licenses of radiotelegraph operators as officers, see sections 229a—229h of this title.

Watches, requirements as to, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229a, 673 of this title.

§ 223. Minimum number of officers.

The Coast Guard shall make an entry in the certificate of inspection of every ocean and coastwise seagoing merchant vessel of the United States propelled by machinery, and every ocean-going vessel carrying passengers, the minimum number of licensed deck officers required for her safe navigation according to the following scale:

No such vessel shall be navigated unless she shall have on board and in her service one duly licensed master.

Every such vessel of one thousand gross tons and over, propelled by machinery, shall have in her service and on board three licensed mates, who shall stand in three watches while such vessel is being navigated, unless such vessel is engaged in a run of less than four hundred miles from the port of departure to the port of final destination, then such vessel shall have two licensed mates; and every vessel of two hundred gross tons and less than one thousand gross tons, propelled by machinery, shall have two licensed mates.

Every such vessel of one hundred gross tons and under two hundred gross tons, propelled by machinery, shall have on board and in her service one licensed mate, but if such vessel is engaged in a trade in which the time required to make the passage from the port of departure to the port of destination exceeds twenty-four hours, then such vessel shall have two licensed mates.

Nothing in this section shall be so construed as to prevent the Coast Guard from increasing the number of licensed officers on any vessel subject to the inspection laws of the United States, if, in its judgment, such vessel is not sufficiently manned for her safe navigation: *Provided,* That this section shall not apply to fishing or whaling vessels, yachts, or motor boats as defined in act June 9, 1910, ch. 268, 36 Stat. 462, or to wrecking vessels. (May 11, 1918, ch. 72 § 2, 40 Stat. 549; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

Act June 9, 1910, referred to in proviso, was repealed by act Apr. 25, 1940, ch. 155, § 19, 54 Stat. 167. For application of proviso to motorboats as defined in sections 526—526t of this title, see section 526q of this title.

PRIOR LAW

This section superseded act Mar. 3, 1913, ch. 118, § 2, 37 Stat. 733, which was identical with this section, with the exception of the words "or to wrecking vessels," at the end of this section.

REPEAL OF INCONSISTENT LAWS

Section 4 of act May 11, 1918, repealed all inconsistent laws or parts of laws.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "board of local inspectors" and "local inspectors" on authority of Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526q of this title.

§ 224. Licensing of officers.

The Coast Guard shall license and classify the masters, chief mates, and second and third mates, if in charge of a watch, engineers, and pilots of all steam vessels, and the masters of sail vessels of over seven hundred gross tons, and all other vessels of over one hundred gross tons carrying passengers for hire. It shall be unlawful to employ any person or for any person to serve as a master, chief mate, engineer, or pilot of any steamer or as master of any sail vessel of over seven hundred gross tons or of any other vessel of over one hundred gross tons carrying passengers for hire who is not licensed by the Coast Guard; and anyone violating this section shall be liable to a penalty of $100 for each offense. (R. S. § 4438; Dec. 21, 1898, ch. 29, § 1, 30 Stat. 764; Jan. 25, 1907, ch. 398, 34 Stat. 864; May 28, 1908, ch. 212, § 2, 35 Stat. 425; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 1, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 14, 16 Stat. 446.

CODIFICATION

This section, as enacted in the Revised Statutes, was as follows: "The boards of local inspectors shall license and classify the masters, chief mates, engineers, and pilots of all steam-vessels. It shall be unlawful to employ any person, or for any person to serve as a master, chief mate, engineer, or pilot on any steamer, who is not licensed by the inspectors; and any one violating this section shall be liable to a penalty of one hundred dollars for each offense."

It was amended by act Dec. 21, 1898, to read as follows: "The boards of local inspectors shall license and classify the masters, chief mates, and second and third mates, if in charge of watch, engineers, and pilots of all steam vessels, and the masters and chief mates of sail vessels of over seven hundred tons and all other vessels and barges of over one hundred tons burden carrying passengers for hire. It shall be unlawful to employ any person, or for any person to serve, as a master, chief mate, engineer, or pilot of any steamer, or as master or chief mate of any sail vessel of over seven hundred tons who is not licensed by the inspectors; and any one violating this section shall be liable to a penalty of one hundred dollars for each offense."

It was further amended by act Jan. 25, 1907, by omitting from the section words including chief mates as well as masters of sail vessels, changing the word "tons"

and the words "tons burden," wherever they occurred to "gross tons," and inserting after the word "engineer" the words, "in charge of a watch," and after the words "any sail vessel of over seven hundred gross tons," the words "or of any other vessel of over one hundred gross tons carrying passengers for hire."

It was again amended by act May 28, 1908, to read as set forth here.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "boards of local inspectors" and "inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Citizenship of officers having charge of a watch, including pilots, see section 221 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 224a. Same; Officers' Competency Certificates Convention, 1936.

(1) The Officers' Competency Certificates Convention, 1936 (International Labor Organization Draft Convention Numbered 53, "concerning the minimum requirement of professional capacity for masters and officers on board merchant ships"), as ratified by the President on September 1, 1938, with understandings appended, and this section shall apply to all vessels, however propelled, navigating on the high seas, which are registered, enrolled and licensed, or licensed under the laws of the United States, whether permanently, temporarily, or provisionally, including yachts enrolled and licensed, or licensed, with the exception of—

(a) ships of war;

(b) Government vessels, or vessels in the service of a public authority, which are not engaged in trade;

(c) wooden ships of primitive build, such as dhows and junks;

(d) unrigged vessels;

(e) all vessels of less than two hundred gross tons.

(2) All laws in effect on October 29, 1939, covering the issuance, duration, renewal, suspension, and revocation of licenses of masters, mates, chief engineers, and assistant engineers are made applicable to the issuance, duration, renewal, suspension, or revocation of licenses of masters, mates, chief engineers, and assistant engineers of all vessels to which the Officers' Competency Certificates Convention, 1936, and this section apply, to such extent and upon such conditions as may be required by the regulations of the Commandant of the Coast Guard: *Provided,* That examinations for licenses of masters, mates, chief engineers, and assistant engineers of fishing vessels, not subject to the inspection laws of the United States, shall be oral: *Provided further,* That applicants for licenses as masters, mates, chief engineers, and assistant engineers of fishing vessels not subject to the inspection laws of the United States shall not be required to obtain a certificate from the United States Public Health Service based upon the subject of ship sanitation, and first aid.

(3) Any license issued (whether before, or on, or after, October 29, 1939,) to a master, mate, chief engineer, or assistant engineer of a vessel to which this section applies shall be deemed to be a certificate of competency for a master or skipper, navigating officer in charge of a watch, chief engineer, or engineer in charge of a watch, respectively.

(4) No person shall be engaged to perform, or shall perform on board any vessel to which this section applies, the duties of master, mate, chief engineer, or assistant engineer unless he holds a license to perform such duties, issued in accordance with the provisions of subsection 2 of this section: *Provided,* That a license as master, mate, chief engineer, or assistant engineer of vessels subject to this section may be issued without examination at any time prior to October 29, 1941, to any applicant who has had sufficient practical experience in the position for which he applies to be licensed and has no record of any serious technical error against him: *Provided further,* That no person to whom a license as master, mate, chief engineer, or assistant engineer is issued without examination may serve under authority of that license as master, mate, chief engineer, or assistant engineer on any vessel subject to the inspection laws of the United States.

(5) It shall be unlawful to engage or employ any person or for any person to serve as a master, mate, or engineer on any such vessel who is not licensed by the Coast Guard; and anyone violating this section shall be liable to a penalty of $100 for each offense.

(6) If any collector of customs has reason to believe, on complaint or otherwise, that a vessel subject to this section and to the regulations established thereunder is about to proceed to the high seas from a port in the United States or any Territory over which the United States exercises jurisdiction, except the Panama Canal Zone, in violation of any provision of this section or of any provision of the Officers' Competency Certificates Convention, 1936, he may, by written order served on the master or officer in charge of such vessel, detain her until such time as this section shall have been complied with. Clearance shall be refused to any vessel which shall have been ordered detained. If the vessel be ordered detained the master may, within five days, appeal to the Commandant of the Coast Guard, who may, after investigation, affirm, set aside, or modify the order of the collector.

(7) Foreign vessels to which the Officers' Competency Certificates Convention, 1936, applies shall be subject to such inspection, within the jurisdiction of the United States, except the Panama Canal Zone, as may be necessary to determine that there has been a compliance with the terms of the convention, and

in case of any breach of the provisions of the convention by such vessel the collector of customs may, by written order served on the master or officer in charge of such vessel, detain her and refuse clearance to her until such time as the convention shall have been complied with; the collector shall also immediately notify the consul of the country in which the vessel is registered. If the vessel be ordered detained the master may, within five days, appeal to the Commandant of the Coast Guard, who may, after investigation, affirm, set aside, or modify the order of the collector.

(8) No provision of the Officers' Competency Certificates Convention, 1936, or of this section, shall apply to any vessel of the United States of less than two hundred gross tons, nor shall any provision of that convention or this section be deemed to alter, amend, or repeal any statute of the United States in effect on October 29, 1939, with regard to any such vessel.

(9) The Commandant of the Coast Guard shall establish such regulations as may be necessary to secure the enforcement of the provisions of this section by any officer of the United States authorized to enforce the navigation or inspection laws of the United States.

(10) The Commandant of the Coast Guard or any officer of the Coast Guard authorized by the Commandant of the Coast Guard may, upon application therefor, remit or mitigate any fine or penalty incurred under this section or any regulation thereunder.

(11) No provision of the Officers' Competency Certificates Convention, 1936, nor of this section, shall apply to any vessel, however propelled, navigating on the Great Lakes.

(12) Where used in this section—

(a) the term "high seas" means all waters outside the line dividing the inland waters from the high seas, as defined in section 151 of Title 33;

(b) the term "unrigged vessel" means any vessel that is not self-propelled.

(13) Nothing contained in the Officers' Competency Certificates Convention, 1936, nor in this section, shall be deemed to extend any provision of section 673 of this title, or to alter, modify, or repeal any statute of the United States in effect on October 29, 1939, except as hereinbefore provided.

(14) This section shall become effective on October 29, 1939.

(15) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. (R. S. § 4438a, as added July 17, 1939, ch. 316, 53 Stat. 1049, and amended Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

The Officers' Competency Certificates Convention, 1936, referred to in the text, is set out in 54 Stat. Pt. 2, p. 1683.

CODIFICATION

Phrase "the Philippine Islands and" preceding "the Panama Canal Zone" in subsecs. (6) and (7) was omitted pursuant to 1946 Proc. No. 2695, which proclaimed the independence of the Philippines under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and under which section the 1946 Proc. No. 2695 is set out as a note.

A proviso in subsec. (14) permitting issuance of licenses under this section at any time prior to Oct. 29, 1939, its effective date, was omitted as obsolete.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors with the approval of the Secretary of Commerce" in subsec. (2) and for "Secretary of Commerce" in subsecs. (6), (7), (9), and (10), and "Coast Guard" was substituted for "inspectors" in subsec. (5) and for "Department of Commerce" in subsec. (10), on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Exemption of certain vessels from provisions of Convention, see section 241 of this title.

§ 225. Licenses to officers of vessels of the United States; exemption from draft; pay and pension.

All licenses issued to such officers shall be for a term of five years, but the holder of a license may have the same renewed for another five years in the manner prescribed in the rules and regulations of the Commandant of the Coast Guard: *Provided, however*, That any officer holding a license, and who is engaged in a service which necessitates his continuous absence from the United States, may make application in writing for renewal and transmit the same to the Coast Guard, with his certificate of citizenship, if naturalized, and a statement of the applicant, verified before a consul or other officer of the United States authorized to administer an oath, setting forth the reasons for not appearing in person; and upon receiving the same the Coast Guard official that originally issued such license shall renew the same and shall notify the applicant of such renewal: *Provided further*, That no license as master, mate, or pilot of any class of vessel shall be renewed without furnishing a satisfactory certificate of examination as to color blindness. No master, mate, pilot, or engineer of steam vessels licensed under sections 214, 224, 226, 228, 229, and 230 of

this title shall be liable to draft in time of war, except for the performance of duties such as required by his license; and while performing such duties in the service of the United States every such master, mate, pilot, or engineer shall be entitled to the highest rate of wages paid in the merchant marine of the United States for similar services; and if killed or wounded while performing such duties under the United States, they, or their heirs, or their legal representatives, shall be entitled to all the privileges accorded to soldiers and sailors serving in the Army or Navy, under the pension laws of the United States. (May 28, 1896, ch. 255, § 2, 29 Stat. 188; Oct. 22, 1914, ch. 334, 38 Stat. 765; May 27, 1936, ch. 463, § 4, 49 Stat. 1381; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

As originally enacted this section read as follows: "That all licenses issued to such officers shall be for a term of five years, but the holder of a license may have the same renewed for another five years at any time before its expiration: Provided, however, That any officer holding a license, and who is engaged in a service which necessitates his continuous absence from the United States, may make application in writing for one renewal and transmit the same to the board of local inspectors with a statement of the applicant verified before a consul, or other officer of the United States authorized to administer an oath, setting forth the reasons for not appearing in person; and upon receiving the same the board of local inspectors that originally issued such license shall renew the same for one additional term, of such license, and shall notify the applicant of such renewal. And in all cases where the issue is the suspension or revocation of such licenses, whether before the local boards of inspectors as provided for in section forty-four hundred and fifty of the Revised Statutes, or before the supervising inspector as provided for in section forty-four hundred and fifty-two of the Revised Statutes, the accused shall be allowed to appear by counsel and to testify in his own behalf. No master, mate, pilot, or engineer of steam vessels licensed under title fifty-two of the Revised Statutes shall be liable to draft in time of war, except for the performance of duties such as required by his license; and, while performing such duties in the service of the United States, every such master, mate, pilot, or engineer shall be entitled to the highest rate of wages paid in the merchant marine of the United States for similar services; and, if killed or wounded while performing such duties under the United States, they, or their heirs, or their legal representatives shall be entitled to all the privileges accorded to soldiers and sailors serving in the Army and Navy, under the pension laws of the United States."

As amended by act Oct. 22, 1914, it read substantially as set forth in the present text, except that the words "the accused shall be allowed to appear" were preceded by the words "or before the supervising inspector as provided for in section forty-four hundred and fifty-two of the Revised Statutes." R.S. § 4452, so referred to, was repealed by act June 10, 1918, ch. 95, § 5, 40 Stat. 603.

Second sentence reading: "And in all cases where the issue is the suspension or revocation of such licenses, before the local boards of inspectors (of steam vessels), as provided for in section 239 of this title, the accused shall be allowed to appear by counsel and to testify in his own behalf," has been omitted as superseded by amendment of act May 27, 1936, to section 239 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors" and "Coast Guard" and "Coast Guard official" were substituted for "board of local inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Oct. 22, 1914, which amended this section generally, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 226. Licenses of captains.

Whenever any person applies to be licensed as master of any steam vessel, or of a sail vessel of over seven hundred tons, the Coast Guard shall make diligent inquiry as to his character, and shall carefully examine the applicant as well as the proofs which he presents in support of his claim, and if it is satisfied that his capacity, experience, habits of life, and character are such as warrant the belief that he can safely be intrusted with the duties and responsibilities of the station for which he makes application, it shall grant him a license authorizing him to discharge such duties on any such vessel for the term of five years; but such license shall be suspended or revoked upon satisfactory proof of bad conduct, intemperate habits, incapacity, inattention to his duties, or the willful violation of any provision of title 52 of the Revised Statutes applicable to him. (R. S. § 4439; Dec. 21, 1898, ch. 29, § 2, 30 Stat. 764; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946. 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 15, 16 Stat. 446.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Act Dec. 21, 1898, inserted after the words, "as master of any steam-vessel," the words "or of a sail vessel of over seven hundred tons"; made the term of the license five years instead of one; and added at the end of the section, the words "applicable to him."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power

vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" and references to "they" changed to "it" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 227. Removal of captain by owners.

Any person or body corporate having more than one-half ownership of any vessel shall have the same power to remove a master, who is also part owner of such vessel, as such majority owners have to remove a master not an owner. This section shall not apply where there is a valid written agreement subsisting, by virtue of which such master would be entitled to possession. (R. S. § 4250; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320.)

DERIVATION

Act Apr. 9, 1872, ch. 90, 17 Stat. 51.

CODIFICATION

Prior to incorporation into the Code, the second sentence contained this further provision, "nor in any case where a master has possession as part owner, obtained before the ninth day of April, eighteen hundred and seventy-two." This was omitted as obsolete.

The amendment by the act of Feb. 18, 1875, related to the provision so omitted.

§ 228. Licenses of mates.

Whenever any person applies for authority to be employed as chief mate of ocean or coastwise steam vessels or of sail vessels of over seven hundred tons, or as second or third mate of ocean or coastwise steam vessels, who shall have charge of a watch, or whenever any person applies for authority to be employed as mate of river steamers, the Coast Guard shall require satisfactory evidence of the knowledge, experience, and skill of the applicant in lading cargo and in handling and stowage of freight, and if for license as chief mate on ocean or coastwise steamers, or of sail vessels of over seven hundred tons, or as second or third mate of ocean or coastwise steamers, who shall have charge of a watch, shall also examine him as to his knowledge and ability in navigation and managing such vessels and all other duties pertaining to his station, and if satisfied of his qualifications and good character it shall grant him a license authorizing him to perform such duties for the term of five years upon the waters upon which he is found qualified to act; but such license shall be suspended or revoked upon satisfactory proof of bad conduct, intemperate habits, unskillfulness, or want of knowledge of the duties of his station or the willful violation of any provision of title 52 of the Revised Statutes. (R. S. § 4440; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; Mar. 23, 1898, ch. 86, 30 Stat. 340; Dec. 21, 1898, ch. 29, § 3, 30 Stat. 765; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 16, 16 Stat. 446.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

The section was amended by act Feb. 27, 1877, by striking out the word "inspector," and inserting "inspectors."

It was further amended by act Mar. 23, 1898, by making second and third mates and mates on river steamboats liable to examination and subject to be licensed, and by extending the term of the license from one to five years.

It was again amended by act Dec. 21, 1898, by including mates of sailing vessels of over 700 tons burden.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" and reference to "they" changed to "it" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 229. Licenses of engineers.

Whenever any person applies for authority to perform the duties of engineer of any steam vessel, the Coast Guard shall examine the applicant as to his knowledge of steam machinery, and his experience as an engineer, and also the proofs which he produces in support of his claim; and if, upon full consideration, it is satisfied that his character, habits of life, knowledge, and experience in the duties of an engineer are all such as to authorize the belief that he is a suitable and safe person to be intrusted with the powers and duties of such a station, it shall grant him a license, authorizing him to be employed in such duties for the term of five years, in which it shall assign him to the appropriate class of engineers; but such license shall be suspended or revoked upon satisfactory proof of negligence, unskillfulness, intemperance, or the willful violation of any provision of title 52 of the Revised Statutes. Whenever complaint is made against any engineer holding a license authorizing him to take charge of the boilers and machinery of any steamer, that he

has, through negligence or want of skill, permitted the boilers in his charge to burn or otherwise become in bad condition, or that he has not kept his engine and machinery in good working order, it shall be the duty of the Coast Guard, upon satisfactory proof of such negligence or want of skill, to revoke the license of such engineer and assign him to a lower grade or class of engineers, if it finds him fitted therefor. (R. S. § 4441; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; May 28, 1896, ch. 255, § 2, 29 Stat. 188; Oct. 22, 1914, ch. 334, 38 Stat. 765; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts Feb. 28, 1871, ch. 100, § 17, 16 Stat. 446; Apr. 17, 1874, ch. 107, 88 Stat. 30.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Act Feb. 27, 1877, struck out the word "inspector" and inserted "inspectors."

Upon incorporation into the Code the words "five years" were substituted for "one year" to conform to act May 28, 1896, as amended by act Oct. 22, 1914.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" and references to "they" changed to "it" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 229a. Licenses of radiotelegraph operators as officers.

Whenever the complement of any vessel prescribed pursuant to section 222 of this title includes one or more radiotelegraph operators such operators shall be required to be licensed officers. (May 12, 1948, ch. 286, § 1, 62 Stat. 232.)

EFFECTIVE DATE

Section 9 of act May 12, 1948, provides that sections 229a—229h of this title, and the amendment of section 673 of this title by section 4(a) of act May 12, 1948, shall be effective on Apr. 1, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229e, 229g, 229h of this title.

§ 229b. Same; granting of licenses; necessity of carrying licensed operator; penalty.

The boards of local inspectors authorized under section 4414 of the Revised Statutes shall license radiotelegraph operators, and it shall be unlawful to employ any person or for any person to serve as a radiotelegraph operator of any steamer or of any other vessel of over one hundred gross tons carrying passenges for hire who is not licensed by the inspectors; and anyone violating this section shall be liable to a penalty of $100 for each offense. (May 12, 1948, ch. 286, § 2, 62 Stat. 233.)

REFERENCES IN TEXT

Section 4414 of the Revised Statutes, referred to in the text, was formerly set out as section 382 of this title, but was omitted from the Code under the authority of 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, which transferred the powers and functions of the local inspectors to the Coast Guard. For transfer of functions relating to shipping and navigation and for administrative delegation of functions by Secretary of the Treasury, see notes set out under former section 1 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229e, 229g, 229h of this title.

§ 229c. Same; requirements for obtaining license; period of validity; suspension.

Whenever any person applies for authority to perform the duties of radiotelegraph operator of any vessel, the inspectors shall require possession of a valid first- or second-class radiotelegraph operator license issued by the Federal Communications Commission; and if, upon full consideration, they are satisfied that his character, habits of life, and physical condition are such as to authorize the belief that he is a suitable and safe person to be entrusted with the powers and duties of such a station, they shall grant him a license, authorizing him to be employed in such duties for the term of five years, provided he continues to hold a valid first- or second-class radiotelegraph operator license issued by the Federal Communications Commission.

All licenses issued under this section shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of license of officers under the provisions of section 239 of this title. (May 12, 1948, ch. 286, § 3, 62 Stat. 233.)

REFERENCES IN TEXT

1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, abolished the offices of local inspectors, referred to in this section, and transferred their functions to the Coast Guard. For transfer of functions relating to shipping and navigation and for administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229e, 229g, 229*l* of this title.

§ 229d. Same; working hours unaffected.

Nothing in sections 229a to 229h of this title shall be presumed to repeal the provisions of section 673 of this title, limiting the work of radiotelegraph operators to eight hours in one day. (May 12, 1948, ch. 286, § 4 (b), 62 Stat. 233.)

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229e, 229g, 229*l* of this title.

§ 229e. Same; oath; affirmation of application; perjury; penalty.

Every radiotelegraph operator who receives a license shall, before entering upon his duties, make oath before one of the inspectors herein provided for, to be recorded with the certificate, that he will faithfully and honestly, according to his best skill and judgment, without concealment or reservation, perform all the duties required of him by law.

Every applicant for license as radiotelegraph operator under the provisions of sections 229a to 229h and 673 of this title shall make and subscribe to an oath or affirmation, before one of the inspectors referred to in said sections, to the truth of all the statements set forth in his application for such license.

Any person who shall make or subscribe to any oath or affirmation authorized in said sections and knowing the same to be false shall be deemed guilty of perjury.

Every radiotelegraph operator, who shall change, by addition, interpolation, or erasure of any kind, any certificate or license issued by an inspector or inspectors referred to in said sections shall, for every such offense, upon conviction, be punished by a fine of not more than $500 or by imprisonment at hard labor for a term not exceeding three years. (May 12, 1948, ch. 286, § 5, 62 Stat. 233.)

REFERENCES IN TEXT

1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, abolished the offices of local inspectors, referred to in this section, and transferred their functions to the Coast Guard. For transfer of functions relating to shipping and navigation and for administrative delegation of functions by Secretary of the Treasury, see notes under former section 1 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Perjury and subornation of perjury, penalties, see sections 1621 and 1622 of said Title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229g, 229h of this title.

§ 229f. Same; exhibition of license.

Every radiotelegraph operator who shall receive a license shall, when employed upon any vessel, within forty-eight hours after going on duty, place his certificate of license, which shall be framed under glass, in some conspicuous place in such vessel, where it can be seen by passengers and others at all times: *Provided,* That in case of emergency such radiotelegraph operator may be transferred to another vessel of the same owners for a period not exceeding forty-eight hours without the transfer of his license; and for every neglect to comply with this provision by any such radiotelegraph operator, he shall be subject to a fine of $100 or to the revocation of his license. (May 12, 1948, ch. 286, § 6, 62 Stat. 233.)

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229e, 229g, 229h of this title.

§ 229g. Same; Great Lakes operators unaffected.

Nothing in sections 229a to 229h and 673 of this title shall affect the status of radiotelegraph operators while serving aboard vessels operating solely on the Great Lakes. (May 12, 1948, ch. 286, § 7, 62 Stat. 234.)

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229g, 229h of this title.

§ 229h. Same; number of operators to be carried unaffected.

Nothing in sections 229a to 229h and 673 of this title shall increase the number of radiotelegraph operators at present required by law to be carried on vessels, or the type of vessels on which radiotelegraph operators are required to be carried, or to alter, repeal, modify, or affect any other statute of the United States, it being the only intent of said sections to give to radiotelegraph operators the status of licensed officers as herein provided without affecting in any way any statute of the United States except as specifically hereinbefore authorized. (May 12, 1948, ch. 286, § 8, 62 Stat. 234.)

EFFECTIVE DATE

Section effective Apr. 1, 1949, see note set out under section 229a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229d, 229e, 229g of this title.

§ 230. Licenses of captains or mates as pilots.

Where the master or mate is also pilot of the vessel, he shall not be required to hold two licenses to perform such duties, but the license issued shall state on its face that he is authorized to act in such double capacity. (R. S. § 4443.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 18, 16 Stat. 447.

CROSS REFERENCES

Licensing of officers, see section 224 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 234, 405 of this title.

§ 231. Oath of licensed officers; perjury; alteration of certificate or license.

Every master, chief mate, engineer, and pilot, who receives a license, shall, before entering upon his

duties, make oath before one of the inspectors provided for, to be recorded with the certificate, that he will faithfully and honestly, according to his best skill and judgment, without concealment or reservation, perform all the duties required of him by law. Every applicant for license as either master, mate, pilot, or engineer under the provisions of title 52 of the Revised Statutes shall make and subscribe to an oath or affirmation, before one of the inspectors referred to in such title, to the truth of all the statements set forth in his application for such license. Any person who shall make or subscribe to any oath or affirmation authorized in title 52 of the Revised Statutes and knowing the same to be false shall be deemed guilty of perjury. Every licensed master, mate, pilot, or engineer who shall change, by addition, interpolation, or erasure of any kind, any certificate or license issued by any inspector or inspectors referred to in title 52 of the Revised Statutes, shall, for every such offense, upon conviction, be punished by a fine of not more than $500 or by imprisonment at hard labor for a term not exceeding three years. (R. S. § 4445; Mar. 23, 1900, ch. 90, § 1, 31 Stat. 50.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 56, 16 Stat. 456.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Act Mar. 23, 1900, added the last three sentences.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

The offices of the inspectors referred to in this section were abolished and their functions transferred to the Commandant of the Coast Guard by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

CROSS REFERENCES

False statements, penalty, see section 1001 of Title 18, Crimes and Criminal Procedure.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of said Title 18.

Misuse of certificate, license or document, penalty, see section 2197 of said Title 18.

Perjury and subornation of perjury, penalties, see sections 1621 and 1622 of said Title 18.

§ 232. Exhibition of licenses.

Every master, mate, engineer, and pilot who shall receive a license shall, when employed upon any vessel within forty-eight hours after going on duty, place his certificate of license, which shall be framed under glass, in some conspicuous place in such vessel, where it can be seen by passengers and others at all times: *Provided*, That in case of emergency such officer may be transferred to another vessel of the same owners for a period not exceeding forty-eight hours without the transfer of his license to such other vessel; and for every neglect to comply with this provision by any such master, mate, engineer, or pilot, he shall be subject to a fine of $100, or to the revocation of his license. (R. S. § 4446; Feb. 19, 1907, ch. 991, 34 Stat. 897.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 18, 16 Stat. 447.

CODIFICATION

Act Feb. 19, 1907, inserted after the words of the section as originally enacted, "when employed upon any vessel," the words "within forty-eight hours after going on duty;" and also inserted after the clause ending "where it can be seen by passengers and others at all times," the proviso "*Provided*, That in case of emergency such officer may be transferred to another vessel of the same owners for a period not exceeding forty-eight hours without the transfer of his license to such other vessel."

§ 233. Renewal of licenses.

When any licensed officer is employed on a steamer in a district distant from any Coast Guard official, such official may grant a renewal of his license, without such licensed officer being personally present, under such regulations as the Commandant of the Coast Guard shall prescribe. (R. S. § 4447; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 56, 16 Stat. 456.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard official, such official" was substituted for "local board of inspectors, such inspectors, or the supervising inspector of the district", and "Commandant of the Coast Guard" was substituted for "board of supervising inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 234. Officers to assist in examinations; dismissal of official disclosing source of information.

All officers licensed under the provisions of sections 214, 224, 226, 228, 229, and 230 of this title shall assist the Coast Guard in its examination of any vessels to which such licensed officers belong and shall point out all defects and imperfections known to them in the hull, equipments, boilers, or machinery of such vessel, and shall also make known to the Coast Guard at the earliest opportunity all accidents or occurrences producing serious injury to the vessel, her equipments, boilers, or machinery, and in default thereof the license of any such officer so neglecting or refusing shall be suspended or revoked.

No Coast Guard official receiving information from a licensed officer who is employed on any vessel as to defects in such vessel, or her equipments, boilers, or machinery, or that any provision of title 52 of the

Revised Statutes is being violated, shall impart the name of such licensed officer, or the source of his information to any person other than his superiors in the Coast Guard. Any Coast Guard official violating this provision shall be subject to dismissal from the service. (R.S. § 4448; Mar. 3, 1915, ch. 79, § 1, 38 Stat. 893; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 54, 16 Stat. 456.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Act Mar. 3, 1915, added the second par.

Section 2 of act Mar. 3, 1915, provided for the repeal of all conflicting laws.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" in first paragraph and for "Bureau of Marine Inspection and Navigation" in second paragraph and "Coast Guard official" was substituted for "inspector or supervising inspector" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Bureau of Marine Inspection and Navigation was the designation given to the Bureau of Navigation and Steamboat Inspection by act May 27, 1936.

The Steamboat Inspection Service (formerly referred to in the text) and the Bureau of Navigation were consolidated into the Bureau of Navigation and Steamboat Inspection to be under the direction of a chief of bureau by act June 30, 1932.

§ 235. Watch duty of deck officers.

It shall be unlawful for the master, owner, agent, or other person having authority to permit an officer of any vessel to take charge of the deck watch of the vessel upon leaving or immediately after leaving port, unless such officer shall have had at least six hours off duty within the twelve hours immediately preceding the time of sailing, and no licensed officer on any ocean or coastwise vessel shall be required to do duty to exceed nine hours of any twenty-four while in port, including the date of arrival, or more than twelve hours of any twenty-four at sea, except in a case of emergency when life or property is endangered. Any violation of this section shall subject the person or persons guilty thereof to a penalty of $100. (May 11, 1918, ch. 72, § 3, 40 Stat. 549.)

§ 236. Suspension of provisions as to watch officers.

The President of the United States is authorized, whenever in his discretion the needs of foreign commerce may require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States. (Aug. 18, 1914, ch. 256, § 2, 38 Stat. 699.)

CODIFICATION

Section comprises the first par. of section 2 of act Aug. 18, 1914. The second par. of section 2 of the act is classified to section 82 of this title.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see section 1(p) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Crews of vessels of United States required to be citizens, see section 672a of this title.

Licensed officers to be citizens, see section 1132 of this title.

§ 237. Licenses to, and ownership of boats by, Indians.

All Indians of the Tsimpsean or Haida Tribe of the full or mixed blood who emigrated from British Columbia and settled at Metlakahtla on Annette Island, in southeastern Alaska, in the year 1887 and subsequent years, as well as all descendants of such Indians, and all other Indians who have since become and remained bona fide residents of said Metlakahtla, Alaska, shall, if otherwise qualified, be entitled to receive and obtain licenses as masters, pilots, and engineers, as the case may be, of any and all steamboats and other craft, and also licenses as operators of motor boats and other craft, subject to the provisions of section 404 of this title, with the same force and effect as if they had been citizens of the United States; any such Indian may be the owner of any such motor boat or other craft, subject to the provisions of the said section, although such Indian be not a citizen of the United States, without depriving said motor boat or other craft of the benefits and privileges of a vessel of the United States. (Mar. 4, 1907, ch. 2929, § 1, 34 Stat. 1411.)

CROSS REFERENCES

Licensed officers of vessels documented under laws of the United States, as required by law, to be citizens of the United States, see section 1132 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 238 of this title.

§ 238. Certificate of eligibility for licenses to Indians.

A certificate under the hand of any officer of the customs in Alaska, to the effect that the applicant for one of the different licenses mentioned in section 237 of this title comes within one of the provisions of said section, shall, together with the affidavit of the applicant to that effect, be sufficient evidence of the fact that said applicant is entitled to the privileges conferred upon said Indians by such section. (Mar. 4, 1907, ch. 2929, § 2, 34 Stat. 1412.)

§ 239. Investigation of marine casualties.

(a) Casualty involving loss of life; reports.

The Commandant of the Coast Guard shall prescribe rules and regulations for the investigation of

marine casualties involving loss of life in order to determine whether any incompetence, misconduct, unskillfulness or willful violation of law on the part of any licensed officer, pilot, seaman, employee, owner, or agent of such owner of any vessel involved in such casualty, or any inspector, officer of the Coast Guard, or other officer or employee of the United States, or any other person, caused, or contributed to the cause of such casualty. All reports shall be made to the Commandant of the Coast Guard and such reports shall be public records and be open to inspection at reasonable times by any persons.

(b) Casualty not involving loss of life; classification.

The Commandant of the Coast Guard shall establish rules and regulations for the investigation of marine casualties and accidents not involving loss of life, any act in violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, and all cases of acts of incompetency or misconduct committed by any licensed officer or holder of a certificate of service while acting under the authority of his license or certificate of service, whether or not any of such acts are committed in connection with any marine casualty or accident. The Commandant of the Coast Guard shall classify marine casualties and accidents not involving loss of life according to the gravity thereof and in making such classification the Commandant shall give consideration to the extent of injuries to persons, the extent of property damage, the dangers actual or potential which such marine casualties or accidents may create to the safety of navigation or commerce.

(c) Omitted.

(d) Immediate investigation of conduct, violations and casualties; extent of investigation; right to counsel.

All acts in violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, whether or not committed in connection with any marine casualty or accident, and all acts of incompetency or misconduct, whether or not committed in connection with any marine casualty or accident, committed by any licensed officer acting under authority of his license or by any chief or assistant steward, purser, radio operator, electrician, able seaman, or lifeboat man acting under authority of a certificate of service issued to him by the Bureau of Marine Inspection and Navigation or the Coast Guard, and all marine casualties and accidents and the attendant circumstances shall be immediately investigated as provided in subsections (a) and (b) of this section. The investigation shall determine, as far as possible, the cause of any such casualty or accident, the persons responsible therefor, and whether or not the United States Government employees charged with the inspection of the vessel or the vessels involved and with the examination and licensing of the officers thereof have properly performed their duties in connection with such inspection, examination and licensing. In all investigations conducted under the authority of this section, any owner, licensed officer, or any holder of a certificate of service, or any other person whose conduct is under investigation, or any other party in interest, shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in his own behalf, and a full and complete record of the facts and circumstances shall be submitted to the Commandant of the Coast Guard.

(e) Witnesses; subpoenas; oaths.

In any investigation directed by this section the Coast Guard shall have power to summon before it witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States District Court. The Coast Guard shall administer all necessary oaths to any witnesses summoned before said investigation.

(f) Payment of witness fees and expenses.

The Coast Guard shall pay, on properly certified vouchers, such fees to any witness summoned under subsection (e) of this section, for his actual travel and attendance, as shall be officially certified to, not exceeding the rate allowed for fees and to witnesses for travel and attendance in any District Court of the United States.

(g) Notice of time, place, and subject of investigation; record of testimony and findings; suspension or revocation of license or certificate.

In any investigation of acts of incompetency or misconduct or of any act in violation of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, committed by any licensed officer or any holder of a certificate of service, the person whose conduct is under investigation shall be given reasonable notice of the time, place, and subject of such investigation and an opportunity to be heard in his own defense. The whole record of the testimony received by such investigation and the findings and recommendations shall be forwarded to the Commandant of the Coast Guard, and if that officer shall find that such licensed officer or holder of certificate of service is incompetent or has been guilty of misbehavior, negligence, or unskillfulness, or has endangered life, or has willfully violated any of the provisions of title 52 of the Revised Statutes or any of the regulations issued thereunder, he shall, in a written order reciting said findings, suspend or revoke the license or certificate of service of such officer or holder of such certificate. The person whose license or certificate of service is suspended or revoked may, within thirty days, appeal from the order to the Commandant of the Coast Guard. On such appeal the appellant shall be allowed to be represented by counsel. The Commandant of the Coast Guard may alter or modify any finding of the investigation, but the decision of the Commandant shall be based solely on the testimony received by the said investigation and shall recite the findings of fact on which it is based.

(h) Evidence of criminal liability; transmission to Attorney General; prosecutions.

If the Commandant of the Coast Guard shall find evidence of criminal liability on the part of any licensed officer or holder of a certificate of service, he shall refer all of the evidence and the findings in

such investigation to the Attorney General for investigation by and prosecution through the United States attorney of the district having jurisdiction, under the provisions of the Criminal Code. Nothing in this section shall be construed as prohibiting the Federal district attorney from conducting a criminal investigation or prosecution in connection with a shipping casualty.

(i) Coercion or bribery of witness; penalty; prosecution.

Any attempt to coerce any witnesses or to induce them to testify falsely in connection with a shipping casualty, or to induce them to leave the jurisdiction of the United States, shall be punishable by a fine of $5,000 or imprisonment for one year, or both such fine and imprisonment. Any person making such attempts shall be prosecuted by the United States attorney of the district having jurisdiction.

(j) Rules and regulations.

The Commandant of the Coast Guard shall make such regulations as may be necessary to secure the proper administration of this section.

(k) Effective date of section.

This section shall take effect ninety days from May 27, 1936. (R. S. § 4450; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 27, 1936, ch. 463, § 4, 49 Stat. 1381; July 29, 1937, ch. 536, 50 Stat. 544; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 19, 16 Stat. 447.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, and referred to in subsecs. (d) and (g), see note under section 170 of this title.

The Criminal Code, referred to in subsec. (h) was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862. Similar provisions were enacted by said act June 25, 1948, and are set out as Crimes and Criminal Procedure, Title 18, U.S.C.

CODIFICATION

R.S. § 4450, as originally enacted, was as follows: "The local boards of inspectors shall investigate all acts of incompetency or misconduct committed by any licensed officer while acting under the authority of his license, and shall have power to summon before them any witnesses within their respective districts, and compel their attendance by a similar process as in the United States circuit or district courts; and they may administer all necessary oaths to any witnesses thus summoned before them; and after reasonable notice in writing, given to the alleged delinquent, of the time and place of such investigation, such witnesses shall be examined, under oath, touching the performance of his duties by any such licensed officer; and if the board shall be satisfied that such licensed officer is incompetent, or has been guilty of misbehavior, negligence, or unskillfulness, or has endangered life, or willfully violated any provision of this Title, they shall immediately suspend or revoke his license."

Words "circuit or" preceding "district courts" were omitted as covered by "district courts" on authority of act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts.

AMENDMENTS

1937—Subsec. (g). Act July 29, 1937, inserted in the third sentence the words "suspended or" after the word "is" and before the word "revoked".

1936—Act May 27, 1936, divided section into subsecs. (a)-(k) and amended section generally.

CHANGE OF NAME

Subsecs. (h) and (i) amended by act June 25, 1948, eff. Sept. 1, 1948, which substituted "United States attorney" for "Federal district attorney". See section 501 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Following changes were made in this section on the authority of 1946 Reorg. Plan No. 3, set out in note under section 1 of this title, which abolished the marine casualty investigation board and marine boards formerly provided for in this section and transferred their functions to the Commandant of the Coast Guard:

Subsec. (a). "Commandant of the Coast Guard" was substituted for "Secretary of Commerce". Former second sentence, which read "For the purpose of investigating such a marine casualty, the Secretary of Commerce shall appoint a marine casualty investigation board or boards consisting of a chairman and two other members; the chairman shall be an officer or employee of the Department of Justice (learned in maritime laws) designated by the Attorney General; one member shall be a representative of the Bureau of Marine Inspection and Navigation designated by the Secretary of Commerce; and the other member shall be an officer of the United States Coast Guard designated by the Secretary of the Treasury", and former last sentence, which read "Copies of such reports shall be sent to the Attorney General and to the Secretary of the Treasury", were omitted.

Subsec. (b). References to the Secretary of Commerce were changed to Commandant of the Coast Guard and former last sentence was omitted. Said sentence read "All such marine casualties or accidents classified as serious shall be investigated by a marine board appointed by the Secretary of Commerce consisting of two principal traveling inspectors and a supervising inspector of the Bureau of Marine Inspection and Navigation. Marine casualties or accidents classified as less serious shall be investigated by a marine board consisting of representatives of the Bureau of Marine Inspection and Navigation designated by the Director thereof."

Subsec. (c) was omitted. It read "The said boards provided for in subsections (a) and (b) of this section shall, upon the approval of the Director of the Bureau of Marine Inspection and Navigation, have authority to engage such other assistants, clerical or technical, as may be deemed necessary by the said Director. The members of said boards shall not receive any compensation in addition to that for their regular appointment but shall be entitled to their necessary traveling expenses while traveling on official business."

Subsec. (d). Phrase "or the Coast Guard" was inserted, and "by the appropriate board" following "immediately investigated" was omitted in first sentence. "The investigation", was substituted for "Such board" at beginning of second sentence. "Commandant of the Coast Guard" was substituted for "Director of the Bureau of Marine Inspection and Navigation".

Subsec. (e). Phrase "the Coast Guard" was substituted for "a marine casualty investigation board or a marine board" in first sentence and for "the chairman of each

of said boards" in last sentence. Word "investigation" was substituted for "boards" in last sentence.

Subsec. (f). "Coast Guard" was substituted for "disbursing clerk, Department of Commerce", and "by the chairman of the board conducting the investigation" following "certified to" was omitted.

Subsec. (g). "Commandant of the Coast Guard" was substituted for "Director of the Bureau of Marine Inspection and Navigation" in second sentence and for "Secretary of Commerce" in third sentence. Phrases "the board conducting" following "received by" and "of such board" following "recommendations" in second sentence, and "of the said Director" following "order" in third sentence, were omitted. Last sentence formerly read "The Secretary of Commerce may alter or modify any finding of the board which conducted the investigation or of the Director of the Bureau of Marine Inspection and Navigation, but the decision of the Secretary of Commerce shall be based solely on the testimony received by the said board and shall recite the findings of fact on which it is based."

Subsec. (h). "Commandant of the Coast Guard" was substituted for "Director of the Bureau of Marine Inspection and Navigation", and "shall submit such findings to the Secretary of Commerce who, if he be satisfied that such criminal liability exists" following "he" was omitted.

Subsec. (j). "Commandant of the Coast Guard" was substituted for "Secretary of Commerce".

ADMINISTRATIVE PROCEDURE ACT

Administrative Procedure Act, and appointment of examiners thereunder, see sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Suspension or revocation on same grounds and in same manner and with like procedure as provided in this section—

Certificated personnel, certificates, see section 672(h) of this title.

Licensed motorboat operators, licenses, see section 526f of this title.

Staff officers, registry or certificate of registry, see section 246(c) of this title.

Witness fees and expenses for travel and attendance in United States District Courts, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Depositions and discovery, see rule 26 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.

Subpoena, see rule 45.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229c, 246, 391a, 526b, 672 of this title and in title 33 sections 435, 1006.

§ 239a. Narcotics violations; definitions.

When used in section 239b of this title—

(a) The term "narcotic drug" shall have the meaning given that term by section 802(16) of Title 21 and shall also include marihuana as defined by section 802(15) of such title.

(b) The term "Secretary" means the head of the department in which the Coast Guard is operating.

(c) The term "seaman's document" means any document authorized by law or regulation to be issued to a merchant mariner by the Secretary.

(July 15, 1954, ch. 512, § 1, 68 Stat. 484; Oct. 27, 1970, Pub. L. 91–513, title III, § 1102(q), 84 Stat. 1293.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513 substituted section 802(16) of Title 21 for section 171(a) of Title 21 and section 802(15) of Title 21 for sections 3238(b) of Title 26, I.R.C. 1939 and 4761 of Title 26, I.R.C. 1954 as the sections in which to find the definitions of "narcotic drug" and "marihuana", respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91–513, set out as a note under section 951 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91–513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91–513, set out as a note under section 171 of Title 21, Food and Drugs.

§ 239b. Same; denial or revocation of seaman's document.

The Secretary may—

(a) deny a seaman's document to—

(1) any person who, within ten years prior to the date of the application therefor, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States, which conviction has become final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has ever been a user of or addicted to the use of a narcotic drug; and

(b) take action, based on a hearing before a Coast Guard examiner, under hearing procedures prescribed by the Administrative Procedure Act, as amended, to revoke the seaman's document of—

(1) any person who, subsequent to July 15, 1954, and within ten years prior to the institution of the action, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States, the revocation to be subject to the conviction's becoming final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has been, subsequent to July 15, 1954, a user of or addicted to the use of a narcotic drug.

(July 15, 1954, ch. 512, § 2, 68 Stat. 484.)

REFERENCES IN TEXT

The Administrative Procedure Act, as amended, referred to in subsec. (b), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 240. Revocation or suspension of officer's license for refusal to serve.

If any licensed officer shall, to the hindrance of commerce, wrongfully or unreasonably refuse to perform his official duties after having signed articles or while employed on any vessel as authorized by the terms of his certificate of license, or if any pilot or engineer shall refuse to admit into the pilot house or engine room any person whom the master or owner of the vessel may desire to place there for the purpose of learning the profession, his license shall be revoked or suspended upon the same proceedings as are provided in other cases of revocation or suspension of such license. (R. S. § 4449; Mar. 3, 1905, ch. 1457 § 5, 33 Stat. 1030; Mar. 3, 1915, ch. 79, § 1, 38 Stat. 894.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 55, 16 Stat. 456.

CODIFICATION

R.S. § 4449 as originally enacted read as follows: "If any licensed officer shall, to the hindrance of commerce, wrongfully or unreasonably refuse to serve in his official capacity on any steamer, as authorized by the terms of his certificate of license, or shall fail to deliver to the applicant for such service at the time of such refusal, if the same shall be demanded, a statement in writing assigning good and sufficient reasons therefor, or if any pilot or engineer shall refuse to admit into the pilot-house or engine-room any person whom the master or owner of the vessel may desire to place there for the purpose of learning the profession, his license shall be revoked upon the same proceedings as are herein provided in other cases of revocation of such licenses."

It was amended by act Mar. 3, 1905, by changing, in the clause of the section as originally enacted, "refuse to serve in his official capacity on any steamer," the word "steamer," to "vessel," and by inserting, after the words near the end of the section, "his license shall be revoked," the words "or suspended," and after the subsequent words, "in other cases of revocation," the words "or suspension."

It was further amended by act Mar. 3, 1915, to read as set forth here.

§ 241. Exception of certain vessels from Officers' Competency Certificates Convention.

Pursuant to the authority granted in the second clause of Article One of the Officers' Competency Certificates Convention, 1936, ratified by the President of the United States on September 1, 1938, by and with the advice and consent of the Senate of the United States, given June 13, 1938 (being International Labor Conference Treaty, Draft Convention, Numbered 53, adopted by the International Labor Conference at Geneva in 1936), vessels of the United States of less than two hundred tons gross registered tonnage are exempted from the provisions of such convention: *Provided, however,* That neither the ratification of the said convention by the President of the United States, nor the advice and consent of the United States Senate given thereto, nor any provision of the said convention as ratified, nor any provision of this section shall be deemed to alter, amend, or repeal any statute of the United States existing at the time of said ratification, or thereafter enacted, with regard to any such vessel of less than two hundred tons, gross registered tonnage. (Mar. 29, 1939, ch. 26, 53 Stat. 554.)

CROSS REFERENCES

Other provisions concerning Convention, see section 224a of this title.

§ 242. Registration of pursers, surgeons and professional nurses; creation of staff departments on vessels; medical division; purser's division.

There shall be registered staff officers in the United States merchant marine in the following grades: (1) Chief purser, (2) purser, (3) senior assistant purser, (4) junior assistant purser, (5) surgeon and (6) professional nurse. The Commandant of the Coast Guard (in sections 242 to 248 of this title called the Commandant) shall register, and issue certificates of registry to, qualified individuals applying for registry in such grades, as hereinafter provided, and every such individual when so registered and serving in the staff department on a vessel of the United States shall rank as a staff officer on such vessel. Officers registered under the provisions of sections 242 to 248 of this title and pursers' clerks and such persons as may be assigned to the senior registered surgeon shall constitute a separate and independent department on vessels of the United States to be known as the staff department. Such staff department shall be composed of a medical division and a purser's divisison. The medical division shall be under the charge of the senior registered surgeon on such vessel, who shall be responsible solely to the master. The purser's division shall be under the charge of the senior registered purser on such vessel, who shall be responsible solely to the master. On oceangoing vessels licensed to carry more than one hundred passengers, such officer in charge of the purser's division of the staff department shall be a registered chief purser; and whenever more than three persons are employed in the purser's division of the staff department on such vessels, there shall be a minimum of one registered senior assistant purser and one registered junior assistant purser in such purser's division of that staff department. No person shall be eligible for registry as a staff officer under the provisions of sections 242 to 248 of this title who is not a citizen of the United States. (Aug. 1, 1939, ch. 409, § 1, 53 Stat. 1145; Sept. 24, 1941, ch. 416, 55 Stat. 729; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 23, 1963, Pub. L. 88–128, § 1(a) 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88–128 provided for the registration of professional nurses as staff officers in the U.S. merchant marine.

1941—Act Sept. 24, 1941, divided staff department into two divisions, namely, medical division and purser's division.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant

thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Vessel of United States defined, see section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 243, 244, 245, 246, 247, 248 of this title.

§ 243. Same; qualifications.

No applicant for registry under the provisions of sections 242 to 248 of this title shall be required to take an examination to qualify therefor, but the Commandant shall require satisfactory proof of good character, citizenship, and such minimum periods of service as he shall deem necessary to establish the requisite knowledge, skill, and experience to qualify applicants for the respective stations. Applicants for registry as surgeon or professional nurse shall be required to possess a valid license as physician and surgeon or registered nurse, respectively, issued under the authority of a State or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. (Aug. 1, 1939, ch. 409, § 2, 53 Stat. 1146; 1946 Reorg. Plan No. 3, §§ 101—104 eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 23, 1963, Pub. L. 88-128, § 1(b), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88-128 required applicants for registry as professional nurse to possess a valid license as registered nurse and provided for the issuance of licenses under the authority of the Commonwealth of Puerto Rico.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant" was substituted for "Secretary" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 244, 245, 246, 247, 248 of this title.

§ 244. Same; oath or affirmation.

Each staff officer receiving a certificate of registry under the provisions of sections 242 to 248 of this title shall make oath or affirmation before an officer empowered to administer oaths, to be designated by the Commandant, that he will faithfully and honestly perform all the duties required of him by law. No such staff officer shall be required to obtain any other certificate of service or efficiency or behavior as a condition of service in such capacity other than as provided in said sections. (Aug. 1, 1939, ch. 409, § 3, 53 Stat. 1146; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant" was substituted for "Secretary" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 243, 245, 246, 247, 248 of this title.

§ 245. Same; members of Naval Reserve, insignia.

(a) Staff officers registered under the provisions of sections 242 to 248 of this title who are members of the Naval Reserve shall wear on their uniforms such special distinguishing insignia as may be approved by the Secretary of the Navy.

(b) The uniform stripes, decoration, or other insignia to be worn by such officers shall be of gold braid or woven gold or silver material, and no member of the ship s crew other than such staff officers shall be allowed to wear any uniform with such staff officer's identifying insignia. (Aug. 1, 1939, ch. 409, § 4, 53 Stat. 1146.)

CODIFICATION

"Naval Reserve" was substituted for "Naval Reserve Corps" on authority of act July 9, 1952, ch. 608, pt. IV, § 401, 66 Stat. 498, which was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See section 5251 of Title 10, Armed Forces.

CROSS REFERENCES

Naval Reserve, administration, see section 5251 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 243, 244, 246, 247, 248 of this title.

§ 246. Same; offenses; penalties; Great Lakes.

(a) It shall be unlawful to employ any person or for any person to serve in any grade or perform the duties of any grade specified in section 242 of this title on any such vessel of the United States designated therein unless he shall be in bona fide possession of a certificate of registry, issued under the provisions of sections 242 to 248 of this title, as an officer in such grade; and anyone violating this provision shall be liable to a penalty of $100 for each offense: *Provided,* That in the event no registered staff officer is available and obtainable at the

time of sailing, the vessel may sail with an unregistered staff officer or without any staff officer: *Provided further,* That such staff officer shall not be included in the vessel's inspection certificate.

(b) Any staff officer registered under the provisions of sections 242 to 248 of this title who shall change by addition, interpolation, or erasure of any kind, any certificate of registry referred to in this section shall have his registry and his certificate of registry revoked and be punished by a fine of not more than $100: *Provided,* That the provisions of said sections shall not apply to any vessel of the United States operated on bays, sounds, inland waterways, and lakes, other than the Great Lakes, or to passenger ferries and car ferries operated on the Great Lakes.

(c) Any registry or certificate of registry issued under the authority of sections 242 to 248 of this title to any staff officer shall be suspended or revoked upon satisfactory proof of bad conduct, inattention to his duties, or the willful violation of any provisions of said sections applicable to him, in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title. (Aug. 1, 1939, ch. 409, § 5, 53 Stat. 1146.)

EFFECTIVE DATE

Section 9 of act Aug. 1, 1939, provided that subsec. (a) shall take effect one year from date of enactment [Aug. 1, 1939].

CROSS REFERENCES

Misuse of certificate, license or document, penalty for, see section 2197 of Title 18, Crimes and Criminal Procedure.

Vessel of United States defined, see section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 243, 244, 245, 247, 248 of this title.

§ 247. Same; rules and regulations.

The Commandant of the Coast Guard shall prescribe rules and regulations to carry out the provisions of sections 242 to 248 of this title. (Aug. 1, 1939, ch. 409, § 7, 53 Stat. 1147; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 243, 244, 245, 246, 248 of this title.

§ 248. Same; vessel of the United States defined.

As used in sections 242 to 247 of this title the term "vessel of the United States" shall mean any vessel registered, enrolled, or licensed under the laws of the United States, but shall not include a fishing or whaling vessel or a yacht. (Aug. 1, 1939, ch. 409, § 8, 53 Stat. 1147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 243, 244, 245, 246, 237 of this title.

§ 249. Merchant Marine distinguished service and meritorious service medals; award; restriction.

(a) The Secretary of Commerce is authorized, under such rules and regulations as he may prescribe, to provide and award with the concurrence of the Secretary of Transportation: A merchant marine distinguished service medal to any person serving in the United States merchant marine who distinguishes himself by outstanding act, conduct, or valor beyond the line of duty, and a merchant marine meritorious service medal to any person serving in the United States merchant marine for meritorious act, conduct, or service in line of duty, but not of such outstanding character as would warrant an award of the distinguished service medal.

(b) No more than one distinguished service medal or meritorious service medal shall be awarded to any one person, but for each succeeding act, conduct, or service justifying such an award, a suitable device may be awarded to be worn with the medal or ribbon. In case any person who so distinguishes himself or so acts or serves as to justify the award of a medal under this section dies before the award can be made to him, the award may be made and medal presented to such representatives of the deceased as the Secretary of Commerce deems proper. (July 24, 1956, ch. 671, § 1, 70 Stat. 605.)

TRANSFER OF FUNCTIONS

Secretary of Transportation has been substituted for Secretary of the Treasury pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation. Section 1655(b)(2) of Title 49, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time or war or when the President directs as provided in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 249c of this title.

§ 249a. Distinctive service ribbon bar; issuance; cost; replacements.

The Secretary of Commerce is authorized to provide and issue, under such rules and regulations as he may from time to time prescribe, a distinctive service ribbon bar to each master, officer, or member of the crew of any United States ship who serves or has served after June 30, 1950, in any time of war, or national emergency proclaimed by the President or by Congress, or during an operation by Armed Forces of the United States outside the

continental United States, for such period of time and in such area or under such conditions of danger to life as the Secretary may set forth in regulations issued hereunder. Such bars shall be provided at cost by the Secretary or at reasonable prices by private persons when authorized for manufacture and sale by the Secretary. Whenever any bar presented under the provisions of this section is lost, destroyed, or rendered unfit for use, without fault or neglect of the owner, such bar may be replaced at cost by the Secretary or at reasonable prices by private persons authorized by him. (July 24, 1956, ch. 671, § 2, 70 Stat. 605.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 249c of this title.

§ 249b. Ship citation; issuance; award of plaque; citation ribbon bar.

The Secretary of Commerce is authorized to issue, with the concurrence of the Secretary of Transportation, a citation as public evidence of deserved honor and distinction to any United States ship or to any foreign ship which participates in outstanding or gallant action in marine disasters or other emergencies for the purpose of saving life or property. The Secretary of Commerce may award a plaque to a ship so cited, and a replica of such plaque may be preserved, under such rules and regulations as the Secretary may prescribe, as a permanent historic record. The Secretary of Commerce may also award an appropriate citation ribbon bar to the master or each person serving on board such ship at the time of the action for which citation is made, as public evidence of such honor and distinction. Whenever such master or person would be entitled hereunder to the award of an additional citation ribbon, a suitable device shall be awarded, in lieu thereof, to be attached to the ribbon originally awarded. In any case of a proposed award or citation to a foreign ship or to a master or person serving aboard such ship, such award or citation shall be subject to the concurrence of the Secretary of State. (July 24, 1956, ch. 671, § 3, 70 Stat. 606.)

TRANSFER OF FUNCTIONS

Secretary of Transportation has been substituted for Secretary of the Treasury pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation. Section 1655(b)(2) of Title 49, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 249c of this title.

§ 249c. Regulations governing manufacture, sale, possession, or display of decorations; penalties.

The manufacture, sale, possession, or display of any insignia, decoration, medal, device, or rosette thereof, or any colorable imitation of any insignia, decoration, medal or device, or rosette, provided for in sections 249 to 249c of this title, or in any rule or regulation issued pursuant to said sections, is prohibited, except as authorized by said sections or any rule or regulation issued pursuant thereto. Whoever violates any provision of this section shall be punished by a fine not exceeding $250 or by imprisonment not exceeding six months, or both. (July 24, 1956, ch. 671, § 4, 70 Stat. 606.)

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Chapter 12.—REGULATION OF VESSELS IN DOMESTIC COMMERCE

Sec.
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332. Exemptions of vessels not propelled by sail or internal motive power.
333. Posting table of fees.
334. Vessels liable for fees for enrollment.
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336. Canal boats exempt from enrollment, license, and customs fees.

CROSS REFERENCES

Custody and storage of vessels, vehicles, merchandise and baggage seized under laws relating to registering, enrolling, or licensing of vessels, see section 1605 of Title 19, Customs Duties.

§ 251. Vessels entitled to privileges of vessels employed in coasting trade or fisheries; landing of catch of fish by foreign-flag vessels; sale or transfer for immediate consumption; forfeitures and penalties.

(a) Vessels of twenty tons and upward, enrolled in pursuance of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330 and 333 to 335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries. Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products.

(b) Subsection (a) of this section shall not be deemed to prohibit the landing by a foreign-flag vessel of not more than fifty feet overall length in a port of the Virgin Islands of the United States for immediate consumption in such islands of its catch of fresh fish, whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced. No fish landed under this authorization shall be sold or transferred except for immediate consumption. Sale or transfer to an agent, representative, or employee of a freezer or cannery shall be deemed to be prohibited in the absence of satisfactory evidence that such sale or transfer is for immediate consumption. For the purposes of this subsection, the term "immediate consumption" shall not preclude the freezing, smoking, or other processing of such fresh fish by the ultimate consumer thereof.

(c) Any fish landed in the Virgin Islands of the United States which are retained, sold, or transferred other than as authorized in subsection (b) of this section shall be liable to forfeiture and any person or persons retaining, selling, transferring, purchasing, or receiving such fish shall severally be liable to a penalty of $1,000 for each offense, in addition to any other penalty provided in law. (R.S. § 4311; Sept. 2, 1950, ch. 842, 64 Stat. 577; Sept. 13, 1961, Pub. L. 87–220, § 1, 75 Stat. 493.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 1, 1 Stat. 305; Apr. 18, 1874 ch. 110, 18 Stat. 31.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

AMENDMENTS

1961—Pub. L. 87–220 designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

1950—Act Sept. 2, 1950, added second sentence to increase protection to American fishermen.

LANDING OF CATCH OF FISH BY FOREIGN-FLAG VESSELS

Provisions of this section prohibiting the landing of fish in United States ports by foreign-flag vessels direct from fishing grounds unaffected, see section 6 of Pub. L. 87–814, set out as a note under section 951 of Title 16, Conservation.

CROSS REFERENCES

Exemption from requirements of this section—

Canal boats or boats employed on internal waters or canals of any state, see section 336 of this title.

Entry and clearance fees and tonnage taxes, enrolled, licensed, or registered vessels, see sections 111, 122, and 123 of this title.

Vessels not propelled by sail or internal motive power, see section 332 of this title.

Fishing vessels; transfer and transportation of catch of other vessels, see section 404a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 251a. Remission or mitigation of fines, penalties or forfeitures.

Any fine, penalty, or forfeiture incurred under the provisions of this Act shall be subject to remission or mitigation in accordance with section 7 of this title. (Pub. L. 87–220, § 2, Sept. 13, 1961, 75 Stat. 493.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 87–220, which added subsecs. (b) and (c) to section 251 of this title, section 251b of this title, and this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 251b. Regulations.

The Secretary of the Treasury may issue such regulations as he deems necessary for the enforcement of the provisions of this Act. (Pub. L. 87–220, § 3, Sept. 13, 1961, 75 Stat. 493.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 87-220, which added subsecs. (b) and (c) to section 251 of this title, section 251a of this title, and this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 252. Vessels which may be enrolled.

In order for the enrollment of any vessel, she shall possess the same qualifications, and the same requirements in all respects shall be complied with, as are required before registering a vessel; and the same powers and duties are conferred and imposed upon all officers, respectively, and the same proceedings shall be had, in enrollment of vessels, as are prescribed for similar cases in registering; and vessels enrolled, with the masters or owners thereof, shall be subject to the same requirements as are prescribed for registered vessels. (R.S. § 4312.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 2, 1 Stat. 305.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Registry and recording of vessels, see chapter 2 of this title.

Vessels purchased, chartered, or leased from Secretary of Commerce, enrollment, see section 808 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 253. Enrollment of vessels owned by corporations.

Enrollments and licenses for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company; and such enrollments or licenses shall not be vacated or affected by any sale of shares of stock in such company. (R.S. § 4313.)

DERIVATION

Act Mar. 3, 1825, ch. 99, § 1, 4 Stat. 129.

CROSS REFERENCES

Consolidation of forms of enrollment and of license, see section 260 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 254. Oath as to corporate or individual ownership.

Previous to granting enrollment and license for any vessel owned by any incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act in its behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of such vessel without designating the names of the persons composing such company, when such vessel is owned by a corporation, which oath shall be deemed sufficient without requiring the oath of any other person interested or concerned in such vessel. (R. S. § 4314; June 24, 1902, ch. 1155, § 2, 32 Stat. 399.)

DERIVATION

Act Mar. 3, 1825, ch. 99, § 4, 4 Stat. 129.

CODIFICATION

R.S. § 4314, as originally enacted, read as follows: "Previously to granting enrollment and license for any vessel, owned by any company, the president or secretary of such company shall swear to the ownership of such vessel, by such company, without designating the names of the persons composing such company; which oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 255. New enrollment on death, removal, or resignation of corporate officers.

Upon the death, removal, or resignation of the president or secretary of any incorporated company owning any steamboat or vessel, a new enrollment and license shall be taken out for such steamboat or vessel. (R. S. § 4315; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251.)

DERIVATION

Act Mar. 3, 1825, ch. 99, § 3, 4 Stat. 129.

CODIFICATION

Act Feb. 27, 1877, inserted the words "steamboat or."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 323, 324, 326, 332, 333, 335 of this title.

§§ 256, 257. Repealed. Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349.

Sections, R. S. §§ 4316, 4317, related to the enrollment of steamships owned by resident aliens and the giving of bond by such owners.

§ 258. Enrollment of vessels on frontiers

Any vessel of the United States, navigating the waters on the northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as other vessels; such enrollment and license shall authorize any such vessel to be employed either in the coasting or foreign trade on such frontiers, and no certificate of registry shall be required for vessels so employed. Such vessel shall be, in every other respect, liable to the regulations and penalties relating to registered and licensed vessels. (R. S. § 4318; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251.)

DERIVATION

Act June 17, 1864, ch. 130, § 1, 13 Stat. 134.

CODIFICATION

Act Feb. 27, 1877, substituted the word "registry" for "register" near the end of the first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 263, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 355 of this title.

§ 259. Form of enrollment.

The record of the enrollment of a vessel shall be made, and an abstract or copy thereof granted, as nearly as may be in the following form: Enrollment. In conformity to Title L, "Regulation of Vessels in Domestic Commerce", of the Revised Statutes of the United States, (inserting here the name of the person, with his occupation and place of abode, by whom the oath or affirmation is to be made), having taken and subscribed the oath (or

affirmation) required by law, and having sworn (or affirmed) that he (or she, and if more than one owner adding the words "together with", and the name or names, occupation or occupations, place or places of abode of the owner or owners, and the part or proportion of such vessel belonging to each owner) is (or are) a citizen (or citizens) of the United States, and sole owner (or owners) of the ship or vessel called the (inserting here her name), of (inserting here the name of the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said ship or vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed and measured), having certified that the said ship or vessel has (inserting here the number of decks), and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here her number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, snow, schooner, sloop, or whatever else, together with her build, and specifying whether she has any or no gallery or head), and the said (naming the owner or the master, or other person acting in behalf of the owner or owners by whom the certificate of measurement shall have been countersigned), having agreed to the description and measurement above specified, the said ship or vessel has been duly enrolled at the port of (naming the port where enrolled). Given under my hand and seal, at (naming the said port), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length). (R. S. § 4319; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; Jan. 16, 1895, ch. 24, § 1, 28 Stat. 624.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 2, 1 Stat. 305; July 29, 1850, ch. 27, § 5, 9 Stat. 441.

REFERENCES IN TEXT

For distribution of "Title L, 'Regulation of Vessels in Domestic Commerce,' of the Revised Statutes of the United States", R.S. §§ 4311—4390, referred to in the text section, see Tables.

CODIFICATION

Act Feb. 27, 1877, inserted after the words "as nearly as may be in the following," the word "form," and substituted the word "title" for "act" in the phrase "according to the said title."

Prior to incorporation into the Code, the words last quoted were preceded by the words "and sufficient security having been given." R.S. § 4145, requiring a bond as a condition precedent to registry, and seemingly made applicable to enrollments by section 4312 (section 252 of this title), was repealed by act Jan. 16, 1895.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Consolidation of forms relating to enrollment and license, see section 260 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 260, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 260. Consolidation of forms of enrollment and of license.

The Commissioner of Customs is authorized and directed from time to time to consolidate into one document in the case of any vessel of the United States the form of enrollment prescribed by section 259 of this title and the form of license prescribed by section 263 of this title, and such consolidated form shall be issued to a vessel of the United States in lieu of the separate enrollment and license prescribed by law on April 24, 1906, and shall be deemed sufficient compliance with the requirements of laws relating to the subject. (Apr. 24, 1906, ch. 1865, § 1, 34 Stat. 136; Feb. 29, 1912, ch. 47, 37 Stat. 70; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

Section 4 of act Apr. 24, 1906, provided that the act should take effect on and after Jan. 1, 1907.

Act Feb. 29, 1912 struck out the words "of twenty net register tons or over" which followed the words "any vessel of the United States."

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments are required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"The Commissioner of Customs" was substituted for "Under the direction of the Secretary of Commerce the Director of the Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

"Commissioner of Navigation" was changed to "Director, Bureau of Navigation and Steamboat Inspection", and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 261. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 640.

Section, act Apr. 24, 1906, ch. 1865, § 3, 34 Stat. 136, provided that the Act of which it was a part should not be construed to amend laws then in force for compensation of customs officers.

§ 262. License; oath not to defraud revenue; oath as to citizenship.

No licensed vessel shall be employed in any trade whereby the revenue laws of the United States shall

be defrauded. The master of every such vessel shall swear that he is a citizen of the United States, and that such license shall not be used for any other vessel or any other employment than that for which it was specially granted, or in any trade or business whereby the revenue of the United States may be defrauded; and if such vessel be less than twenty tons burden, the husband or managing owner shall swear that she is wholly the property of citizens of the United States; whereupon it shall be the duty of the collector of the district comprehending the port whereto such vessel may belong to grant a license. (R. S. § 4320; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; Jan. 16, 1895, ch. 24, § 3, 28 Stat. 625.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 4, 1 Stat. 306.

CODIFICATION

R.S. § 4320, as originally enacted, was as follows: "In order to the licensing of any vessel for carrying on the coasting-trade or fisheries, the husband, or managing owner, together with the master thereof, with one or more sureties to the satisfaction of the collector granting the same, shall become bound to pay to the United States, if such vessel be of the burden of five tons and less than twenty tons, the sum of one hundred dollars; and if twenty tons and not exceeding thirty tons, the sum of two hundred dollars; and if above thirty tons and not exceeding sixty tons, the sum of five hundred dollars; and if above sixty tons, the sum of one thousand dollars, in case it shall appear, within two years from the date of the bond, that such vessel has been employed in any trade whereby the revenue of the United States has been defrauded, during the time the license granted to such vessel remained in force. The master of such vessel shall also swear that he is a citizen of the United States, and that such license shall not be used for any other vessel or any other employment than that for which it is specially granted, or in any trade or business whereby the revenue of the United States may be defrauded; and if such vessel be less than twenty tons burden, the husband or managing owner shall swear that she is wholly the property of citizens of the United States; whereupon it shall be the duty of the collector of the district comprehending the port whereto such vessel may belong, the duty of six cents per ton being first paid, to grant a license."

It was amended by act Feb. 27, 1877, by striking out the words "the duty of six cents per ton being first paid."

It was again amended by act Jan. 16, 1895, to read as set forth here.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 263. Form of license; coastal vessels of five tons or more; vessels operating on Great Lakes.

The form of a license for carrying on the coasting trade or fisheries shall be as follows:

"License for carrying on the (here insert 'coasting trade', 'whale fishery', 'mackerel fishery', or 'cod fishery', as the case may be).

"In pursuance of Title L, 'Regulation of Vessels in Domestic Commerce', of the Revised Statutes of the United States, (inserting here the name of the husband or managing owner, with his occupation and place of abode, and the name of the master, with the place of his abode), having sworn that the (insert here the description of the vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else she may be), called the (insert here the vessel's name), whereof the said (naming the master) is master, burden (insert here the number of tons, in words) tons, as appears by her enrollment, dated at (naming the district, day, month, and year, in words at length, but if she be less than twenty tons, insert, instead thereof, 'proof being had of her admeasurement'), shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn (or affirmed) that this license shall not be used for any other vessel, or for any other employment, than is herein specified, license is hereby granted for the said (inserting here the description of the vessel) called the (inserting here the vessel's name), to be employed in carrying on the (inserting here 'coasting trade', 'whale fishery', 'mackerel fishery', or 'cod fishery', as the case may be), for one year from the date hereof, and no longer. Given under my hand and seal, at (naming the said district), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year in words at length);": *Provided,* That vessels of five net tons and over entitled under the laws of the United States to be enrolled and licensed or licensed for the coasting trade may be licensed for the "coasting trade and mackerel fishery", and shall be deemed to have sufficient license for engaging in the coasting trade and the taking of fish of every description, including shellfish: *Provided further,* That the provisions of sections 310 and 311 of this title shall be, and are hereby, made applicable to vessels so licensed: *And provided further,* That vessels operating on the Great Lakes and their connecting and tributary waters under enrollment and license issued in conformity with the provisions of section 258 of this title, shall be deemed to have sufficient license for engaging in the taking of fish of every description within such waters without change in the form of enrollment and license prescribed under the authority of that section. (R. S. § 4321; May 20, 1936, ch. 434, 49 Stat. 1367.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 4, 1 Stat. 307; May 24, 1828, ch. 119, 4 Stat. 312.

REFERENCES IN TEXT

For distribution of "Title L, 'Regulation of Vessels in Domestic Commerce' of the Revised Statutes of the United States", R.S. §§ 4311—4390, referred to in the text, see Tables.

CODIFICATION

R.S. § 4321 was amended by act Feb. 28, 1887, ch. 288, § 2, 24 Stat. 435, for a period of five years from and after Mar. 1, 1888, by inserting before the last sentence the following: "This license does not grant the right to fish for mackerel, other than for what is known as Spanish mackerel, between the first day of March and the first day of June, inclusive, of this year." The time during which this amendment was to continue in force having expired, the clause inserted by the amendment has been omitted.

AMENDMENTS

1936—Act May 20, 1936, substituted the words "having sworn" for "having given bond" and added the three proviso clauses.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Consolidation of forms of enrollment and license, see section 260 of this title.

Penalty for violation of license, see section 325 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 260, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 264. Exchange of enrollment and registry.

The collectors of the several districts may enroll and license any vessel that may be registered, upon such registry being given up, or may register any vessel that may be enrolled, upon such enrollment and license being given up. (R. S. § 4322.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 3, 1 Stat. 306.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 265. Exchange; when vessel is in another district.

When any vessel shall be in any other district than the one to which she belongs, the collector of such district, on the application of the master thereof, and upon his taking an oath that, according to his best knowledge and belief, the property remains as expressed in the register or enrollment proposed to be given up, shall make the exchange of an enrollment for a register or a register for an enrollment; but in every such case, the collector to whom the register or enrollment and license may be given up shall transmit the same to the Commissioner of Customs; and the register, or enrollment and license, granted in lieu thereof, shall, within ten days after the arrival of such vessel within the district to which she belongs, be delivered to the collector of the district, and be by him canceled. If the master shall neglect to deliver the register or enrollment and license within such time, he shall be liable to a penalty of $100. (R. S. § 4323; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 3, 1 Stat. 306.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884. See section 2 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

Words "Commissioner of Navigation" were changed to "Director, Bureau of Navigation and Steamboat Inspection", then to "Director of the Bureau of Marine Inspection and Navigation" and finally to "Commissioner of Customs" on authority of acts June 30, 1932, and May 27, 1936, and 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 266. Expiration of license.

No license, granted to any vessel, shall be considered in force any longer than such vessel is owned, and of the description set forth in such license, or for carrying on any other business or employment than that for which she is specially licensed. (R. S. § 4324.)

DERIVATION

Act. Feb. 18, 1793, ch. 8, § 5, 1 Stat. 307.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 267. Presentation of license for renewal by indorsement; surrender.

The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of $10. Such penalty on application may be mitigated or remitted by the Commissioner of Customs. (R. S. § 4325; Apr. 24, 1906, ch. 1865, § 2, 34 Stat. 136; May

31, 1939, ch. 160, 53 Stat. 795; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 9, 1 Stat. 308.

CODIFICATION

R.S. § 4325, as originally enacted, read as follows: "The license granted to any vessel shall be given up to the collector of the district who may have granted the same, within three days after the expiration of the time for which it was granted, in case such vessel be then within the district, or if she be absent at that time, within three days from her first arrival within the district afterward, or if she be sold out of the district, within three days after the arrival of the master within any district, to the collector of such district, taking his certificate therefor; and if the master thereof shall neglect or refuse to deliver up the license, he shall be liable to a penalty of fifty dollars."

It was amended by act Apr. 24, 1906 to read as follows: "The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of the time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of $10, which shall not be mitigated."

AMENDMENTS

1939—Act May 31, 1939, permitted mitigation or remittance of penalty, formerly expressly prohibited.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1960, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 268. Exemption from penalty; loss of license.

If such license shall have been previously given up to the collector of any other district, as authorized by sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title, and a certificate thereof under the hand of such collector be produced by such master, or if such license be lost, or destroyed, or unintentionally mislaid so that it cannot be found, and the master of such vessel shall make and subscribe an oath that such license is lost, destroyed, or unintentionally mislaid, as he verily believes, and that the same, if found, shall be delivered up, as is required, then the penalty prescribed in section 267 of this title shall not be incurred If such license shall be lost, destroyed, or unintentionally mislaid, before the expiration of the time for which it was granted, upon the like oath being made and subscribed by the master of such vessel, the collector, upon application being made therefor, shall license such vessel anew. (R. S. § 4326.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 9, 1 Stat. 308.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All funfictions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 269. Return and cancellation; new license.

The owner of any licensed vessel may return such license to the collector who granted the same, at any time within the year for which it was granted; and thereupon the collector shall cancel the same, and shall license such vessel anew, upon the application of the owner, and upon the conditions hereinbefore required being complied with. (R. S. § 4327.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 10, 1 Stat. 309; July 18, 1866, ch. 211, § 43, 14 Stat. 188.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 270. Renewal when vessel is in another district.

Whenever it becomes necessary for the owner of any vessel of the United States navigating the waters of the United States, and being in a district other than that to which such vessel belongs, to procure her enrollment and license, or license, or renewal thereof, the same proceedings may be had in the district in which the vessel then is, as are required by law on application for such enrollment and license, or license, or renewal thereof, as the case may be, in the district to which such vessel belongs, excepting the enrollment and issuance of license; and the officer before whom such proceeding is had shall certify the same to the collector of the district to which such vessel belongs, who shall thereupon duly enroll the vessel and issue license in the same form as if the application had originally been made in his office; and shall either deliver the license to the owner, or forward it by mail to the officer who certified to him the preliminary proceedings; and in the latter case, such officer shall deliver the license to the owner or master of the vessel. (R. S. § 4328; Apr. 17, 1874, ch. 106, 18 Stat. 30.)

DERIVATION

Acts Feb. 28, 1865, ch. 69, 13 Stat. 444; Apr. 17, 1874, ch. 106, 18 Stat. 30.

CODIFICATION

R.S. § 4328 applied only to vessels of the United States navigating the western rivers or the waters on the northern, northeastern and northwestern frontiers of the United States otherwise than by sea. It was extended by act Apr. 17, 1874 to include all vessels of the United States navigating the waters of the United States.

Prior to incorporation of the section into the Code, the clause now reading "who shall thereupon duly enroll the vessel," etc., read "who shall thereupon, on the owner giving bond as required in other cases, duly enroll the vessel," etc. R.S. § 4145, requiring a bond as a condition precedent to registry, and which was seemingly made applicable to enrollments by section 4312 (section 252 of this title) was repealed by act Jan. 16, 1895, ch. 24, § 1, 28 Stat. 624.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 271. Renewal on sale of vessel.

Whenever it appears, by satisfactory proof, to the Commissioner of Customs that any vessel has been sold and transferred by process of law, and that the certificate of enrollment or license of such vessel is retained by the former owner, the Commissioner may direct the collector of the district to which such vessel belongs to grant a new certificate of enrollment or license, on the owner's, under such sale, complying with such terms and conditions as are by law required for granting of such papers, excepting only the delivering up of the former certificate of enrollment or license. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering up the papers belonging to any vessel, on a transfer or sale of the same. (R. S. § 4329; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Mar. 2, 1797, ch. 7, 1 Stat. 498.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to act Feb. 14, 1903, transferring the duties of the Secretary of the Treasury respecting merchant vessels to the Secretary of Commerce and Labor; and act Mar. 4, 1913, designating the Secretary of Commerce and Labor the Secretary of Commerce.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 272. Oath as to payment for repairs.

No license, or enrollment and license, nor renewal of either, shall be issued to any vessel until the collector to whom application is made for the same is satisfied, from the oath of the owner or master, that all equipments and repairs, made in a foreign port within the year immediately preceding such application, have been duly accounted for, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited. (R. S. § 4330.)

DERIVATION

Act July 18, 1866, ch. 201, § 23, 14 Stat. 184.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Duty on equipments and repairs, and remission thereof, see sections 257 and 258 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 273. Repealed. Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

Section, R.S. § 4331, provided for the measurement of vessels of five but less than twenty tons.

EFFECTIVE DATE OF REPEAL

Repeal of section effective upon the expiration of ninety days after June 29, 1966, see section 3 of Pub. L. 89-476, set out as a note under section 71 of this title.

§ 274. Surveyor's return of manifests and permits certified or received.

Every surveyor who certifies a manifest, or grants any permit, or who receives any certified manifest, or any permit, as is provided for in sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title, shall make return thereof monthly, or sooner, if it can conveniently be made, to the collector of the district where such surveyor resides. (R. S. § 4332; June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 25, 1 Stat. 315.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

AMENDMENTS

1930—Act June 17, 1930, repealed requirement of signing of documents by Comptroller of Customs (originally naval officers).

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Office of surveyor of customs abolished except in Port of New York, see section 5a of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 275. Record of licenses.

The collector of each district shall progressively number the licenses by him granted, beginning anew at the commencement of each year, and shall make a record thereof in a book, to be by him kept for that purpose, and shall, once in three months, transmit to the Commissioner of Customs copies of the licenses which shall have been so granted by him; and also of such licenses as shall have been given up or returned to him, respectively, in pursuance of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title. Whenever any vessel is licensed or enrolled anew, or being licensed or enrolled is afterward registered, or being registered is afterward enrolled or licensed, she shall, in every such case, be enrolled, licensed, or registered by her former name. (R. S. § 4333; July 5, 1884, ch. 221, § 2, 23 Stat. 119; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 7, 1 Stat. 308.

CODIFICATION

Upon incorporation into the Code, the words "Commissioner of Navigation" were substituted for "Register of the Treasury" to conform to act July 5, 1884.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

Words "Commissioner of Navigation" were changed to "Director, Bureau of Navigation and Steamboat Inspection", then to "Director of the Bureau of Marine Inspection and Navigation" and finally to "Commissioner of Customs" on authority of acts June 30, 1932, and May 27, 1936. See note under former section 1 of this title and 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 276. Change of master.

(a) Whenever the master of any licensed vessel, ferryboats excepted, is changed, the new master, or, in case of his absence, the owner or one of the owners thereof, shall report such change to the collector residing at the port where the same happens, if there be one; otherwise, to the collector residing at any port where such vessel next arrives, who, upon the oath of such new master, or, in case of his absence, of the owner, that such master is a citizen of the United States, and that such vessel shall not, while such license continues in force, be employed in any manner whereby the revenue of the United States may be defrauded, shall endorse such change on the license, with the name of the new master. Whenever such change is not reported, and endorsed, as herein required, such vessel, if found carrying on the coasting trade or fisheries, shall be subject to pay the same fees and tonnage as a vessel of the United States having a register, and the new master shall be liable to a penalty of $10: *Provided,* That the Commissioner of Customs may authorize the endorsement of not more than two alternate masters in addition to the one already endorsed on the license, whenever in his judgment the condition of employment of the vessel warrants such action: *Provided further,* That in the case of vessels navigated within the limits of the harbor of any town or city, the name of the owner or some responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Commissioner of Customs: *And provided further,* That in the case of unrigged vessels which are not required by law to have on board a certificate of inspection, the name of the owner or any responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such unrigged vessel although not actually employed on board the vessel; *And provided further,* That in the case of any vessel engaged in towing from any port or place embraced within the coastwise laws of the United States to any other such port or place plying in whole or in part on inland rivers, canals, waterways, sounds, gulfs, lakes, and harbors, not carrying passengers nor proceeding directly or indirectly to any foreign port or place or to any port or place in noncontiguous territory of the United States, the name of the owner or some responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to master, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Secretary of the Treasury.

(b) In the case of those vessels on the licenses of which there are endorsed the names of more than one master, the master actually in charge of the vessel shall assume all of the duties and responsibilities imposed by any statute upon masters of vessels, and incur the liabilities provided by any law against masters of vessels during any period in which he is in charge of the vessel.

(c) The term "unrigged vessel" as used in this section, means any vessel that is not self-propelled. (R. S. § 4335; May 31, 1939, ch. 159, 53 Stat. 794; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 30, 1957, Pub. L. 85–237, § 1, 71 Stat. 517.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 12, 1 Stat. 309.

AMENDMENTS

1957—Subsec. (a). Pub. L. 85–237 added proviso relating to endorsements on licenses in case of vessels engaged in coast-wise towing, provided they are not carrying passengers or proceeding to a foreign country on noncontiguous territory.

1939—Act May 31, 1939, designated existing provisions as subsec. (a), added thereto provisos relating to endorsements on licenses generally and in case of vessels navigated within limits of any town or city and unrigged vessels, and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 277. Inspection of documents.

Any officer concerned in the collection of the revenue may at all times inspect the register or enrollment or license of any vessel or any document in lieu thereof; and if the master or other person in charge or command of any such vessel shall not exhibit the same, when required by such officer, unless the vessel is one which by regulation of the Secretary of the Treasury is not required to have its register or enrollment or license or document in lieu thereof on board, such master or person in charge or command shall be liable to a penalty of $100, unless the failure to do so is willful, in which case he shall be liable to a penalty of $1,000 and to a fine of not more than $1,000 or imprisonment for not more than one year, or both. (R.S. § 4336; Aug. 5, 1935, ch. 438, title III, § 312, 49 Stat. 528; Aug. 30, 1957, Pub. L. 85–237, § 2, 71 Stat. 518.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 13, 1 Stat. 309.

AMENDMENTS

1957—Pub. L. 85-237 provided for penalties against other officer in charge or command of vessel and by excepting vessels which are not required by regulation of the Secretary of Treasury to exhibit their documents on board.

1935—Act Aug. 5, 1935, amended section by providing for inspection of the register or any document and punishment for willful failure to exhibit document.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 278. Penalty for unlawfully proceeding on foreign voyage.

If any vessel, enrolled or licensed, shall proceed on a foreign voyage, without first giving up her enrollment and license to the collector of the district comprehending the port from which she is about to proceed on such voyage, and being duly registered by such collector, every such vessel, together with her tackle, apparel, and furniture, and the merchandise so imported therein, shall be liable to seizure and forfeiture. (R. S. § 4337.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 8, 1 Stat. 308.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Pleasure yachts; license; entry and clearance; restrictions, see section 103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 279. Certificate for vessel proceeding on foreign voyage.

If the port from which any vessel, so enrolled or licensed, is about to proceed on a foreign voyage, is not within the district where such vessel is enrolled, the collector of such district shall give to the master of such vessel a certificate, specifying that the enrollment and license of such vessel has been received by him, and the time when it was so received; which certificate shall afterward be delivered by the master to the collector who may have granted such enrollment and license. (R. S. § 4338.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 8, 1 Stat. 308.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336, of this title.

§ 280. Papers for vessels in whale fishery.

All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries. (R. S. § 4339.)

DERIVATION

Act Apr. 4, 1840, ch. 6, § 1, 5 Stat. 370.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§§ 281 to 287. Repealed. Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349.

Sections 281—286, R. S. §§ 4340—4345, related to enrollment and licensing by assistant and deputy collectors at specified ports and by surveyors at ports of delivery and other ports specified.

Section 287, R. S. § 4334, required licensed vessels to have name and port painted on stern, and is now covered by section 46 of this title.

§ 288. Repealed. Pub. L. 85-911, § 12, Sept. 2, 1958, 72 Stat. 1758, eff. Apr. 1, 1960.

Section, acts June 7, 1918, ch. 93, §§ 1—5, 40 Stat. 602; Aug. 5, 1935, ch. 438, title II, § 210, 49 Stat. 526, related to numbering undocumented vessels and is now covered by section 527 et seq. of this title.

§ 289. Transportation of passengers in foreign vessels.

No foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of $200 for each passenger so transported and landed. (June 19, 1886, ch. 421, § 8, 24 Stat. 81; Feb. 17, 1898, ch. 26, § 2, 30 Stat. 248.)

CODIFICATION

Act Feb. 17, 1898, increased from $2 to $200 the penalty for transporting passengers in foreign vessels.

CROSS REFERENCES

Remission or mitigation of fines, see section 320 of this title.

Transportation of merchandise between points in United States in other than domestic-built and documented vessels, see section 883 of this title.

Transportation of passengers and merchandise in Canadian vessels between points in Alaska and United States, see section 289b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289a, 320 of this title.

§ 289a. Transportation of passengers in Canadian vessels between Rochester and Alexandria Bay.

Until such time as passenger service shall be established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Commissioner of Customs is authorized in his discretion to issue annually permits to Canadian passenger vessels to transport passengers between these ports; such Canadian vessels holding such permits not to be subject to the provisions of section 289 of this title. (Apr. 26, 1938, ch. 174, 52 Stat. 223; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section of this title.

§ 289b. Transportation of passengers and merchandise in Canadian vessels between points in Alaska and United States.

Notwithstanding the provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port in the United States to another port of the United States, passengers may be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska, and between Hyder, Alaska, and other points in the United States outside Alaska, either directly or via a foreign port, or for any part of the transportation until the Secretary of Commerce determines that United States-flag service is available to provide such transportation. (Pub. L. 87–77, June 30, 1961, 75 Stat. 196.)

PRIOR PROVISIONS

Temporary provisions which authorized transportation of passengers and merchandise in Canadian vessels between points in Alaska and United States, were contained in the following acts:

1960—Apr. 5, 1960, Pub. L. 86–410, 74 Stat. 16.
1959—July 31, 1959, Pub. L. 86–126, 73 Stat. 272.
1958—June 30, 1958, Pub. L. 85–473, 72 Stat. 244.
1957—July 11, 1957, Pub. L. 85–103, 71 Stat. 294.
1956—Apr. 18, 1956, ch. 207, 70 Stat. 114.
1955—May 7, 1955, ch. 35, 69 Stat. 47.
1954—June 29, 1954, ch. 413, 68 Stat. 321.
1953—July 16, 1953, ch. 201, 67 Stat. 175.
1952—June 11, 1952, ch. 391, 66 Stat. 133.
1951—June 27, 1951, ch. 153, 65 Stat. 90.
1950—June 29, 1950, ch. 409, 64 Stat. 301.
1949—Aug. 22, 1949, ch. 493, 63 Stat. 622.

§ 290. Transportation of merchandise in foreign vessels.

Section, act Feb. 17, 1898, ch. 26, § 1, 30 Stat. 248, is now covered by section 883 of this title.

§ 291. Transshipment of imported merchandise intended for immediate exportation.

Whenever merchandise is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power, the Secretary of the Treasury is authorized to prescribe regulations for the transshipment and transportation of such merchandise. (Feb. 17, 1898, ch. 26, § 3, 30 Stat. 248.)

§ 292. Dredging by foreign-built dredges.

A foreign-built dredge shall not, under penalty of forfeiture, engage in dredging in the United States unless documented as a vessel of the United States. (May 28, 1906, ch. 2566, § 1, 34 Stat. 204.)

CODIFICATION

Section 2 of act May 28, 1906, provided for documenting as vessels of the United States certain named foreign-built dredges. It was omitted from the Code, as special only.

§ 293. Establishment of great districts.

The seacoasts and navigable rivers of the United States and Puerto Rico shall be divided into five great districts: The first to include all the collection districts on the seacoasts and navigable rivers between the northern boundary of the State of Maine and the southern boundary of the State of Texas; the second to consist of the island of Puerto Rico; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the Territory of Alaska; the fifth to consist of the Territory of Hawaii. (R. S. § 4348; May 12, 1906, ch. 2453, § 1, 34 Stat. 190; May 17, 1932, ch. 190, 47 Stat. 158.)

DERIVATION

Acts Mar. 2, 1819, ch. 48, § 1, 3 Stat. 492; May 7, 1822, ch. 62, § 11, 3 Stat. 685.

CODIFICATION

R.S. § 4348, as originally enacted, was as follows: "The seacoast and navigable rivers of the United States shall be divided into three great districts: The first to include all the collection-districts on the sea-coast and navigable rivers, between the eastern limits of the United States and the southern limits of Georgia; the second to include all the collection-districts on the sea-coast and navigable rivers between the river Perdido and the Rio Grande; and the third to include all the collection-districts on the sea-coast and navigable rivers between the southern limits of Georgia and the river Perdido."

Section 2 of act May 12, 1906, provided that the act should take effect on and after Jan. 1, 1907.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 239a, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 293a. Additional great district.

There is created, in addition to the five great districts provided by section 293 of this title, a sixth great district to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Raquette River, New York. (July 3, 1926, ch. 757, § 1, 44 Stat. 832.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SEAMEN'S RIGHTS AND PRIVILEGES UNAFFECTED

Section 2 of act July 3, 1926, provided that nothing in this section should affect the rights or privileges reserved to seamen under law existing on July 3, 1926.

§ 293b. Vessels operating in Great Lakes district; laws applicable.

CODIFICATION

Section, act July 3, 1926, ch. 757, § 2, 44 Stat. 832, provided that vessels operating in the district created by section 293a of this title should be subject to the requirements of sections 294—297 of this title. Sections 294—297 have now been repealed.

§§ 294 to 305. Repealed. June 8, 1940, ch. 284, 54 Stat. 254.

Sections, R. S. 4349—4356, 4357, 4359, 4360, act July 12, 1876, ch. 185, 19 Stat. 90, related to manifests and permits in the case of vessels licensed for carrying on the coasting trade, and trading between different districts.

§ 306. Trade between Alaska and other districts.

The coasting trade between the Territory of Alaska and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great districts. (R. S. § 4358; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512.)

DERIVATION

Act July 27, 1868, ch. 273, § 5, 5 Stat. 241.

CODIFICATION

Upon incorporation into the Code, the words "Territory of Alaska" were substituted for "territory ceded to the United States by the Emperor of Russia" to conform to act Aug. 24, 1912. See former section 21 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1949, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding former section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Great districts, establishment, see sections 293 and 293a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 307. Regulations as to registered vessels in interdistrict trade.

Whenever any vessel of the United States, registered according to law, is employed in going from any one district in the United States to any other district, such vessel, and the master thereof, with the goods she may have on board previous to her departure from the district where she may be, and also upon her arrival in any other district, shall be subject, except as to the payment of fees, to the same regulations, provisions, penalties, and forfeitures, and the like duties are imposed on like officers, as are provided for vessels licensed for carrying on the coasting trade. Nothing herein contained shall be construed to extend to registered vessels of the United States having on board merchandise of foreign growth or manufacture, brought into the United States, in such vessel, from a foreign port, and on which the duties have not been paid according to law. (R. S. § 4361.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 20, 1 Stat. 313.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 308. Permit for inland transportation.

The collector of the district of Philadelphia may grant permits for the transportation of merchandise of foreign growth or manufacture across the State of New Jersey to the district of New York, or across the State of Delaware to any district in the State of Maryland or Virginia; and the collector of the district of New York may grant like permits for transportation across the State of New Jersey; and the collector of any district of Maryland or Virginia may grant like permits for transportation across the State of Delaware to the district of Philadelphia. Every such permit shall express the name of the owner, or person sending the merchandise, and of the person to whom the merchandise is consigned, with the marks, numbers, and description of the packages, whether bale, box, chest, or otherwise, and the kind of goods contained therein, and the date when granted; and the owner, or person sending such goods, shall swear that they were legally imported, and the duties paid. Where the merchandise, to be so transported, shall be of less value than $800, the permit shall not be deemed necessary. (R. S. § 4362.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 19, 1 Stat. 313.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Merchandise may be entered for transportation in bond without appraisement to any other port of entry, see section 1552 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 309, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 309. Penalty for failure to report arrival of merchandise transported inland.

The owner or consignee of all merchandise transported under the provisions of section 308 of this title and for the transportation whereof a permit is necessary, shall, within twenty-four hours after the arrival thereof at the place to which such merchandise was permitted to be transported, report the same to the collector of the district where it has arrived, and shall deliver up the permit accompanying the same; and if the owner or consignee shall neglect or refuse to make due entry of such merchandise within the time and in the manner directed, all such merchandise shall be subject to forfeiture; and if the permit granted shall not be given up within the time limited for making the report, the person to whom it was granted, neglecting or refusing to deliver it up, shall be liable to a penalty of $50 for every twenty-four hours it shall be withheld afterward. (R. S. § 4363.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 19, 1 Stat. 313.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Merchandise may be entered for transportation in bond without appraisement to any other port of entry, see section 1552 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 310. Permit to touch at foreign port.

Whenever any vessel, licensed for carrying on the fishery, is intended to touch and trade at any foreign port, it shall be the duty of the master or owner to obtain permission for that purpose from the collector of the district where such vessel may be, previous to her departure, and the master of every such vessel shall deliver like manifests, and make like entries, both of the vessel and of the merchandise on board, within the same time, and under the same penalty, as are by law provided for vessels of the United States arriving from a foreign port. (R. S. § 4364.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 21, 1 Stat. 313.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Vessels licensed for "coasting trade and Mackerel fishery," application of section to, see section 263 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 263, 268, 274, 275, 311, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 311. Penalty for touching at foreign port without permission.

Whenever a vessel, licensed for carrying on the fisheries, is found within three leagues of the coast, with merchandise of foreign growth or manufacture, exceeding the value of $500, without having such permission as is directed by section 310 of this title, such vessel, together with the merchandise of foreign growth or manufacture imported therein, shall be subject to seizure and forfeiture. (R. S. § 4365.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 21, 1 Stat. 313.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Vessels licensed for "coasting trade and Mackerel fishery," application of section to, see section 263 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 263, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 312. Report of arrival at port other than that of destination.

The master of every vessel employed in the transportation of merchandise from district to district, that shall put into a port other than the one to which she was bound, shall, within twenty-four hours of his arrival, if there be an officer residing at such port, and she continue there so long, make report of his arrival to such officer, with the name of the place he came from, and to which he is bound, with an account of his lading; and every master who neglects or refuses so to do shall be liable to a penalty of $20. (R. S. § 4366.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 22, 1 Stat. 314.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 313. Foreign vessels bound coastwise.

The master of every foreign vessel bound from a district in the United States to any other district within the same, shall, in all cases, previous to her

departure from such district, deliver to the collector of such district duplicate manifests of the lading on board such vessel, if there be any, or, if there be none, he shall declare that such is the case; and to the truth of such manifest or declaration he shall swear, and also obtain a permit from the collector, authorizing him to proceed to the place of his destination. (R. S. § 4367.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 24, 1 Stat. 314.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 315, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 314. Delivery of manifest of foreign vessel.

The master of every foreign vessel, on his arrival within any district from any other district, shall, in all cases, within forty-eight hours after his arrival, and previous to the unlading of any goods from on board such vessel, deliver to the collector of the district where he may have arrived, a manifest of the goods laden on board such vessel, if any there be; or if in ballast only, he shall so declare; he shall swear to the truth of such manifest or declaration, and shall also swear that such manifest contains an account of all the merchandise which was on board such vessel at the time, or has been since her departure from the place from whence she shall be reported last to have sailed; and he shall also deliver to such collector the permit which was given him from the collector of the district from whence he sailed. (R. S. § 4368.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 24, 1 Stat. 314.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 315, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 315. Penalty against foreign vessels trading coastwise.

Every master of any foreign vessel who neglects or refuses to comply with any of the requirements of sections 313 and 314 of this title, shall be liable to a penalty of $100. Nothing therein contained shall, however, be construed as affecting the payment of tonnage, or any other requirements to which such vessels are subject by law. (R. S. § 4369.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 24, 1 Stat. 314.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 316. Use of foreign vessels in United States ports.

(a) Towing United States vessels; fines and penalties.

It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbors of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit.

(b) Person defined.

The term "person" as used in subsection (a) of this section, shall be held to include persons, firms, partnerships, associations, organizations, and corporations, doing business or existing under or by the authority of the laws of the United States, or of any State, Territory, district, or other subdivision thereof.

(c) Foreign railroad companies using ferries, tugboats, or towboats.

Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and

operate the same in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: *Provided,* That except as authorized by section 883 of this title, such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same.

(d) Salvaging operations by foreign vessels.

No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of section 725 of this title: *Provided, however,* That if, on investigation, the Commissioner of Customs is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to section 288 of this title, is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use.

(e) Operations permitted by treaty.

Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by article II of the treaty between the United States and Great Britain "concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage" signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico "to facilitate assistance to and salvage of vessels in territorial waters", signed at Mexico City, June 13, 1935 (49 Stat. 3359). (R. S. § 4370; June 11, 1940, ch. 324, 54 Stat. 304; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts July 18, 1866, ch. 201, § 21, 14 Stat. 183; Feb. 25, 1867, ch. 78, 14 Stat. 410.

REFERENCES IN TEXT

As originally enacted "this title" in subsec. (a) of this section read "Title XLVIII or Title L of the Revised Statutes." Title 48 of the Revised Statutes consisted of sections 4131—4196. Title 50 consisted of sections 4311—4390. For distribution of the sections in this code, see Tables.

Section 288 of this title, referred to in subsecs. (a) and (d), was repealed by Pub. L. 85-911, § 12, Sept. 2, 1958, 72 Stat. 1758, eff. Apr. 1, 1960. See section 527 et seq. of this Title.

AMENDMENTS

1940—Subsec. (a). Act June 11, 1940, expanded subsec. (a) to include all vessels and increased the penalties for violations.

Subsecs. (b)—(e). Act June 11, 1940, added subsecs. (b)—(e).

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of Customs" was substituted for "Secretary of Commerce" in subsec. (d) on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Canadian vessels aiding vessels wrecked or disabled in United States waters, see section 725 of this title.

Corporation meeting certain conditions deemed citizen for purposes of this section, see section 883-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 883-1 of this title.

§ 317. Repealed. Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349.

Section, R. S. § 4371, related to fees and forfeitures for trading without enrollment or license.

§ 318. Exemptions where license expires at sea.

If any vessel be at sea at the expiration of the time for which the license was given, and the master of such vessel shall swear that such was the case, and shall also, within forty-eight hours after his arrival, deliver to the collector of the district in which he shall first arrive the license which shall have expired, the forfeiture prescribed in section 317 of this title shall not be incurred, nor shall the vessel be liable to pay the fees and tonnage therein required. (R. S. § 4372.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 6, 1 Stat. 308.

REFERENCES IN TEXT

Section 317 of this title, referred to in the text, was repealed by act Feb. 28, 1933, ch. 131, § 1, 47 Stat. 1349.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 319. Fine for trading without license.

Every vessel of twenty tons or upwards, entitled to be documented as a vessel of the United States, other than registered vessels found trading between district and district, or between different places in the same district, or carrying on the fishery, without being enrolled and licensed, and every vessel of less than twenty tons and not less than five tons burden found trading or carrying on the fishery as aforesaid without a license obtained as provided by this chapter, shall be liable to a fine of $30 at every port of arrival without such enrollment or license, and if she have on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, she shall, together with her tackle, apparel and furniture, and the lading found on board, be forfeited. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found on board such vessel, shall be prima facie evidence of the foreign origin of such merchandise. But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine or forfeiture shall not be incurred. (June 19, 1886, ch. 421, § 7, 24 Stat. 81; Aug. 5, 1935, ch. 438, title III, § 314, 49 Stat. 529.)

REFERENCES IN TEXT

The words "this chapter", referred to in the text, are a translation of "this title" appearing in the act of June 19, 1886. That act was not subdivided into titles, and section 7 did not expressly amend any section of the Revised Statutes. The term is therefore ambiguous, but probably was intended to refer to Title 50 of the Revised Statutes, set out, so far as still in force, in sections 251—255, 258, 259, 262—272, 274—280, 293, 306—316, 318, 321—330, and 333—335 of this title.

AMENDMENTS

1935—Act Aug. 5, 1935, provided for forfeiture, to deem marks, etc., prima facie evidence of foreign origin of merchandise, and to substitute words "said fine or forfeiture" for "said fine of $30" in last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 320 of this title.

§ 320. Remission or mitigation of fines.

The fines imposed by sections 45, 77, 289, and 319 of this title shall be subject to remission or mitigation by the Commissioner of Customs when the offense was not willfully committed, under such regulations and methods of ascertaining the facts as may seem to him advisable. (June 19, 1886, ch. 421, § 9, 24 Stat. 81; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan. No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury," to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 271 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Forfeitures, see sections 5601 et seq. and 7301 et seq. of Title 26, Internal Revenue Code.

Jurisdiction, fine, penalty or forfeiture, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Mitigation, refunding and remission of penalties under laws relating to vessels, seamen, and customs, see sections 7 and 8 of this title and section 1618 of Title 19, Customs Duties.

§ 321. Penalty for illegal enrollment or license.

Every collector, who knowingly makes any record of enrollment or license of any vessel, and every other officer, or person, appointed by or under them, who makes any record, or grants any certificate or other document whatever, contrary to the true intent and meaning of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title, or takes any other or greater fees than are by such sections allowed, or receives for any service performed pursuant to such sections, any reward or gratuity, and every surveyor, or other person appointed to measure vessels, who willfully delivers to any collector or such officer or employee as the Secretary of the Treasury shall designate a false description of any vessel, to be enrolled or licensed, in pursuance of such sections, shall be liable to a penalty of $500, and be rendered incapable of serving in any office of trust or profit under the United States. (R.S. § 4373; June 17, 1930, ch. 497, title IV, §§ 523, 651(a)(1), 46 Stat. 740, 762; Aug. 8, 1953, ch. 397, § 2(d), 67 Stat. 508.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 29, 1 Stat. 315.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

CODIFICATION

Upon incorporation into the Code, the words "comptroller of customs" were substituted for "naval officer" to conform to act Sept. 21, 1922, ch. 356, § 523, 42 Stat. 974, which was repealed by section 651(a)(1) of act June 17, 1930. Section 523 of act June 17, 1930, classified to section 1523 of Title 19, Customs Duties, continued naval officers of customs as comptrollers of customs. Section 523 of act June 17, 1930, was amended by act Aug. 8, 1953, which omitted references to comptrollers of customs and substituted reference to the Secretary of the Treasury or such officer or employee as he shall designate. The words "such officer or employee as the Secretary of the Treasury shall designate" were substituted for "comptrollers of customs" to reflect such change.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of

1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 322. Penalty for malfeasance.

Every person, authorized and required by sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title to perform any act or thing as an officer, who willfully neglects or refuses to do and perform the same, according to the true intent and meaning of such sections, shall, if not subject to the penalty and disqualifications prescribed in section 321 of this title, be liable to a penalty of $500 for the first offense, and of like sum for the second offense, and shall, after conviction for the second offense, be rendered incapable of holding any office of trust or profit under the United States. (R. S. § 4374.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 29, 1 Stat. 315.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 323. Penalty for forgery and alteration.

Every person who forges, counterfeits, erases, alters, or falsifies any enrollment, license, certificate, permit, or other document, mentioned or required in sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title, to be granted by any officer of the revenue, such person, so offending, shall be liable to a penalty of $500. (R. S. § 4375.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 30, 1 Stat. 316.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CROSS REFERENCES

Ship's papers, counterfeiting and forgery, see section 507 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 324. Penalty for obstructing officers.

Every person who assaults, resists, obstructs, or hinders any officer in the execution of any Act or law relating to the enrollment, registry, or licensing of vessels, or of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title, or of any of the powers or authorities vested in him by any such Act or law, shall, for every such offense, for which no other penalty is particularly provided, be liable to a penalty of $500. (R. S. § 4376.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 31, 1 Stat. 316.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CROSS REFERENCES

Assault, penalty, see section 111 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 326, 328, 332, 333, 335, 336 of this title.

§ 325. Penalty for violation of license.

Whenever any licensed vessel is transferred, in whole or in part, to any person who is not at the time of such transfer a citizen of and resident within the United States, or is employed in any other trade than that for which she is licensed, or is employed in any trade whereby the revenue of the United States is defrauded, or is found with a forged or altered license, or one granted for any other vessel, or with merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, such vessel with her tackle, apparel and furniture, and the cargo, found on board her, shall be forfeited. But vessels which may be licensed for the mackerel fishery shall not incur such forfeiture by engaging in catching cod or fish of any other description whatever. For the purposes of this section, marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any vessel, shall be prima facie evidence of the foreign origin of such merchandise. (R. S. § 4377; Aug. 5, 1935, ch. 438, title III, § 313, 49 Stat. 528.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 32, 1 Stat. 316; Apr. 20, 1836, ch. 55, 5 Stat. 16

AMENDMENTS

1935—Act Aug. 5, 1935, subjected to forfeiture any vessel employed in any trade whereby revenue of the United States is defrauded or which is found with merchandise of foreign growth or manufacture or any domestic alcoholic liquors on which duties or taxes have not been paid and added the sentence making marks, etc., prima facie evidence of foreign origin of merchandise.

CROSS REFERENCES

Boarding vessels; search of persons and baggage, regulations, see sections 1581 and 1582 of Title 19, Customs Duties.

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Fine, penalty or forfeiture, jurisdiction, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Fishing vessels; transfer and transportation of catch of other vessels, see section 404a of this title.

Forfeitures, see sections 5601 et seq. and 7301 et seq. of Title 26, Internal Revenue Code.

Mitigation, refunding and remission of penalties under laws relating to vessels, seamen, and customs, see sections 7 and 8 of this title and section 1618 of Title 19, Customs Duties.

Nationality and naturalization, see section 1401 et seq. of Title 8, Aliens and Nationality.

Numbering undocumented vessels, see section 527 et seq. of this title.

Seizures, see section 1602 et seq. of Title 19, Customs Duties.

Ship's papers, counterfeiting and forgery, see section 507 of Title 18, Crimes and Criminal Procedure.

Unlawfully proceeding on foreign voyage, penalty, see section 278 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 326. Exemption from forfeiture.

Any merchandise on board any vessel which belongs, in good faith, to any person other than the master, owner, or mariners of such vessel, and upon which the duties have been paid, or secured according to law, shall be exempted from any forfeiture under sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title. (R. S. 4378.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 33, 1 Stat. 316.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 328, 332, 333, 335, 336 of this title.

§ 327. Notice of seizure.

In every case where a forfeiture of any vessel or merchandise shall accrue, it shall be the duty of the collector or other proper officer, who shall give notice of the seizure of such vessel or of such merchandise, to insert in the same advertisement the name and the place of residence of the person to whom any such vessel and merchandise belonged or were consigned, at the time of such seizure, if the same be known to him. (R. S. § 4379.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 28, 1 Stat. 315.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 328. Recovery of forfeitures and penalties.

All penalties and forfeitures which shall be incurred by virtue of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title may be sued for, prosecuted, and recovered as penalties and forfeitures incurred by virtue of the laws relating to the collection of duties, and shall be appropriated in like manner; except when otherwise expressly prescribed. (R. S. § 4380.)

DERIVATION

Act Feb. 8, 1793, ch. 8, § 35, 1 Stat. 317.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CROSS REFERENCES

Enforcement of penalties and forfeitures under the customs laws, see section 1581 et seq. of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 332, 333, 335, 336 of this title.

§ 329. Fees.

The following fees shall be levied and collected from the owners and masters of all vessels except those navigating the waters of the northern, northeastern, and northwestern frontiers, otherwise than by sea:

For granting a permit for a vessel not belonging to a citizen or citizens of the United States, to proceed from district to district, and receiving the manifest, $2.

For receiving a manifest, and granting a permit, to unload, for such last-mentioned vessel, on her arrival in one district from another district, $2. (R.S. § 4381; June 19, 1886, ch. 421, § 1, 24 Stat. 79.)

DERIVATION

Acts Feb. 18, 1793, ch. 8, § 34, 1 Stat. 316; July 1, 1870, ch. 185, § 7, 16 Stat. 177.

CODIFICATION

Prior to its incorporation into the Code, R.S. § 4381 read as follows:

"The following fees shall be levied and collected from the owners and masters of all vessels except those navigating the waters of the northern, northeastern, and northwestern frontiers, otherwise than by sea:

"First. For measuring every vessel, in order to the enrollment or licensing and recording the same, the fees prescribed for like services in order to the registry of vessels.

"Second. For every certificate of enrollment, fifty cents.

"Third. For every indorsement on a certificate of enrollment, twenty cents.

"Fourth. For every license, and granting the same, including the bond, if not exceeding twenty tons, twenty-five cents; if above twenty and not more than one hundred tons, fifty cents; and if more than one hundred tons, one dollar.

"Fifth. For every indorsement on a license, twenty cents.

"Sixth. For certifying manifests, and granting a permit for a licensed vessel to proceed from district to district, ten cents.

"Seventh. For receiving a certified manifest and granting a permit on the arrival of such licensed vessel, ten cents.

"Eighth. For certifying manifests, and granting a permit for a registered vessel to proceed from district to district, one dollar and fifty cents.

"Ninth. For receiving a certified manifest, and granting a permit on the arrival of such registered vessel, one dollar.

"Tenth. For granting a permit for a vessel not belonging to a citizen or citizens of the United States, to proceed from district to district, and receiving the manifest, two dollars.

"Eleventh. For receiving a manifest, and granting a permit, to unload, for such last-mentioned vessel, on her arrival in one district from another district, two dollars.

"Twelfth. For granting a permit for a vessel carrying on the fishery to trade at a foreign port, twenty-five cents, and for the report and entry of any foreign goods imported in such vessel, twenty-five cents.

"Where a surveyor certifies a manifest, or grants a permit, or receives a certified manifest and grants a permit, the fees arising therefrom shall be received by him solely for his use; and all other fees arising by virtue of this section shall be received and accounted for by the collector, or, at his option, by the naval officer, where there is one, and where there is a collector, naval officer, and surveyor, shall be equally divided monthly between the said officers; and where there is no naval officer, two-thirds to the collector and the other third to the surveyor; and where there is only a collector, he shall receive the whole amount thereof; and where there is more than one surveyor in any district, each of them shall receive his proportional part of such fees as shall arise at the port for which he is appointed; and in all cases where the tonnage of any ship or vessel shall be ascertained by any person appointed for that purpose, such person shall be paid a reasonable compensation therefor out of the fees aforesaid, before any distribution thereof as aforesaid."

All of the numbered paragraphs, except the tenth and eleventh, were omitted as superseded by act June 19, 1886, which is incorporated in section 331 of this title.

The last paragraph was superseded by the reorganization of the customs service by the President under act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 434 (former section 1 of Title 19, Customs Duties).

CROSS REFERENCES

Canal boats or boats employed on internal waters or canals of any state, exemption from requirements of this section, see section 336 of this title.

Collectors of customs, fees, see section 58 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335, 336 of this title.

§ 330. Fees on frontiers.

The following fees shall be levied and collected from the owners and masters of vessels navigating the waters of the northern, northeastern, and northwestern frontiers of the United States, otherwise than by sea:

For certifying manifest, including master's oath, and granting permit for vessel to go from district to district, 10 cents.

For receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign, intermediate ports or not, 10 cents.

For a post entry of such vessel, $2. (R. S. § 4382; July 5, 1884, ch. 228, §§ 2, 3, 23 Stat. 132, 133; June 19, 1886, ch. 421, § 1, 24 Stat. 79; Mar. 3, 1897, ch. 389, § 9, 29 Stat. 689.)

DERIVATION

Act July 1, 1870, ch. 185, § 7, 16 Stat. 177; Res. Feb. 10, 1871, No. 27, § 2, 16 Stat. 595.

CODIFICATION

Prior to its incorporation into the Code, R.S. § 4382 was as follows:

"The following fees shall be levied and collected from the owners and masters of vessels navigating the waters of the northern, northeastern, and northwestern frontiers of the United States, otherwise than by sea:

"First. For the measurement of any vessel, the fees prescribed in Title XLVIII, 'Regulation of Commerce and Navigation.'

"Second. For certificate of enrollment, including bond and oath, one dollar and ten cents.

"Third. For granting license, including bond and oath, if not over twenty tons, forty-five cents.

"Fourth. For granting license, including bond and oath, above twenty and not over one hundred tons, seventy cents.

"Fifth. For granting license, including bond and oath, above one hundred tons, one dollar and twenty cents.

"Sixth. For certifying manifest, including master's oath, and granting permit for vessel to go from district to district, ten cents.

"Seventh. [Repealed.]

"Eighth. For receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign, intermediate ports or not, ten cents.

"Ninth. [Repealed.]

"Tenth. For certifying a manifest, including master's oath, and granting permit to a vessel under fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, twenty-five cents.

"Eleventh. For certifying a manifest, including master's oath, and granting permit to a vessel above fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, fifty cents.

"Twelfth. [Repealed.]

"Thirteenth. [Repealed.]

"Fourteenth. Vessels departing to or arriving from a port in one district to or from a port in an adjoining district, and touching at intermediate foreign ports, are exempted from the payment of the entry fees.

"Fifteenth. For a port entry of such vessel, two dollars.

"Sixteenth. For permit to land or deliver goods, twenty cents.

"Seventeenth. For a bond taken officially, not otherwise provided for, fifty cents.

"Eighteenth. For permit to load goods for exportation entitled to drawback, thirty cents.

"Nineteenth. For debenture or other official certificate not otherwise provided for, twenty cents.

"Twentieth. For recording all bills of sale, mortgages, hypothecations, or conveyances of vessels, fifty cents.

"Twenty-first. For recording all certificates for discharging and canceling any such conveyances, fifty cents.

"Twenty-second. For furnishing a certificate setting forth the names of the owners of any registered or enrolled vessel, the parts or proportions owned by each, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance; the date, amount of such incumbrance, and from and to whom made, one dollar.

"Twenty-third. For furnishing copies of such records for each bill of sale, mortgage, or other conveyance, fifty cents.

"Twenty-fourth. For receiving manifest of each railroad car or other vehicle laden with goods, wares, or merchandise from a foreign contiguous territory, twenty-five cents.

"Twenty-fifth. For entry of goods, wares, or merchandise for consumption, warehouse, rewarehouse, transportation, or exportation, including oath and permit to land or deliver, fifty cents.

"Twenty-sixth. For certificate of registry including bond and oath, two dollars and twenty-five cents.

"Twenty-seventh. For indorsement of change of masters on registry, one dollar."

Act July 5, 1884, §§ 2, 3, amended the sixth and eighth paragraphs by striking out the words "under fifty tons twenty-five cents," and inserting in lieu thereof the words "ten cents"; also by striking out all of the seventh and ninth paragraphs, which read, respectively, as follows: "For certifying manifest, including master's oath, and granting permit for vessel to go from district to district, over fifty tons, fifty cents;" and "For receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, over fifty tons, fifty cents."

Act Mar. 3, 1897 amended the section by abolishing the fees provided for by the twelfth and thirteenth paragraphs, which provided, respectively, as follows: "For the entry of a vessel direct from a foreign port, fifty cents;" and "For the clearance of a vessel direct to a foreign port, fifty cents."

Many of the provisions of the original text, as well as a provision of act Mar. 3, 1897, § 9, concerning the compen-

sation of collectors of customs whose compensation consisted in whole or in part of the fees thereby abolished, were superseded by act June 19, 1886, which is incorporated in section 331 of this title.

In the original the words "post entry" in the last paragraph of this section read "port entry". It was changed to read "post" in view of an opinion of the (former) Commissioner of Navigation.

The fourteenth paragraph of the original text was omitted as covered by section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 331. Certain fees abolished.

No fees shall be charged or collected by collectors or other officers of customs, or by Coast Guard officials, for the following services to vessels of the United States, to wit: Measurement of tonnage and certifying the same, except that the compensation and necessary travel and subsistence expenses of the officers so measuring or certifying such vessels at the request of the owners thereof at a place other than a port of entry or a customs station shall be paid by such owners; issuing of license or granting of certificate of registry, record, or enrollment, including all indorsements on the same and oath; indorsement of change of master; certifying and receiving manifest, including master's oath and permit; granting permit to vessels licensed for the fisheries to touch and trade; granting certificate of payment of tonnage dues; recording bill of sale, mortgage, hypothecation or conveyance, or the discharge of such mortgage or hypothecation; furnishing certificate of title; furnishing the crew list; certificate of protection to seamen; bill of health; shipping or discharging of seamen, as provided by title 53 of the Revised Statutes and sections 563 and 646 of this title; apprenticing boys to the merchant service; inspecting, examining, and licensing steam vessels, including inspection certificate and copies thereof; and licensing of master, engineer, pilot, or mate of a vessel. (June 19, 1886, ch. 421, § 1, 24 Stat. 79; Apr. 4, 1888, ch. 61, § 2, 25 Stat. 80; June 25, 1938, ch. 679, § 19(a), 52 Stat. 1087; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

For distribution of Title 53, referred to in text, sections 4501—4612, of the Revised Statutes, see note under section 543 of this title.

CODIFICATION

This is from the Shipping Act of June 19, 1886, § 1, as amended by act Apr. 4, 1888.

Prior to its incorporation into the Code, the section contained the following additional provisions: "And all provisions of laws authorizing or requiring the collection of fees for such services are repealed, such repeal to take effect July first, eighteen hundred and eighty-six. Collectors or other officers of customs, inspectors of steam vessels, and shipping commissioners who are paid wholly or partly by fees shall make a detailed report of such services, and the fees provided by law, to the Secretary of the Treasury, under such regulations as that officer may prescribe; and the Secretary of the Treasury shall allow and pay, from any money in the Treasury not otherwise appropriated, said officers such compensation for said services as each would have received prior to the passage of this act; also such compensation to clerks of shipping commissioners and clerks of steamboat inspectors, and such allowances for fees of United States marshals and witnesses for services under the steamboat-inspection laws, and for expenses of steamboat inspectors provided for by section forty-four hundred and sixty-one of the Revised Statutes as would have been paid them had this act not passed: Provided, That such services have, in the opinion of the Secretary of the Treasury, been necessarily rendered."

The amendment by act Apr. 4, 1888, inserted in the last sentence, after the words "clerks of shipping commissioners," the provisions beginning with the words "and clerks of steamboat inspectors," and ending with the words "of the Revised Statutes."

These provisions were, in part superseded by the reorganization of the customs service under act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 434 (former section 1 of Title 19); in part by act June 25, 1910, ch. 384, § 7, 36 Stat. 773, repealing so much of the act of 1886 as made a permanent indefinite appropriation to pay compensation to shipping commissioners and their clerks, and requiring estimates therefor to be submitted annually; and in part by subsequent acts making appropriations for the steamboat inspection service and shipping commissioners. See act Feb. 24, 1927, ch. 189, 44 Stat. 1205, 1206.

The following provisions were omitted from the Code as superseded by this section: R.S. § 4185, as to fees of collectors for each certificate of registry or record, for each indorsement, and for taking any bond required by that title; R.S. § 4186, as to fees of surveyors for the admeasurement of vessels, etc., and other services to be performed on board vessels; R.S. § 4458, as amended by act Apr. 5, 1882, ch. 67, 22 Stat. 40, as to sums to be demanded and received by the collector or other chief officer of the customs before issuing any license to any steamer, as compensation for the inspections and examinations made for the year; and the fees to be paid by each master, engineer, pilot, and mate, licensed as therein provided; and act June 26, 1884, ch. 121, § 28, 23 Stat. 59, dealing, in part, with the same matters; R.S. §§ 4592, and 4593, as to fees upon engagements and discharges and apprenticeships effected before shipping commissioners; a provision of act Aug. 5, 1882, ch. 398, § 3, 22 Stat. 301, authorizing the Secretary of the Treasury to establish and promulgate a scale of fees for readmeasurement of spaces to be deducted from the gross tonnage of a vessel. A provision of act Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1315, that all payments to collectors or other officers of the customs on account of fees theretofore paid from the permanent indefinite appropriation provided for by section 1 of the act of 1886, should be paid from the appropriation "Expense of collecting the revenue from customs" was superseded by the reorganization of the customs service mentioned above.

AMENDMENTS

1938—Act June 25, 1938, required owners of vessels to pay compensation and travel and subsistence expenses of officers measuring or certifying vessels at request of owners at a place other than a port of entry or customs station.

EFFECTIVE DATE OF 1938 AMENDMENT

Section 37 of act June 25, 1938, provided that the amendment to this section shall take effect on the thirtieth day following June 25, 1938, except as otherwise specifically provided, see note under section 1401 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers,

agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard officials" was substituted for "inspectors of steam vessels or shipping commissioners" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Fees for bill of sale, conveyance or mortgage recorded, or certificate or certified copy furnished, see section 927 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 58.

§ 332. Exemptions of vessels not propelled by sail or internal motive power.

The provisions of sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title shall not be so construed as to require the payment of any fee or charge for the enrolling or licensing of vessels, built in the United States and owned by citizens thereof, not propelled by sail or by internal motive power of their own, and not in any case carrying passengers, whether navigating waters of a State or the navigable waters of the United States, and not engaged in trade with contiguous foreign territory, nor shall this or any law existing on June 30, 1879, be construed to require the enrolling, registering or licensing of any flatboat, barge, or like craft for the carriage of freight, not propelled by sail or by internal motive power of its own, on the rivers or lakes of the United States. (June 30, 1879, ch. 54, 21 Stat. 44.)

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

§ 333. Posting table of fees.

Every collector and such officer or employee as the Secretary of the Treasury shall designate shall cause to be affixed and constantly kept in some conspicuous place in his office a fair table of the rates of fees demandable by sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title. (R.S. § 4383; June 17, 1930, ch. 497, title IV, §§ 523, 651(a)(1), 46 Stat. 740, 762; Aug. 8, 1953, ch. 397, § 2(d), 67 Stat. 508.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 34, 1 Stat. 316.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CODIFICATION

Upon incorporation into the Code, the words "and every surveyor residing at a port where there is no collector" which followed the words "naval officer" in the original text, were omitted as superseded by the reorganization of the customs service under act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 434.

Upon incorporation into the Code, the words "comptroller of customs" were substituted for "naval officer" to conform to act Sept. 21, 1922, ch. 356, § 523, 42 Stat. 974, which was repealed by section 651(a)(1) of act June 17, 1930. Section 523 of act June 17, 1930, classified to section 1523 of Title 19, Customs Duties, continued naval officers of customs as comptrollers of customs. Section 523 of act June 17, 1930, was amended by act Aug. 8, 1953, which omitted references to comptrollers of customs and substituted reference to the Secretary of the Treasury or such officer or employee as he shall designate. The words "such officer or employee as the Secretary of the Treasury shall designate" were substituted for "comptrollers of customs" to reflect such change.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 335, 336 of this title.

§ 334. Vessels liable for fees for enrollment.

All vessels subject to enrollment or license shall be liable to the payment of the fees established by law for services of customs officers incident thereto. (R. S. § 4384.)

DERIVATION

Act July 18, 1866, ch. 201, § 28, 14 Stat. 184.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 335 of this title.

§ 335. Lighters and boats.

Nothing in sections 251 to 255, 258, 259, 262 to 280, 293, 306 to 316, 318, 321 to 330, and 333 to 335 of this title shall be construed to extend to any boat or lighter not being masted, or if masted and not decked, employed in the harbor of any town or city. (R. S. § 4385.)

DERIVATION

Act Feb. 18, 1793, ch. 8, § 37, 1 Stat. 317.

REFERENCES IN TEXT

Section 273, included within the reference to sections 262 to 280 of this title, was repealed by Pub. L. 89–476, § 2(d), June 29, 1966, 80 Stat. 230.

CROSS REFERENCES

Vessels not propelled by sail or internal motive power and canal boats or boats employed on internal waters or canals of any State, exemption from requirements of this section, see section 332 and 336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251, 268, 274, 275, 321, 322, 323, 324, 326, 328, 332, 333, 336 of this title.

§ 336. Canal boats exempt from enrollment, license, and customs fees.

Sections 251, 252, 259, 262 to 269, 273 to 279, 307 to 315, 318, 321 to 329, 333, and 335 of this title shall not be so construed as to extend to canal boats or boats employed on the internal waters or canals of any State; and all such boats, excepting only such as are provided with sails or propelling machinery of their own adapted to lake or coastwise navigation and excepting such as are employed in trade with the

Canadas, shall be exempt from such provisions and from the payment of all customs and other fees under any Act of Congress. (Apr. 18, 1874, ch. 110, 18 Stat. 31.)

REFERENCES IN TEXT

Section 273, included within the reference to sections 273 to 279 of this title, was repealed by Pub. L. 89-476, § 2(d), June 29, 1966, 80 Stat. 230.

Chapter 13.—PASSPORTS AND PAPERS OF VESSELS ENGAGED IN FOREIGN COMMERCE

Sec.
351 to 353. Omitted.
354. Deposit of ship's papers with consul.
355. Penalty for failure.

§§ 351 to 353. Omitted.

CODIFICATION

Sections, R. S. §§ 4306—4308, related to passports of United States vessels. The use of sea letters and passports was discontinued by Presidential proclamation on Apr. 10, 1815.

§ 354. Deposit of ship's papers with consul.

Every master of a vessel, belonging to citizens of the United States, who shall sail from any port of the United States, shall, on his arrival at a foreign port, deposit his register, with the consul or vice consul, if any there be at such port; and it shall be the duty of such consul or vice consul, on such master or commander producing to him a clearance from the proper officer of the port where his vessel may be, to deliver to the master all of his papers, if such master or commander has complied with the provisions of law relating to the discharge of seamen in a foreign country, and to the payment of the fees of consular officers. (R.S. § 4309; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 2, 2 Stat. 203.

CODIFICATION

The words "commercial agent, or vice-commercial agent" following vice-consul were omitted from the Code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

SEA LETTERS AND PASSPORTS, USE DISCONTINUED

As originally enacted this section also required the deposit of sea letters and passports. The use of such documents was discontinued by Presidential proclamation on Apr. 10, 1815.

CROSS REFERENCES

Consular fees for services to American vessels or seamen prohibited, see section 1186 of Title 22, Foreign Relations and Intercourse.

Retention of papers of American vessels by consular officers until payment of demands and wages, see section 1185 of Title 22.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 355 of this title.

§ 355. Penalty for failure.

Every master of any such vessel who refuses or neglects to deposit the papers as required by section 354 of this title, shall be liable to a penalty of $500, to be recovered by such consul or vice consul, in his own name, for the benefit of the United States, in any court of competent jurisdiction. (R.S. § 4310; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 2, 2 Stat. 203.

CODIFICATION

The words "commercial agent, or vice-commercial agent" following vice-consul were omitted from the Code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

Chapter 14.—INSPECTION OF STEAM VESSELS

VESSELS SUBJECT TO INSPECTION AND REGULATION

Sec.
361. What are steam vessels.
362. Domestic and foreign vessels.
(a) Laws applicable, reciprocal acceptance of foreign certificates of inspection; fees.
(b) Notification to passengers of compliance with safety standards; notice of complaince in advertisements; rules and regulations; civil penalties for violations of rules and regulations.
(c) Prevention of departure of any vessel from United States port with United States nationals aboard when vessel fails to comply with certain safety standards.
363. Department of Commerce vessels.
364. Vessels navigating coastwise and on Great Lakes.
365. Vessels navigating Irondequoit Bay.
366. Foreign vessels admitted to registry.
367. Seagoing vessels propelled by internal-combustion engines; exemptions.

PLANS AND SPECIFICATIONS FOR CONSTRUCTION OR ALTERATION OF PASSENGER VESSELS

369. Examination and approval by Commandant of the Coast Guard.
(a) Technical staff; qualifications and appointment; duty to pass on plans and specifications; notice of disapproval.
(b) Approval condition precedent to certificate of inspection; alterations in plans after approval; acceptance of plans approved by American Bureau of Shipping.
(c) Endorsement of approval on plans; departure from plans; refusal to issue certificate; making alterations before approval of modified plans; penalty.
(d) Matters included in term "plans and specifications"; specification for fire-retardant material.
(e) Defacing or destruction of plans; penalty.
(f) Effective date of section.

APPOINTMENT, QUALIFICATIONS, DUTIES, AND SALARIES OF INSPECTORS AND OTHER OFFICERS

371. Repealed.
372. Administration of inspection laws.
373. Repealed.
374. Designation of officer to perform duties of absent inspector.
374a. Repealed.
375. Regulations of the Commandant.
376 to 380. Omitted.
381 to 382a-1. Repealed.
382b. Extra pay for overtime services; payment by owner or master or agent; appropriations; regulation of varying working hours.
382c to 385. Repealed.

SMALL PASSENGER-CARRYING VESSELS

390. Definitions.
390a. Inspection.
(a) Frequency and requirements.
(b) Fees for inspection and certificate, license, or permit.
390b. Rules and regulations.
390c. Certificate of inspection.
(a) Issuance prerequisite to operation; exception.
(b) Compliance.
(c) Surrender; withdrawal for noncompliance.
390d. Violations; penalty; liability; jurisdiction.
390e. International Convention requirements unaffected.

Sec.
390f. Appropriation.
390g. Separability of provisions.

MODE, MANNER, AND EXTENT OF INSPECTION; CERTIFICATES; RECORDS

391. Hulls and equipment.
(a) Steam vessels carrying passengers; annual inspection.
(b) Steam vessels not carrying passengers; biennial inspection.
(c) Sail vessels over 700 tons or other vessels and barges over 100 tons carrying passengers; annual inspection.
(d) Requirements and enforcement; appeals.
(e) Exemptions.
391a. Vessels having on board inflammable or combustible liquid cargo in bulk.
(1) Vessels included.
(2) Rules and regulations for handling liquid cargo.
(3) Hearing before approval of rules.
(4) Certificate of inspection and permit required; time of endorsing permit; inspection; duration of permit; vessels of foreign nations; permit for prohibited materials.
(5) Shipping documents required on board; contents.
(6) Number of officers and tankermen; certificate as tankerman; suspension or revocation of certificate.
(7) Penalties.
(8) Effective date of rules and regulations.
391b. Issuance of certain certificates by inspectors and assistants.
392. Boilers, unfired pressure vessels, and appurtenances; machinery and electrical equipment.
(a) Passenger vessels; annual inspection.
(b) Vessels other than passenger vessels; biennial inspection.
(c) Examination for conformity.
(d) Hydrostatic tests.
393. Control of safety valves and steam gauges.
394. Amount of steam pressure allowed freight boats on Mississippi.
395. Seagoing barges; hulls and equipment.
(a) Annual inspection of barges over 100 tons carrying passengers.
(b) Biennial inspection of barges over 100 tons not carrying passengers.
(c) Certificate of inspection.
396. Repealed.
397. Certificate of inspection and equipment of barge required.
398. Navigating barge without certificate or equipment prescribed.
399. Certificate; temporary certificate; completion of voyage after expiration.
400. Placing of certificate for observation by passengers.
401. Repealed.
402. Penalty for receiving passengers in absence of unexpired certificate of approval.
403. Punishment for certifying falsely.
404. Inspection of ferryboats, canal boats, and small craft; regulations; exemptions.
404a. Fishing vessels; transfer and transportation of catch of other vessels.
405. Tugboats and freight boats.
406. Construction of boilers and unfired pressure vessels.
407. Punishment for improper construction.
408. Boiler plates.
409. Stamping boiler plates.
410. Counterfeiting stamps.
411. Pressure of steam allowable.
412. Thickness of boiler plate.
413. Obstructing safety valves.
414. Records and reports of inspections and licenses.
415. Instruments, stationery, and printing for supervising inspectors and local boards.
416. Regulations.
417 to 419. Omitted.

PROCEDURE; DECISIONS AND REVIEW THEREOF

Sec.
431 to 434. Omitted.
435. Reinspections and notice for repairs; enforcement of requirements.
436. Penalty for failure to make repairs on notice.
437 to 440. Omitted.

OCEANOGRAPHIC RESEARCH VESSELS

441. Exemption of oceanographic research vessels from inspection laws; definitions.
442. Vessel not considered passenger vessel.
443. Vessel not engaged in trade or commerce.
444. Scientific personnel not considered seamen.
445. Exemption by regulation.

CROSS REFERENCES

Unauthorized fees for inspection of vessels, punishment for receiving, see section 1912 of Title 18, Crimes and Criminal Procedure.

VESSELS SUBJECT TO INSPECTION AND REGULATION

§ 361. What are steam vessels.

Every vessel subject to inspection propelled in whole or in part by steam or by any other form of mechanical or electrical power shall be considered a steam vessel within the meaning of and subject to all the provisions of this Act. *Provided, however,* That motor boats as defined in the Act of June 9, 1910, are exempt from the provisions of this Act. (R. S. § 4399; June 13, 1933, ch. 61, 48 Stat. 125.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 1, 16 Stat. 440.

REFERENCES IN TEXT

Phrase "this Act" is so in Statutes at Large. In R. S. § 4399, as originally enacted, a similar reference read "this Title" meaning title LII of the Revised Statutes, but act June 13, 1933, amended R. S. § 4399 to read "this act" which in the Revised Statutes is ambiguous. Reference to the act of June 13, 1933, might have been intended. It was incorporated in this code as this section and sections 392 and 406—412 of this title.

Act June 9, 1910, ch. 268, 36 Stat. 462, referred to in this section, was repealed by act Apr. 25, 1940, ch. 155, § 19, 54 Stat. 167.

CROSS REFERENCES

Inspection of vessels—
Having inflammable or combustible liquid cargo in bulk, see section 391a of this title.
Motorboats exempted from this section, see section 526q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526g of this title.

§ 362. Domestic and foreign vessels.

(a) Laws applicable; reciprocal acceptance of foreign certificates of inspection; fees.

All steam vessels navigating any waters of the United States which are common highways of commerce or open to general or competitive navigation, excepting public vessels of the United States, vessels of other countries, and boats propelled in whole or in part by steam for navigating canals, shall be subject to the provisions of title 52 of the Revised Statutes.

And all foreign private steam vessels carrying passengers from any port of the United States to any other place or country shall be subject to the provisions of sections 170, 391, 392, 399, 400, 402, 481, 494, 495, 497, and 498 of this title, and shall be liable to visitation and inspection by the proper officer, in

any of the ports of the United States, respecting any of the provisions of the sections aforesaid: *Provided, however,* That when such foreign passenger steamers belong to countries having inspection laws approximating those of the United States, and have unexpired certificates of inspection issued by the proper authorities in the respective countries to which they belong, they shall be subject to no other inspection than necessary to satisfy the Coast Guard that the condition of the vessel, her boilers, and life-saving equipments are as stated in the current certificate of inspection; but no such certificate of inspection shall be accepted as evidence of lawful inspection except when presented by steam vessels of other countries which have by their laws accorded to the steam vessels of the United States visiting such countries the same privilege accorded to the steam vessels of such countries visiting the United States; it being further provided that there shall be collected and paid into the Treasury of the United States the same fees for the inspection of foreign passenger steamers carrying passengers from the United States that any foreign nation shall charge the merchant vessels of the United States trading to the ports of such nationality; it being further provided that the Commandant of the Coast Guard shall have the power to waive at any time the collection of such fees upon due notice of the proper authorities of any country concerned that the collection of fees for the inspection of American steam merchant vessels has been discontinued.

It is further provided that the Commandant of the Coast Guard may, in his discretion, permit any foreign passenger steamer coming within the provisions of this section whose foreign certificate of inspection shall have expired at sea since last leaving the country to which said vessel belongs, or while said vessel shall have been in a port of the United States, to sail upon her regular route without undergoing any further inspection than would have been required had said foreign certificate of inspection been in force: *Provided, however,* That such discretion shall be exercised only with respect of vessels operated upon regularly established lines, and in cases where such foreign passenger steamers will be regularly inspected by the authorities of her home government before her next return to a port of the United States.

(b) Notification to passengers of compliance with safety standards; notice of compliance in advertisements; rules and regulations; civil penalties for violations of rules and regulations.

Owners, operators, agents, or any persons selling passage on a foreign or domestic passenger vessel of one hundred gross tons or over having berth or stateroom accommodations for fifty or more passengers and embarking passengers at United States ports for a coastwise or an international voyage shall notify each prospective passenger of the safety standards with which the vessel complies or does not comply in a manner prescribed by regulations promulgated in accordance with this subsection. In addition, all promotional literature or advertising in or over any medium of communication within the United States offering passage or soliciting passengers for ocean voyages anywhere in the world shall include similar information, and shall specify the registry of any vessel named, as a part of the advertisement or description of the voyage in a manner prescribed by the same regulations. The passenger notification and promotional or advertising literature inclusions required by this subsection, except the inclusion of the country of registry of the vessel, do not apply to voyages by vessels meeting the safety standards prescribed in subsection (c) of this section. The Secretary of the Department in which the Coast Guard is operating is authorized to promulgate regulations to implement the provisions of this subsection. For each violation of regulations so promulgated, the owner, operator, agent, or other person involved shall be subject to a civil penalty of not more than $10,000 for which the vessel on which passage is to be or is sold shall be liable. If tickets are sold, the owner, operator, agent, or any other person involved in each violation of regulations so promulgated shall also be subject to a civil penalty of $500 for each ticket sold for which the vessel on which passage is sold shall be liable.

(c) Prevention of departure of any vessel from United States port with United States nationals aboard when vessel fails to comply with certain safety standards.

Notwithstanding the provisions of subsection (a) of this section, any foreign or domestic vessel of over 100 gross tons having berth or stateroom accommodations for 50 or more passengers, shall not depart a United States port with passengers who are United States nationals, and who embarked at that port, if the Secretary of the Department in which the Coast Guard is operating finds that such vessel does not comply with the standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments proposed by the thirteenth session of the Maritime Safety Committee of the Inter-governmental Maritime Consultative Organization contained in Annexes I through IV of the Note Verbale of the Secretary General of the Organization dated 17 May 1966, No. A1/C/3.07 (NV.1). (R.S. § 4400; Aug. 7, 1882, ch. 441, § 1, 22 Stat. 346; Mar. 1, 1895, ch. 146, § 1, 28 Stat. 699; Feb. 15, 1902, ch. 23, 32 Stat. 34; Mar. 17, 1906, ch. 955, § 1, 34 Stat. 68; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Nov. 6, 1966, Pub. L. 89–777, § 1, 80 Stat. 1356; Dec. 24, 1969, Pub. L. 91–154, 83 Stat. 427.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 41, 16 Stat. 453.

REFERENCES IN TEXT

For distribution of Title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, and referred to in the text, see note under section 170 of this title.

The Note Verbale of the Secretary General of the Intergovernmental Maritime Consulative Organization dated 17 May 1966, referred to in subsection (c) is embodied in Resolution A108 (ES. III) adopted by the IMCO Assembly on November 30, 1966. The text of the Resolution is set out in the Senate proceedings of the Congressional Record of March 21, 1967.

CODIFICATION

Reference to the application of sections 464, 472, and 475 of this title to foreign private steam vessels carrying passengers from any domestic to any foreign port was

omitted from the Code as covered by reference to section 481 of this title on authority of section 3 (a) (2), (3), (5) and (b) of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed sections 464, 472, and 475 and deemed a reference to them in any other law as a reference to section 481. See References in Other Laws to Repealed Provisions note set out under section 481 of this title.

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-154 inserted provision requiring disclosure of registry of vessel in connection with solicitation of passengers and added new sentence eliminating construction detail disclosure where vessels meet prescribed safety standards.

1966—Pub. L. 89-777 designated existing provision as subsec. (a), and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5 of Pub. L. 89-777, as amended by Pub. L. 90-435, § 1(2), July 27, 1968, 82 Stat. 450, provided that: "The new subsection (b) of section 4400 of the Revised Statutes [subsec. (b) of this section] and section 3 of this Act [adding section 817e of this title] shall become effective one hundred and eighty days after enactment of this Act [Nov. 6, 1966]. The new subsection (c) of section 4400 of the Revised Statutes [subsec.(c) of this section] shall become effective on the date when the recommended amendments to the International Convention for the Safety of Life at Sea, 1960, come into force, but in any case not later than November 2, 1968. Section 2 of this Act [adding section 817d of this title] shall become effective nine months after enactment of this Act [Nov. 6, 1966]. Section 4 of this Act [amending subsec.(b) of section 369 of this title] shall become effective on November 2, 1970."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "local inspectors" and "Commandant of the Coast Guard" for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Irondequoit Bay, New York, for purpose of applying provisions of this chapter, made navigable water of United States, see section 365 of this title.

§ 363. Department of Commerce vessels.

All steam vessels owned or operated by the Department of Commerce, or any corporation organized or controlled by it, shall be subject to all the provisions of title 52 of the Revised Statutes for the regulation of steam vessels and Acts amendatory thereof or supplemental thereto. (Oct. 25, 1919, ch. 82, 41 Stat. 305; Ex. Ord. No. 6166, §§ 12, 19, June 10, 1933; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; 1950 Reorg. Plan No. 21, §§ 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1277.)

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

"Department of Commerce" was substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the Maritime Commission were transferred to the Chairman of the Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note under section 1111 of this title.

"United States Maritime Commission" was substituted for "Department of Commerce" on authority of act June 29, 1936. Specifically, section 904 of that act, which was set out as former section 1243 of this title, substituted "United States Maritime Commission" for "United States Shipping Board". See, however, the next succeeding paragraph of this note.

"Department of Commerce" was substituted for "United States Shipping Board", on authority of Ex. Ord. No. 6166, set out in note under section 901 of Title 5, Government Organization and Employees.

§ 364. Vessels navigating coastwise and on Great Lakes.

All coastwise seagoing vessels, and vessels navigating the Great Lakes, shall be subject to the navigation laws of the United States, when navigating within the jurisdiction thereof; and all vessels, propelled in whole or in part by steam, and navigating as aforesaid, shall be subject to all the rules and regulations established in pursuance of law for the government of steam vessels in passing, as provided by title 52 of the Revised Statutes; and every coastwise seagoing steam vessel subject to the navigation laws of the United States, and to the rules and regulations aforesaid, not sailing under register, shall, when under way, except on the high seas, be under the control and direction of pilots licensed by the Coast Guard. (R. S. § 4401; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 51, 16 Stat. 455.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors of steamboats" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Foreign vessels on Great Lakes, see section 244 of Title 33, Navigation and Navigable Waters.

§ 365. Vessels navigating Irondequoit Bay.

Irondequoit Bay, New York, shall, for the purpose of applying the provisions of title 52 of the Revised Statutes, relating to steam vessels navigating thereon, be declared a navigable water of the United States; and steam vessels navigated thereon, and carrying passengers, shall be inspected under the provisions of section 404 of this title, and subject to the penalties provided therein for a failure to comply therewith. (June 25, 1890, ch. 616, 26 Stat. 180.)

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500 of the Revised Statutes, referred to in the text, see note under section 170 of this title.

§ 366. Foreign vessels admitted to registry.

The Commandant of the Coast Guard is authorized to direct the inspection of any foreign vessel, admitted to American registry, its steam boilers, steam pipes, and appurtenances, and to direct the issue of the usual certificate of inspection, whether said boilers, steam pipes, and appurtenances are or are not constructed pursuant to the laws of the United States, or whether they are or are not constructed of iron stamped pursuant to said laws. The tests in the inspection of such boilers, steam pipes, and appurtenances shall be the same in all respects as to strength and safety as are required in the inspection of boilers constructed in the United States for marine purposes. (Mar. 3, 1897, ch. 389, § 14, 29 Stat. 690; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce," were substituted for "Secretary of the Treasury" to conform to act Feb. 14, 1903, which transferred the duties and powers of the Secretary of the Treasury relating to merchant vessels to the Secretary of Commerce and Labor, and act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 367. Seagoing vessels propelled by internal-combustion engines; exemptions.

Existing laws covering the inspections of steam vessels are made applicable to seagoing vessels of three hundred gross tons and over propelled in whole or in part by internal-combustion engines to such extent and upon such conditions as may be required by the regulations of the Commandant of the Coast Guard: *Provided,* That this section shall not apply to any vessel engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry. As used herein, the phrase "any vessel engaged in the fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industries" includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations. The exemption of the foregoing sentence for cannery tender or fishing tender vessels shall continue in force for five years from July 11, 1968. *Provided further,* That as to licenses required for masters and engineers operating vessels propelled by interal-combustion engines operating exculsively in the district covering the Hawaiian Islands, said masters and engineers shall be under the jurisdiction of the Coast Guard officials having jurisdiction over said waters, who shall make diligent inquiry as to the character, merits, and qualifications, and knowledge and skill of any master or engineer applying for a license. If the said Coast Guard officials shall be satisfied from personal examination of the applicant and from other proof submitted that the applicant possesses the requisite character, merits, qualifications, knowledge, and skill, and is trustworthy and faithful, they shall grant him a license for the term of five years to operate such vessel under the limits prescribed in the license. The term "seagoing vessels" as used in this section shall be construed to mean vessels which in the usual course of their employment proceed outside the line dividing the inland waters from the high seas as designated and determined under the provisions of section 151 of Title 33. (June 20, 1936, ch. 628, §§ 1, 2, 49 Stat. 1544, 1545; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; July 11, 1968, Pub. L. 90-397, § 3, 82 Stat. 341.)

AMENDMENTS

1968—Pub. L. 90-397 added provisions defining "any vessel engaged in the fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge

industries" and provided for the continued exemption for cannery tender or fishing tender vessels for five years from July 11, 1968.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors of Steam Vessels, with the approval of the Secretary of Commerce" and "Coast Guard officials" for "hull and boiler inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526r of this title.

PLANS AND SPECIFICATIONS FOR CONSTRUCTION OR ALTERATION OF PASSENGER VESSELS

§ 369. Examination and approval by Commandant of the Coast Guard.

(a) Technical staff; qualifications and appointment; duty to pass on plans and specifications; notice of disapproval.

There shall be in the Coast Guard a technical staff, consisting of the Commandant and technical members who shall be selected for their knowledge, skill, and practical experience in designing and supervising the construction and operation of vessels propelled by machinery, and they shall be competent judges of the character, strength, stability, and safety qualities of such vessels and their equipment. Such technical members shall be appointed by the Commandant of the Coast Guard. The Commandant of the Coast Guard with the advice and assistance of the technical staff so appointed shall pass upon all contract plans and specifications for passenger vessels of the United States of one hundred gross tons and over, propelled by machinery, as provided for by subsection (b) of this section, including the installation of tested and effective sprinkler systems, and upon arrangement plans for all material alterations to existing vessels. Such approval shall be given promptly and with due regard to the orderly progress of the work but only when the Commandant is satisfied, after a full and complete examination of the plans and specifications, that the vessel, when built or altered, as the case may be, can be navigated with safety to those on board. In case the said Commandant shall disapprove such plans and specifications, the person or persons submitting the same shall be apprised thereof the reasons for such disapproval and advised of the amendments necessary to secure such approval. The Commandant shall, at as early a date as practicable, and from time to time thereafter as he shall deem advisable, formulate and publish regulations and instructions for the guidance of builders of prospective vessels showing the safety characteristics of vessels which will meet the approval of the Commandant.

(b) Approval condition precedent to certificate of inspection; alterations in plans after approval; acceptance of plans approved by American Bureau of Shipping.

No passenger vessel of the United States of one hundred gross tons and over, propelled by machinery, the construction or material alteration of which shall be begun subsequent to May 27, 1936, shall be granted a certificate of inspection by the Coast Guard unless the said general contract plans and specifications therefor shall have been submitted at least in triplicate to and approved by the aforesaid Commandant of the Coast Guard before the construction of such vessel or alteration thereof shall have been commenced; nor shall any such vessel, the said plans or specifications for which have been materially altered subsequent to such approval be granted a certificate, as aforesaid, unless such altered plans and specifications shall have been submitted at least in triplicate to and approved by the said Commandant, prior to such change in construction having been made. No such certificate shall be granted to any such vessel which has not been constructed and equipped in accordance with said plans and specifications approved as aforesaid: *Provided,* That approved plans and certificates of the American Bureau of Shipping classed vessels may be accepted by the Commandant as evidence of the structural efficiency of the hull and the reliability of the machinery of such vessels, except as far as existing law places definite responsibility on the Coast Guard. The American Bureau of Shipping shall continue to function in connection with the Government, its bureaus, departments, boards, and commissions, as heretofore provided by section 881 of this title, and as provided in sections 85 to 85g of this title, or any similar Act hereinafter enacted. After November 1, 1970, no passenger vessel of the United States of one hundred gross tons or over, having berth or stateroom accommodations for fifty or more passengers, shall be granted a certificate of inspection by the Coast Guard unless the vessel is constructed of fire-retardant material, except that this requirement shall not apply until November 1, 1973, with respect to a vessel operating solely on the inland rivers. The structural fire protection provided on these vessels shall conform to the requirements set forth in regulations for a vessel contracted for on or after May 28, 1936.

(c) Endorsement of approval on plans; departure from plans; refusal to issue certificate; making alterations before approval of modified plans; penalty.

Upon the approval by the said Commandant of the Coast Guard of the original or modified plans and specifications for any such vessel or for any subsequent alteration of such vessel, an endorsement to

that effect, signed by the Commandant, shall be placed upon such plans and specifications, and one copy thereof shall be delivered to the person or persons submitting the same. Whenever any Coast Guard official shall ascertain to his satisfaction that any such vessel does not conform in all material respects to said plans and specifications approved as aforesaid, he shall immediately report his conclusions to the aforesaid Commandant, setting forth the reasons for his belief; and if, after a preliminary examination of the facts of the case, the said Commandant shall be of the opinion that reasonable ground exists for believing the conclusions of such reporting officer to be correct, he shall notify the person or persons who submitted the said plans and specifications and the Coast Guard official who shall not issue the vessel's certificate of inspection until the discrepancy has been corrected to the satisfaction of the said Commandant. The final decision of the Commandant shall be reached with as little delay as the proper consideration of the question will permit. The owner of any vessel coming within the provisions of this section shall notify the Commandant of any material alterations proposed to be made on such vessel, and should any such alteration be made on such vessel before the plans and specifications for such alteration have received the approval of the said Commandant the owners shall, in addition to any suspension of the certificate of inspection which the Commandant may determine to be necessary, incur a penalty of $500 for which the vessel shall be liable and which may be mitigated or remitted by the Commandant on such condition as he may deem proper.

(d) Matters included in term "plans and specifications"; specification for fire-retardant material.

The words "plans and specifications" wherever used in this section shall be held to include prints of all general contract plans and copies of the specifications and other matters of a similar nature, as necessary to the purposes of this section for any vessel to which this section applies. The said plans and specifications of all passenger ships of one hundred gross tons and over shall specify for fire-retardant material in their construction so far as reasonable and practicable.

(e) Defacing or destruction of plans; penalty.

Any person or persons who shall alter, deface, obliterate, remove, or destroy any plans or specifications approved as provided in this section, with intent to deceive or delay any officer of the United States in the discharge of his duties under this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not to exceed $5,000 or by imprisonment for not to exceed five years, or by both such fine and imprisonment, in the discretion of the court.

(f) Effective date of section.

This section shall not take effect as to vessels under five hundred gross tons until three months, nor as to vessels of five hundred gross tons and over until thirty days, after May 27, 1936. (May 27, 1936, ch. 463, § 5, 49 Stat. 1384; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; Nov. 6, 1966, Pub. L. 89–777, § 4, 80 Stat. 1358; July 27, 1968, Pub. L. 90–435, § 1(1), 82 Stat. 449; Dec. 31, 1970, Pub. L. 91–612, § 3, 84 Stat. 1835.)

CODIFICATION

Provisions of subsec. (a), which authorized the Commandant of the Coast Guard to appoint technical members without reference to the civil-service laws and regulations, were omitted since the personnel referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by former section 631a of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 3301 of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the classified civil service, see section 5102 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 5103 of Title 5.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–612 excepted until November 1, 1973, vessels operating solely on the inland rivers from the requirement that vessels be constructed of fire retardant material.

1968—Subsec. (b). Pub. L. 90–435 substituted "November 1, 1970" for "November 1, 1968".

1966—Subsec. (b). Pub. L. 89–777 provided that after November 1, 1968, no United States passenger vessel, of a certain tonnage and a certain passenger accommodation capacity, shall be granted a Coast Guard certificate of inspection unless the vessel is constructed of fire-retarding material, and that such structural fire protection shall conform to the requirements for vessels built on or after May 28, 1936.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of subsec. (b) by Pub. L. 89–777 effective November 2, 1968, see section 5 of Pub. L. 89–777, set out as a note under section 362 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to Secretary of Commerce in second sentence of subsec. (a) and in provision of subsec. (c) authorizing mitigation or remission of penalty and references to Director of the Bureau of Marine Inspection and Navigation throughout section were changed to Commandant of the Coast Guard; "the Coast Guard" was substituted for "the Bureau of Marine Inspection and Navigation" in subsec. (a) and second sentence of subsec. (b) and for "a board of local inspectors of the Bureau" in first sentence of subsec. (b); "Coast Guard official" was substituted for "inspector" and "board of local inspectors of the Bureau" in subsec. (c); and a proviso of subsec. (a) making regulations and instructions subject to approval of the Secretary of Commerce was omitted, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

APPOINTMENT, QUALIFICATIONS, DUTIES, AND SALARIES OF INSPECTORS AND OTHER OFFICERS

§ 371. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561.

Section, R. S. § 4402; act July 2, 1918, ch. 115, 40 Stat. 739, related to Supervising Inspector General and Deputy Supervising Inspector General for the former Steamboat Inspection Service, and is not now covered.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see note set out preceding chapter 1 of Title 14, Coast Guard.

§ 372. Administration of inspection laws.

The Commandant of the Coast Guard shall superintend the administration of the steamboat-inspection laws, and produce a correct and uniform administration of the inspection laws, rules, and regulations. (R. S. § 4403; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946, Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 63, 16 Stat. 458.

CODIFICATION

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 366 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Director of the Bureau of Marine Inspection and Navigation" and provisions concerning presiding at the meetings of the Board of Supervising Inspectors receiving of reports and accounts of inspectors and reports to Secretary of Commerce were omitted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

"Supervising Inspector General" was changed to "Director, Bureau of Navigation and Steamboat Inspection" and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932 and May 27, 1936. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 373. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 643, 649.

Section, R.S. § 4404; acts July 2, 1918, ch. 115, 40 Stat. 740; May 27, 1936, ch. 463, § 2, 49 Stat. 1381, provided for the appointment and compensation of supervising inspectors.

§ 374. Designation of officer to perform duties of absent inspector.

CODIFICATION

Section, acts Mar. 4, 1911, ch. 237, § 1, 36 Stat. 1229; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 2, 49 Stat. 1381, related to performance of duties during absence of supervising inspectors.

§ 374a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section, act May 27, 1936, ch. 463, § 3, 49 Stat. 1381, provided for principal traveling inspectors in the field service of the Bureau of Marine Inspection and Navigation.

§ 375. Regulations of the Commandant.

The Commandant of the Coast Guard shall establish all necessary regulations required to carry out in the most effective manner the provisions of title 52 of the Revised Statutes, and also regulations, prohibiting useless and unnecessary whistling, and such regulations shall have the force of law. (R. S. § 4405; Mar. 3, 1905, ch. 1453, § 1, 33 Stat. 1022; Feb. 8, 1907, ch. 892, 34 Stat. 881; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 23, 16 Stat. 449.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4405 was amended by act Mar. 3, 1905, by changing the words "Secretary of the Treasury," where they occurred in the original section, to "Secretary of Commerce and Labor," and by adding, at the end of the original section, which closed with the words "in such manner as the board shall prescribe," a proviso authorizing the Secretary of Commerce and Labor to call a meeting of the executive committee having power to alter, amend, etc., the rules and regulations.

The section was further amended by act Feb. 8, 1907, by inserting provision for establishing regulations prohibiting unnecessary whistling.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80

Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Provisions concerning the composition, meetings and regulations of the Board of Supervising Inspectors and approval of regulations by the Secretary of Commerce were omitted and reference to the Board was changed to Commandant of the Coast Guard on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

"Supervising Inspector General" was changed to "Director, Bureau of Navigation and Steamboat Inspection" and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932, and May 27, 1936. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 399 of this title.

§§ 376 to 380. Omitted.

CODIFICATION

Sections 376—380 were superseded by the provisions of 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, which abolished the offices of supervising inspectors and the boards of local inspectors. See note under former section 1 of this title.

Section 376, R. S. § 4406, required supervising inspectors to watch over their territory and to visit the local boards of inspectors and licensed vessels.

Section 377, R.S. § 4407; acts Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for reports by supervising inspectors of any violations of specified provisions of law and of failures in performance of duty by boards of local inspectors.

Section 378, R. S. § 4408, required supervising inspectors to see that boards of local inspectors executed their duties faithfully, promptly and uniformly.

Section 379, R.S. § 4409; act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251, required supervising inspectors to visit districts not having boards of local inspectors and perform the duties of such boards there and in other districts where boards were not available.

Section 380, R. S. § 4411, provided that the board of supervising inspectors should establish regulations to make known to local inspectors the names of persons whose licenses had been granted, withheld, suspended or revoked and the names of vessels failing to make repairs and vessels refused inspection certificates.

§ 381. Repealed. Pub. L. 85-350, § 3, Mar. 28, 1958, 72 Stat. 49.

Section, R.S. §§ 4412, 4413; act June 7, 1897, ch. 4, § 5, 30 Stat. 103, related to regulations as to passing steamers and is now covered by section 244 of Title 33, Navigation and Navigable Waters.

§ 382. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 637—643, 645, 648, 649.

Section, R.S. § 4414; acts Jan. 3, 1887, ch. 12, 24 Stat. 354; July 26, 1890, ch. 721, 26 Stat. 292; Mar. 1, 1895, ch. 146, § 2, 28 Stat. 699; Mar. 2, 1895, ch, 186, 28 Stat. 843; Feb. 15, 1897, ch. 231, 29 Stat. 530; Apr. 21, 1898, ch. 184, 30 Stat. 360; June 2, 1900, ch. 614, 31 Stat. 262; Mar. 3, 1905, ch. 1455, 33 Stat. 1026; Apr. 9, 1906, ch. 1372, § 1, 34 Stat. 106; May 28, 1908, ch. 212, § 9, 35 Stat 428; Mar. 4, 1913, ch. 159, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 223; Feb. 26, 1917, ch. 125, 39 Stat. 942; July 2, 1918, ch. 115, 40 Stat. 740; Apr. 19, 1924, ch. 129, §§ 1, 2, 43 Stat. 104; May 17, 1932, ch. 190, 47 Stat. 158; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for local inspectors of hulls and inspectors of boilers in enumerated collection districts and posts, for assistant inspectors, traveling inspectors and clerks, and for their salaries and traveling expenses.

Acts Jan. 3, 1887, ch. 12, 24 Stat. 354; July 26, 1890, ch. 721, 26 Stat. 292; Mar. 2, 1895, ch. 186, 28 Stat. 843; Apr. 21, 1898, ch. 184, 30 Stat. 360; Oct. 22, 1913, ch. 32, § 1, 38 Stat. 223; Feb. 26, 1917, ch. 125, 39 Stat. 942, were also repealed by Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.

§§ 382a, 382a-1. Repealed. Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.

Section 382a, acts May 22, 1928, ch. 684, 45 Stat. 710; June 30, 1932, ch. 314, §§ 501, 502, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for a board of local inspectors at Hoquiam, Washington.

Section 382a-1, act Apr. 5, 1938, ch. 73, 52 Stat. 200, provided for a board of local inspectors at Port Arthur, Texas.

§ 382b. Extra pay for overtime services; payment by owner or master or agent; appropriations; regulation of varying working hours.

The Commandant of the Coast Guard shall fix a reasonable rate of extra compensation for overtime services of Coast Guard officials and customs officers and employees, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account. The amount of the receipts so covered during the fiscal year 1936 is authorized to be appropriated and made available for payment of extra compensation for overtime services to the several employees entitled thereto according to rates fixed therefor by the Secretary of Commerce: *Provided*, That effective July 1, 1936, and thereafter, the amounts of such collections received by the said collector of customs or his representative shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Coast Guard: *Provided further*, That to the extent that the annual appropriations, which are hereby authorized to be made from the general fund of the Treasury, are insufficient, there are authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary, to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further*, That such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual inspection of the vessel or her

equipment, or the supplying, or signing on, or discharging crews takes place or not: *And provided further,* That in those ports where customary working hours are other than those hereinabove mentioned, the Coast Guard officials or collectors of customs, as the case may be, are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the Coast Guard officials or customs officers and employees, or the overtime pay herein fixed. (May 27, 1936, ch. 463, § 6, 49 Stat. 1385; May 11, 1938, ch. 194, 52 Stat. 345; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

AMENDMENTS

1938—Act May 11, 1938, included customs officers and employees as persons entitled to extra pay for overtime and by authorizing collectors of customs also to regulate working hours.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, set out in the Appendix to The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce", references to local inspectors and United States shipping commissioners and their assistants and deputies were changed to Coast Guard officials, and "Coast Guard" was substituted for a reference to the Bureau of Marine Inspection and Navigation in first proviso, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title and in title 5 section 5549.

§ 382c. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650.

Section, act Apr. 30, 1940, ch. 160, 54 Stat. 169, authorized the Secretary of Commerce to rearrange the location of boards of local inspectors.

§ 383. Repealed. Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.

Section, acts Oct. 22, 1913, ch. 32, 38 Stat. 223; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 7, 1936, ch. 463, § 1, 49 Stat. 1380, related to traveling expenses of inspectors and other employees in the Bureau of Marine Inspection and Navigation.

§§ 384, 385. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 633, 639, 642.

Section 384, R.S. § 4415; acts Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; Mar. 3, 1905, ch. 1457, § 1, 33 Stat. 1028; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to the qualifications of the inspector of hulls and inspector of boilers and provided that the two should constitute a board of local inspectors.

Act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251, formerly cited to section 384 of this title, was also repealed by Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.

Section 385, R.S. § 4416; act Mar. 3, 1905, ch. 1457, § 2, 33 Stat. 1029, specified qualifications for the offices of supervising, local, and assistant inspector and provided a penalty for violation.

SMALL PASSENGER-CARRYING VESSELS

§ 390. Definitions.

When used in sections 390 to 390g, 404, and 526f of this title, unless the context requires otherwise—

(a) The term "passenger" means every person carried on board a passenger-carrying vessel other than—

(1) the owner or his representative;

(2) the master and the bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services;

(3) any employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a bareboat charter;

(4) any employee of the bareboat charterer of the vessel engaged in the business of the bareboat charterer;

(5) any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage; or

(6) any person on board a vessel documented and used for tugboat or towboat service of fifty gross tons or more who has not contributed any consideration, directly or indirectly, for his carriage.

(b) The term "passenger-carrying vessel" means any vessel which carries more than six passengers, and which is (1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of fifteen gross tons or less; (2) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of more than fifteen and less than one hundred gross tons and not more than sixty-five feet in length measured from end to end over the deck excluding sheer; (3) propelled by sail and is of seven hundred gross tons or less; or (4) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any life boat forming part of a vessel's lifesaving equipment. The term includes (1) any domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the

normal operating range of the vessel, and (2) any foreign vessel departing from a port of the United States.

(c) The term "International Convention for Safety of Life at Sea" means the "International Convention for Safety of Life at Sea, 1948" or any similar international convention which comes into force and effect after ratification by the United States Senate.

(d) The term "Secretary" means the Secretary of the department in which the Coast Guard is operating. (May 10, 1956, ch. 258, § 1, 70 Stat. 151.)

REFERENCES IN TEXT

The International Convention for Safety of Life at Sea, 1948, referred to in the text, was signed at London on June 10, 1948, and was ratified by the United States Senate on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H. R. 5013, 82d Cong.). The "International Regulations for Preventing Collisions at Sea, 1948", approved by the 1948 London conference, which were adopted by Congress by act Oct. 11, 1951, ch. 495, § 6, 65 Stat. 407, and were set out as former section 144 et seq. of Title 33, Navigation and Navigable Waters, became effective Jan. 1, 1954, under Proc. No. 3030, Aug. 30, 1953, 18 F.R. 4983. See, now, section 1051 et seq. of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE

Section 8 of act May 10, 1956, as amended by Pub. L. 85-210, Aug. 28, 1957, 71 Stat. 486, provided that: "This Act [enacting sections 390—390g, amending sections 404 and 526f, and repealing section 520 of this title] shall become effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 3 [section 390b of this title], hereof, whichever is later.".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390a to 390g of this title.

§ 390a. Inspection.

(a) Frequency and requirements.

The Secretary shall, at least once every three years, cause to be inspected each passenger-carrying vessel, and shall satisfy himself that every such vessel (1) is of a structure suitable for the service in which it is to be employed; (2) is equipped with the proper appliances for lifesaving and fire protection in accordance with applicable laws, or rules and regulations prescribed by him; (3) has suitable accommodations for passengers and the crew; and (4) is in a condition to warrant the belief that it may be used, operated, and navigated with safety to life in the proposed service and that all applicable requirements of marine safety statutes and regulations thereunder are faithfully complied with.

(b) Fees for inspection and certificate, license, or permit.

The Secretary may prescribe reasonable fees or charges for (1) any inspection made and (2) any certificate, license, or permit issued pursuant to sections 390 to 390g, 404, and 526f of this title or the rules and regulations established hereunder. (May 10, 1956 ch. 258, § 2, 70 Stat. 152.)

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390, 390b to 390g of this title.

§ 390b. Rules and regulations.

In order to secure effective provision against hazard to life created by passenger-carrying vessels and to carry out in the most effective manner the provisions of sections 390 to 390g, 404, and 526f of this title, the Secretary shall prescribe such rules and regulations as may be necessary with respect to design, construction, alteration, or repair of such vessels, including the superstructures, hulls, accommodations for passengers and crew, fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers; with respect to all materials used in construction, alteration, or repair of such vessels including the fire prevention and fire retardant characteristics of such materials; with respect to equipment and appliances for lifesaving and fire protection; with respect to the operation of such vessels, including the waters in which they may be navigated and the number of passengers which they may carry; with respect to the requirements of the manning of such vessels and the duties and qualifications of the operators and crews thereof; and with respect to the inspection of any or all the foregoing. (May 10, 1956, ch. 258, § 3, 70 Stat. 152.)

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under this section, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390, 390a, 390c to 390g of this title.

§ 390c. Certificate of inspection.

(a) Issuance prerequisite to operation; exception.

No passenger-carrying vessel shall be operated or navigated until a certificate of inspection in such form as may be prescribed by the regulations promulgated by the Secretary under the authority of sections 390 to 390g, 404, and 526f of this title, has been issued to the vessel indicating that the vessel is in compliance with the provisions of said sections, and the rules and regulations established hereunder; except that when a foreign passenger-carrying vessel belongs to a nation which is signatory to the International Convention for Safety of Life at Sea, a valid safety certificate issued to the vessel pursuant to the Convention may be accepted in lieu of the required certificate of inspection.

(b) Compliance.

Any passenger-carrying vessel to which a valid certificate of inspection has been issued pursuant to this section shall during the tenure of the certificate be in full compliance with the terms of the certificate.

(c) Surrender; withdrawal for noncompliance.

A certificate of inspection issued pursuant to this section may at any time be voluntarily surrendered and shall be withdrawn and suspended or revoked for noncompliance with any applicable requirements of sections 390 to 390g, 404, and 526f of this title or regulations thereunder. (May 10, 1956, ch. 258, § 4, 70 Stat. 153.)

REFERENCES IN TEXT

For definition of "International Convention for Safety of Life at Sea", referred to in subsec. (a), see section 390 of this title and note thereunder.

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390b, 390d to 390g of this title.

§ 390d. Violations; penalty; liability; jurisdiction.

Any owner, master, or person in charge of any vessel subject to sections 390 to 390g, 404, and 526f of this title who violates the provisions of said sections, or the rules and regulations established hereunder, shall be liable to the United States in a penalty of not more than $1,000 for each such violation, for which sum the passenger-carrying vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the violation. (May 10, 1956, ch. 258, § 5, 70 Stat. 153.)

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390c, 390e to 390g of this title.

§ 390e. International Convention requirements unaffected.

Nothing contained in sections 390 to 390g, 404, and 526f of this title shall be deemed to amend, alter, or otherwise affect the requirements of any International Convention for Safety of Life at Sea. (May 10, 1956, ch. 258, § 7, 70 Stat. 154.)

REFERENCES IN TEXT

For definition of "International Convention for Safety of Life at Sea", referred to in the text, see section 390 of this title and note thereunder.

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390d, 390f, 390g of this title.

§ 390f. Appropriation.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 390 to 390g, 404, and 526f of this title. (May 10, 1956, ch. 258, § 9, 70 Stat. 154.)

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390e, 390g of this title.

§ 390g. Separability of provisions.

If any provisions of sections 390 to 390g, 404, and 526f of this title, or the application of any provision of said sections to any person or circumstance is held invalid, the application of such provision to other persons or circumstances, and the remainder of said sections shall not be affected thereby. (May 10, 1956, ch. 258, § 10, 70 Stat. 154.)

EFFECTIVE DATE

Section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390f of this title.

MODE, MANNER, AND EXTENT OF INSPECTION; CERTIFICATES; RECORDS

§ 391. Hulls and equipment.

(a) Steam vessels carrying passengers; annual inspection.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to inspect before the same shall be put into service, and at least once in every year thereafter, the hull of every steam vessel carrying passengers; to determine to its satisfaction that every such vessel so submitted to inspection is of a structure suitable for the service in which she is to be employed, has suitable accommodations for passengers and the crew, and is in a condition to warrant the belief that she may be used in navigation, with safety to life, and that the vessel is in full compliance with the applicable requirements of this title or Acts amendatory or supplementary thereto and regulations thereunder; and if deemed expedient, to direct the vessel to be put in motion or to adopt any other suitable means to test her sufficiency and that of her equipment.

(b) Steam vessels not carrying passengers; biennial inspection.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to inspect before the same shall be put into service, and at least once in every two years thereafter, the hull of each steam vessel, not carrying passengers; to determine to its satisfaction that every such vessel so submitted to inspection is of a structure suitable for the service in which she is to be employed, has suitable accomodations for the crew, and is in a condition to warrant the belief that she may be used in navigation, with safety to life, and that the vessel is in full compliance with the applicable requirements of this title or Acts amendatory or supplementary thereto and regulations thereunder; and if

deemed expedient, to direct the vessel to be put in motion or to adopt any other suitable means to test her sufficiency and that of her equipment.

(c) Sail vessels over 700 tons or other vessels and barges over 100 tons carrying passengers; annual inspection.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to inspect before the same shall be put into service, and at least once in every year thereafter, the hull of each sail vessel of over seven hundred gross tons carrying passengers for hire and all other vessels and barges of over one hundred gross tons carrying passengers for hire; and to determine to its satisfaction that every such vessel so submitted to inspection is of a structure suitable for the service in which she is to be employed, has suitable accommodations for the passengers and crew, and is in condition to warrant the belief that she may be used in navigation with safety to life.

(d) Requirements and enforcement; appeals.

Whenever it is found on board any vessel subject to the provisions of this title, or any Acts amendatory or supplementary thereto, that any equipment, machinery, apparatus, or appliances do not conform to the requirements of law or regulations promulgated thereunder, the owner or master of said vessel shall be required to place the same in proper condition; and if there shall be found on board any such vessel any life preserver or fire hose so defective as to be incapable of repair, the owner or master shall be required to destroy the same in the presence of an official designated by the head of the department in which the Coast Guard is operating. In any of the foregoing cases the requirements may be enforced by revoking the certificate of said vessel, and by refusing to issue a new certificate until the requirements have been fully complied with. In any case where the head of the department in which the Coast Guard is operating has delegated to a Coast Guard official the authority to enforce the said requirements by revocation of certificates of inspection, the action of said Coast Guard official may be reversed, modified, or set aside by the head of the department in which the Coast Guard is operating on proper appeal by the owner or master of said vessel. Appeals shall be made to the head of the department in which the Coast Guard is operating within thirty days after the final action of the aforesaid Coast Guard official.

(e) Exemptions.

Vessels subject to inspection under this title or Acts amendatory or supplementary thereto while laid up and dismantled and out of commission may, by regulations established by the head of the department in which the Coast Guard is operating, be exempted from any or all inspection under this section and sections 392, 404, and 405 of this title. (R. S. § 4417; Dec. 21, 1898, ch. 29, § 4, 30 Stat. 765; Mar. 3, 1905, ch. 1454, § 1, 33 Stat. 1023; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; June 4, 1956, ch. 350, § 1, 70 Stat. 223.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 11, 16 Stat. 443.

REFERENCES IN TEXT

The words "this title" referred to in the text, in the expression "under this title or Acts amendatory or supplementary thereto", mean title 52 of the Revised Statutes. For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

The section, as enacted in the Revised Statutes, was as follows: "The local inspectors shall, once in every year, at least, upon application in writing of the master, or owner, carefully inspect the hull of each steam-vessel within their respective districts, and shall satisfy themselves that every such vessel so submitted to their inspection is of a structure suitable for the service in which she is to be employed, has suitable accommodations for passengers and the crew, and is in a condition to warrant the belief that she may be used in navigation as a steamer, with safety to life, and that all the requirements of law in regard to fires, boats, pumps, hose, life-preservers, floats, anchors, cables, and other things, are faithfully complied with; and if they deem it expedient, they may direct the vessel to be put in motion, and may adopt any other suitable means to test her sufficiency and that of her equipment."

It was amended, by act Dec. 21, 1898, by adding thereto the following words: "The local inspectors shall, once in every year, at least, or upon application in writing of the master or owner, carefully inspect the hull of each sail vessel of over seven hundred tons and all other vessels and barges of over one hundred tons burden carrying passengers for hire within their respective districts, and shall satisfy themselves that every such vessel so submitted to their inspection is of a structure suitable for the service in which she is to be employed, has suitable accommodations for the crew, and is in a condition to warrant the belief that she may be used in navigation with safety to life."

It was further amended, by act Mar. 3, 1905, which amendment consisted principally, in the omission of clauses of the original section and of the provision added by the previous amendment, providing for inspection "upon application in writing of the master or owner," and in the addition, at the end of the section as previously amended, of the proviso beginning with the words, "*Provided,* That vessels while laid up and dismantled," etc., and of the several provisions following said proviso, to the end of the section.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor." See note under section 362 of this title.

The former provision of this section providing for appeal from the decisions of the local inspectors to the supervising inspector within ten days was rendered obsolete by 1946 Reorg. Plan No. 3, which abolished both offices and transferred the functions of both to the Commandant of the Coast Guard. The Coast Guard has authority, under its general regulatory powers, to provide for appeals and appellate procedure.

AMENDMENTS

1956—Act June 4, 1956, provided for biennial rather than annual inspection of hulls of cargo vessels, and amended section generally, dividing it into subsecs. (a)—(e), and changing language to reflect the transfer of Coast Guard functions to the head of the department in which the Coast Guard is operating and to make certain other technical changes.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees

of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to local inspectors and assistant inspectors were changed to "Coast Guard" or "Coast Guard officials", "within their respective districts" in first two sentences and "in the performance of his duty" in the third sentence were omitted, and "Commandant of the Coast Guard" was substituted for "board of supervising inspectors with the approval of the Secretary of Commerce" in second sentence on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 362 of this title.

§ 391a. Vessels having on board inflammable or combustible liquid cargo in bulk.

(1) Vessels included.

All vessels, regardless of tonnage, size, or manner of propulsion, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, that shall have on board any inflammable or combustible liquid cargo in bulk, except public vessels owned by the United States, other than those engaged in commercial service, shall be considered steam vessels for the purposes of title 52 of the Revised Statutes and shall be subject to the provisions thereof: *Provided,* That this section shall not apply to vessels having on board only inflammable or combustible liquid for use as fuel or stores or to vessels carrying liquid cargo only in drums, barrels, or other packages. Notwithstanding the first sentence hereof, cannery tenders, fishing tenders, or fishing vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska when engaged exclusively in the fishing industry shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by regulations promulgated by the Secretary of the department in which the Coast Guard is operating.

(2) Rules and regulations for handling liquid cargo.

In order to secure effective provision against the hazards of life and property created by the vessels to which this section applies, the Commandant of the Coast Guard shall establish such additional rules and regulations as may be necessary with respect to the design and construction, alteration, or repair of such vessels, including the superstructures, hulls, places for stowing and carrying such liquid cargo, fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers thereof; and with respect to all materials used in such construction, alteration, or repair; and with respect to the handling and stowage of such liquid cargo; the manner of such handling or stowage, and the machinery and appliances used in such handling and stowage; and with respect to equipment and appliances for life-saving and fire protection; and with respect to the operation of such vessels; and with respect to the requirements of the manning of such vessels and the duties and qualifications of the officers and crews thereof; and with respect to the inspection of all the foregoing. In establishing such rules and regulations the Commandant of the Coast Guard may adopt rules of the American Bureau of shipping or similar American classification society for classed vessels insofar as such rules pertain to the efficiency of hulls and the reliability of machinery of vessels to which this section applies. In establishing such rules and regulations, the Commandant of the Coast Guard shall give due consideration to the kinds and grades of such liquid cargo permitted to be on board such vessel.

(3) Hearing before approval of rules.

Before any rules and regulations, or any alteration, amendment, or repeal thereof, are approved by the Commandant of the Coast Guard under the provisions of this section, except in an emergency, the said Commandant shall publish such rules and regulations and hold hearings with respect thereto on such notice as he deems advisable under the circumstances.

(4) Certificate of inspection and permit required; time of endorsing permit; inspection; duration of permit; vessels of foreign nations; permit for prohibited materials.

No vessel subject to the provisions of this section shall, after the effective date of the rules and regulations established hereunder, have on board such liquid cargo, until a certificate of inspection has been issued to such vessel in accordance with the provisions of title 52 of the Revised Statutes and until a permit has been endorsed on such certificate of inspection by the Coast Guard, indicating that such vessel is in compliance with the provisions of this section and the rules and regulations established hereunder, and showing the kinds and grades of such liquid cargo that such vessel may have on board or transport. Such permit shall not be endorsed by the Coast Guard on such certificate of inspection until such vessel has been inspected by the Coast Guard and found to be in compliance with the provisions of this section and the rules and regulations established hereunder. For the purpose of any such inspection approved plans and certificates of class of the American Bureau of Shipping or other recognized classification society for classed vessels may be accepted as evidence of the structural efficiency of the hull and the reliability of the machinery of such classed vessels except as far as existing law places definite responsibility on the Coast Guard. A permit issued under the provisions of this section shall be valid for a period of time not to exceed the duration of the certificate of inspection on which such permit is endorsed, and shall be subject to revocation by the Coast Guard whenever it shall find that the vessel concerned does not comply with the conditions upon which such permit was issued: *Provided,* That the provisions of this subsection shall not apply to vessels of a foreign nation having on board a valid certificate of inspection recognized under law or treaty by the United States: *And provided further,* That no permit shall be issued under the provisions of this section authorizing the presence on board any

vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 170 of this title.

(5) Shipping documents required on board; contents.

Vessels subject to the provisions of this section shall have on board such shipping documents as may be prescribed by the Commandant of the Coast Guard indicating the kinds, grades, and approximate quantities of such liquid cargo, on board such vessel, the shippers and consignees thereof, and the location of the shipping and destination points.

(6) Number of officers and tankermen; certificate as tankerman; suspension or revocation of certificate.

(a) In all cases where the certificate of inspection does not require at least two licensed officers, the Coast Guard shall enter in the permit issued to any vessel under the provisions of this section the number of the crew required to be certificated as tankermen.

(b) The Coast Guard shall issue to applicants certificates as tankerman, stating the kinds of liquid cargo the holder of such certificate is, in the judgment of the Coast Guard, qualified to handle aboard vessels with safety, upon satisfactory proof and examination, in form and manner prescribed by the Commandant of the Coast Guard, that the applicant is in good physical condition, that such applicant is trained in and capable efficiently to perform the necessary operations aboard vessels having such liquid cargo on board, and that the applicant fulfills the qualifications of tankerman as prescribed by the Commandant of the Coast Guard under the provisions of this section. Such certificates shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title.

(7) Penalties.

The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall violate the provisions of this section or of the rules and regulations established hereunder, shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both such fine and imprisonment.

(8) Effective date of rules and regulations.

The rules and regulations to be established pursuant to this section shall become effective ninety days after their promulgation unless the Commandant of the Coast Guard shall for good cause fix a different time. (R. S. § 4417a, as added June 23, 1936, ch. 729, 49 Stat. 1889, and amended Oct. 9, 1940, ch. 777, § 3, 54 Stat. 1028; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; July 11, 1968, Pub. L. 90-397, § 4, 82 Stat. 341.)

REFERENCES IN TEXT

For distribution of title 52, sections 4392—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

AMENDMENTS

1968—Subsec. (1). Pub. L. 90-397 provided for the exemption of cannery tenders, fishing tenders, or fishing vessels of not more than 500 gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska when engaged exclusively in the fishing industry from Coast Guard requirements when these vessels have on board inflammable or combustible cargo in bulk.

1940—Subsec. (2). Act Oct. 9, 1940, deleted proviso exempting common carriers subject to regulations by Interstate Commerce Commission.

Subsec. (4). Act Oct. 9, 1940, omitted a number of statutory references from the second proviso.

EFFECTIVE DATE AND SEPARABILITY OF 1940 AMENDMENT

Effective date and separability of act Oct. 9, 1940, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the Board of Supervising Inspectors throughout section and to the Secretary of Commerce in subsecs. (3) and (8) were changed to Commandant of the Coast Guard, provisions for approval of regulations by the Secretary of Commerce were omitted, references to boards of local inspectors were changed to the Coast Guard, and in second sentence of subsec. (4) "inspected by the Coast Guard" was substituted for "inspected by such board of local inspectors, or by any other board or officer of the Bureau of Marine Inspection and Navigation designated by the Director thereof" and "Coast Guard" was substituted for "Bureau of Marine Inspection and Navigation" at end of sentence, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Appropriations, see section 170b of this title.

Crude petroleum carried in double bottom fuel tanks considered as only for use as fuel within subsec. (1) of this section, see section 467 of this title.

Explosives or other dangerous articles on vessels, regulation of carriage, see section 170 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170, 170b, 467, 526 of this title; title 49 section 903.

§ 391b. Issuance of certain certificates by inspectors and assistants.

CODIFICATION

Section, act May 9, 1938, ch. 189, 52 Stat. 343, authorized inspectors of hulls, inspectors of boilers and assistant inspectors to issue certain certificates. Such offices were abolished by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

§ 392. Boilers, unfired pressure vessels, and appurtenances; machinery and electrical equipment.

(a) Passenger vessels; annual inspection.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to inspect, before the same shall be put into service and once at least in every year thereafter, the boilers, unfired pressure vessels, and appurtenances

thereof, also the propelling and auxiliary machinery, electrical apparatus and equipment, of all passenger vessels subject to inspection.

(b) Vessels other than passenger vessels; biennial inspection.

The head of the department in which the Coast Guard is operating also shall require the Coast Guard to inspect, before the same shall be put into service and at least once in every two years thereafter, the boilers, unfired pressure vessels, and appurtenances thereof, also the propelling and auxiliary machinery, electrical apparatus and equipment, of all vessels subject to inspection other than passenger vessels.

(c) Examination for conformity.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to determine to its satisfaction by thorough examination that the boilers, unfired pressure vessels, and appurtenances thereof, also the propelling and auxiliary machinery, electrical apparatus and equipment of all vessels which are subject to inspection under subsections (a) and (b) of this section are in conformity with law and the rules and regulations of the head of the department in which the Coast Guard is operating, and may be safely employed in the service proposed. No boiler, unfired pressure vessel, or appurtenances thereof shall be allowed to be used if constructed in whole or in part of defective material or which because of its form, design, workmanship, age, use, or for any other reason is unsafe.

(d) Hydrostatic tests.

At each original inspection and at each annual or biennial inspection thereafter, whichever is applicable, all boilers, unfired pressure vessels, and main steam piping shall be subjected to hydrostatic tests or such other tests as may be prescribed by the head of the department in which the Coast Guard is operating. The ratio of the hydrostatic test to the maximum working pressure shall be determined by action of the head of the department in which the Coast Guard is operating. (R.S. § 4418; June 19, 1886, ch. 421, § 14, 24 Stat. 82; Mar. 3, 1905, ch. 1456, § 1, 33 Stat. 1027; June 13, 1933, ch. 61, 48 Stat. 125; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 4, 1956, ch. 350, § 2, 70 Stat. 224.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 11, 16 Stat. 443.

CODIFICATION

The section, as enacted in the Revised Statutes, was as follows: "The local inspectors shall also inspect the boilers of all steam-vessels before the same shall be used, and once at least in every year thereafter. They shall subject all boilers to the hydrostatic pressure; and shall satisfy themselves by thorough examination that the boilers are well made, of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstruction; that the spaces between and around the flues are sufficient; that the flues are circular in form; that the fire-line of the furnace is at least two inches below the prescribed minimum waterline of the boilers; that the arrangement for delivering the feed-water is such that the boilers cannot be injured thereby; and that such boilers and machinery, and the appurtenances, may be safely employed in the service proposed in the written application, without peril to life. They shall also satisfy themselves that the safety-valves are of suitable dimensions, sufficient in number, and well arranged; and that the weights of the safety-valves are properly adjusted, so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there is a sufficient number of gauge-cocks properly inserted, and to indicate the pressure of steam, suitable steam-registers that will correctly record each excess of steam carried above the prescribed limit and the highest point attained; and that there are reliable low-water gauges; and that the fusible metals are properly inserted so as to fuse by the heat of the furnace, whenever the water in the boilers falls below its prescribed limits; and that adequate and certain provision is made for an ample supply of water to feed the boilers at all times, whether such vessel is in motion or not, so that in high-pressure boilers the water shall not be less than four inches above the top of the flues; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers, when they are under pressure of steam. In subjecting to the hydrostatic tests boilers usually designated and known as high-pressure boilers, the inspectors shall assume one hundred and ten pounds to the square inch, as the maximum pressure allowable as a working-power for a new boiler of forty-two inches in diameter, made in the best manner, of inspected iron plates, one-fourth of an inch thick, and of a quality required by law, and shall rate the working-power of all high-pressure boilers, whether old or new, according to their strength, compared with this standard; and in all cases the test applied shall exceed the working-power allowed, in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting to the hydrostatic tests boilers usually designated and known as low-pressure boilers, the inspectors shall allow as a working-power for each new boiler, a pressure of only three-fourths the number of pounds to the square inch to which it has been subjected by the hydrostatic test, and for which it has been found to be sufficient. Should the inspectors be of the opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure as is above described, they may, for reasons to be stated specially in their certificate, fix the working-pressure of such boiler at less than three-fourths of the test-pressure. All boilers used on steam-vessels and constructed of iron or steel plates, inspected under the provisions of section forty-four hundred and thirty, shall be subjected to a hydrostatic test, in the ratio of one hundred and fifty pounds to the square inch to one hundred pounds to the square inch of the working steam-power allowed. No boiler or pipe, nor any of the connections therewith, shall be approved, which is made, in whole or in part, of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use, or other cause."

It was amended by act June 19, 1886, by striking out, after the words "that there is a sufficient number of gauge-cocks properly inserted," the words "and, to indicate the pressure of steam, suitable steam-registers that will correctly record each excess of steam carried above the prescribed limit and the highest point attained," and inserting in lieu thereof the words "and suitable steam gauges to indicate the pressure of steam."

It was further amended generally by act Mar. 3, 1905.

AMENDMENTS

1956—Act June 4, 1956, provided for a biennial rather than annual inspection for cargo vessels, and amended section generally, dividing it into subsecs. (a)—(d), and changing its language to reflect the transfer of Coast Guard functions to the head of the department in which the Coast Guard is operating and to make certain other technical changes.

1933—Act June 13, 1933, amended section generally to extend inspection to unfired pressure vessels, appurtenances, propelling and auxiliary machinery, and electrical apparatus and equipment, among other changes.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties,

relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to local inspectors were changed to "Coast Guard" and "Commandant of the Coast Guard" was substituted for "board of supervising inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Exemption of vessels laid up and dismantled, see section 391(e) of this title.

Inspection of foreign vessels admitted to American registry, see section 366 of this title.

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 391 of this title.

§ 393. Control of safety valves and steam gauges.

One of the safety valves may, if in the opinion of the Coast Guard it is necessary to do so, and the steam gauges shall, be taken wholly from the control of all persons engaged in navigating such vessel and secured by the Coast Guard. (R. S. § 4419; June 19, 1886, ch. 421, § 14, 24 Stat. 82; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 11, 16 Stat. 443.

CODIFICATION

"Steam gauges" were substituted for "steam registers" to conform to amendment of R.S. § 4418 by act June 19, 1886. See note under section 392 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "local inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 394. Amount of steam pressure allowed freight boats on Mississippi.

CODIFICATION

Section, R. S. § 4420; act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251, is now covered by section 392 of this title.

§ 395. Seagoing barges; hulls and equipment.

(a) Annual inspection of barges over 100 tons carrying passengers.

The head of the department in which the Coast Guard is operating shall require the Coast Guard to inspect, before the same shall be put into service and at least once in every year thereafter, the hull and equipment of every seagoing barge of one hundred gross tons or over carrying passengers; and to determine to its satisfaction that such barge is of a structure suitable for the service in which she is to be employed, has suitable accommodations for the crew and passengers, and is in a condition to warrant the belief that she may be used in navigation with safety to life.

(b) Biennial inspection of barges over 100 tons not carrying passengers.

The head of the department in which the Coast Guard is operating also shall require the Coast Guard to inspect, before the same shall be put into service and at least once in every two years thereafter, the hull and equipment of every seagoing barge of one hundred gross tons or over, not carrying passengers; and to determine to its satisfaction that such barge is of a structure suitable for the service in which she is to be employed, has suitable accommodations for the crew, if manned, and is in a condition to warrant the belief that she may be used in navigation with safety to life.

(c) Certificate of inspection.

Upon the satisfactory completion of the inspection authorized herein, a certificate of inspection shall be issued in the manner and for the purposes prescribed in sections 399 and 400 of this title. (May 28, 1908, ch. 212, § 10, 35 Stat. 428; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; June 4, 1956, ch. 350, § 3, 70 Stat. 225.)

AMENDMENTS

1956—Act June 4, 1956, provided for biennial rather than annual inspection of hulls and equipment of barges not carrying passengers, and amended section generally, dividing it into subsecs. (a)—(c), and changing its language to reflect the transfer of Coast Guard functions to the head of the department in which the Coast Guard is operating and to make certain other technical changes.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "local inspectors of steamboats" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 397 of this title.

§ 396. Repealed. Pub. L. 86-244, § 3(a)(9), Sept. 9, 1959, 73 Stat. 476.

Section, act May 28, 1908, ch. 212, § 11, 35 Stat. 428, required seagoing barges to be equipped with life-saving appliances and is now covered by section 481(a)(1) of this title.

§ 397. Certificate of inspection and equipment of barge required.

A register, enrollment, or license shall not be issued or renewed by any collector or other officer of customs to any such barge unless at the time of issue or renewal such barge has in force the certificate of inspection prescribed by section 395 of this title and on board the equipment prescribed by section 481 of this title. (May 28, 1908, ch. 212, § 12, 35 Stat. 428; Mar. 4, 1915, ch. 184, § 6, 38 Stat. 1218.)

CODIFICATION

Prior to incorporation into the Code, act May 28, 1908, was amended by act Mar. 4, 1915, which substituted "certificate" for "certificates".

"Section 481 of this title" was substituted for "section 396 of this title" on authority of section 3 (a)(9) and (b) of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed section 396 and deemed a reference to it in any other law as a reference to section 481. See References in Other Laws to Repealed Provisions note set out under section 481 of this title.

§ 398. Navigating barge without certificate or equipment prescribed.

If any such barge shall be navigated without such certificate of inspection, the owner shall be liable to a penalty of $500 for each offense. (May 28, 1908, ch. 212, § 13, 35 Stat. 428.)

CODIFICATION

Provisions which related to navigation of barges without any part of the equipment prescribed by section 396 of this title were omitted since the penalty provision was no longer applicable to such barges on authority of sections 2 and 3 (a) (9), (b) of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed section 396, deemed a reference to it in any other law as a reference to section 481 and made such section 481 prevail over any conflicting provision. See Conflicting Provisions and References in Other Laws to Repealed Provisions notes set out under section 481 of this title.

§ 399. Certificate; temporary certificate; completion of voyage after expiration.

When the inspection of a steam vessel is completed and the Secretary of the Department in which the Coast Guard is operating approves the vessel and her equipment throughout, he shall make and subscribe a certificate to that effect. He shall deliver such certificate to the master or owner of the vessel to which it relates, shall keep one copy thereof on file in his office, and shall deliver one copy to the official who is performing the duties of the collector or other chief officer of the customs of the district in which such inspection has been made, who shall keep the same on file in his office. If the Secretary refuses to grant a certificate of approval, he shall make a statement in writing and sign the same, giving the reasons for his disapproval. Upon such inspection and approval the Secretary shall also make and subscribe a temporary certificate, which shall set forth substantially the fact of such inspection and approval, and shall deliver the same to the master or owner of the vessel and shall keep a copy thereof on file in his office. The said temporary certificate shall be carried and exposed by vessels in the same manner as is provided in section 400 of this title for the regular certificate, and the form thereof and the period during which it is to be in force shall be as prescribed under the authority of section 375 of this title. And such temporary certificate, during such period and prior to the delivery to the master or owner of the regular certificate, shall take the place of and be a substitute for the regular certificate of inspection, as required by this section and by section 404 of this title, and for the purposes of said sections. Such temporary certificate shall also be subject to revocation in the manner and under the conditions provided in section 435 of this title. No vessel required to be inspected under the provisions of title 52 of the Revised Statutes shall be navigated without having on board an unexpired regular certificate of such inspection or such temporary certificate: *Provided, however,* That any such vessel operated upon a regularly established line from a port of the United States to a port of a foreign country not contiguous to the United States whose certificate of inspection expires at sea or while said vessel is in a foreign port or a port of Hawaii may lawfully complete her voyage without the regular certificate of inspection or the temporary certificate required by this section, and no liability for penalties imposed by title 52 of the Revised Statutes for want of such certificate shall be incurred until her voyage shall have been completed: *Provided,* That said voyage shall be so completed within thirty days after the expiration of said certificate or temporary certificate: *Provided further,* That no such vessel whose certificate of inspection shall expire within fifteen days of the date of her sailing shall proceed upon her voyage to such port of a foreign country not contiguous to the United States without first having procured a new certificate of inspection or the temporary certificate required by this section. (R.S. § 4421; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 251; June 11, 1906, ch. 3071, 34 Stat. 230; June 25, 1910, ch. 402, 36 Stat. 831; Mar. 4, 1915, ch. 184, § 1, 38 Stat. 1216; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 8, 1955, ch. 133, 69 Stat. 86.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 11, 16 Stat. 443.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4421, as originally enacted, read as follows: "When the inspection of a steam vessel is completed and the inspectors approve the vessel and her equipment throughout, they shall make and subscribe a certificate to the collector or other chief officer of the customs of the district in which such inspection has been made in accordance with the form and regulations prescribed by the board of supervising inspectors. Such certificate shall be verified by the oaths of inspectors signing it, before the chief officer of the customs of the district or any other person competent by law to administer oaths. If the inspectors refuse to grant a certificate of approval, they shall make a statement in writing and sign the same, giving the reasons for their disapproval."

The amendment by act Feb. 27, 1877, consisted in the insertion of a comma, after the word "made," in the first sentence.

The amendment by act June 11, 1906, consisted in adding to the section the following provisions: "Upon such inspection and approval, the inspectors shall also make and subscribe a temporary certificate, which shall set forth substantially the fact of such inspection and approval, and shall deliver the same to the master or owner of the vessel, and shall keep a copy thereof on file in their office. The said temporary certificate shall be carried and exposed by vessels in the same manner as is provided in section forty-four hundred and twenty-three for copies of the regular certificate, and the form thereof and the period during which it is to be in force shall be as prescribed by the board of supervising inspectors, or the executive committee thereof, as provided in section forty-four hundred and five. And such temporary certificate, during such period and prior to the delivery to the master or owner of the copies of the regular certificate, shall take the place of and be a substitute for, such copies of the regular certificate of inspection as required by sections forty-four hundred and twenty-three, forty-four hundred and twenty-four, and forty-four hundred and twenty-six, and for the purposes of said sections, and shall also, during such period, be a substitute for the regular certificate of inspection as required by section forty-four hundred and ninety-eight and for the purposes of said section until such regular certificate of inspection has been filed with the collector or other chief officer of customs. Such temporary certificate shall also be subject to revocation in the manner and under the conditions provided in section forty-four hundred and fifty-three. No vessel required to be inspected under the provisions of this title shall be navigated without having on board an unexpired regular certificate of inspection or such temporary certificate."

The amendment by act June 25, 1910, consisted in the addition, after the provisions added by the previous amendment of the following: "Provided, however, That any such vessel, operated upon a regularly established line from a port of the United States to a port of a foreign country not contiguous to the United States, whose certificate of inspection expires at sea, or while said vessel is in a foreign port or a port of the Philippine Islands or Hawaii, may lawfully complete her voyage without the regular certificate of inspection or the temporary certificate required by this section, and no liability for penalties imposed by this title for want of such certificate shall be incurred until her voyage shall have been completed: Provided, That said voyage shall be so completed within thirty days after the expiration of said certificate or temporary certificate: Provided further, That no such vessel whose certificate of inspection shall expire within fifteen days of the date of her sailing shall proceed upon her voyage to such port of a foreign country not contiguous to the United States without first having procured a new certificate of inspection or the temporary certificate required by this section."

The amendment by act Mar. 4, 1915, consisted in technical changes.

Reference to a port of the Philippine Islands in first proviso was omitted as covered by the reference to a foreign port under 1946 Proc. No. 2695, set out in note under section 1394 of Title 22, Foreign Relations and Intercourse, which proclaimed the independence of the Philippines.

AMENDMENTS

1955—Act June 8, 1955, eliminated requirement for verification under oath of certificates of inspection.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to inspectors were changed to the Coast Guard and to Coast Guard officials and references to the board of supervising inspectors and its executive committee were changed to Commandant of the Coast Guard on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Fraud and false statements, see chapter 47 of Title 18, Crimes and Criminal Procedure.

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 395, 402 of this title.

§ 400. Placing of certificate for observation by passengers.

The original certificate of inspection delivered to the master or owner of a steam vessel shall be placed by such master or owner in a conspicuous place in the vessel where it will be most likely to be observed by passengers and others, and there kept at all times, framed under glass, as evidence of the authority thereby conferred: *Provided, however,* That where it is not practicable to so expose said certificate, it shall be carried in the vessel in such manner as shall be prescribed by the regulations established by the Commandant of the Coast Guard. (R. S. § 4423; Mar. 3, 1905, ch. 1457, § 3, 33 Stat. 1029; Mar. 4, 1915, ch. 184, § 3, 38 Stat. 1217; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 31, 16 Stat. 450.

CODIFICATION

R.S. § 4423, as enacted in the Revised Statutes, read as follows: "Every collector or other chief officer of the customs shall retain on file all original certificates of the inspectors required to be delivered to him, and shall give to the master or owner of the vessel therein named three certified copies thereof, two of which shall be placed by such master or owner in conspicuous places in the vessel where they will be most likely to be observed by passengers and others, and there kept at all times, framed under glass, and the other shall be retained by such master or owner as evidence of the authority thereby conferred."

It was amended by act Mar. 3, 1905, by the addition of the following proviso: *"Provided, however,* That where it is not practicable to so expose said copies they shall be carried in the vessel in such manner as shall be prescribed by the regulations established by the board of

supervising inspectors with the approval of the Secretary of Commerce and Labor."

It was further amended by act Mar. 4, 1915, to read as set forth here.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 395, 399, 402 of this title.

§ 401. Repealed. Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

Section, R. S. § 4422, act Mar. 4, 1915, ch. 184, § 2, 38 Stat. 1217, related to the grant and posting of a certificate to carry gunpowder, and is now covered by section 170 of this title.

§ 402. Penalty for receiving passengers in absence of unexpired certificate of approval.

Whenever any passenger is received on board any steam vessel not having an unexpired certificate of approval or an unexpired temporary certificate of approval placed and kept as required by sections 399 and 400 of this title, such steam vessel shall be liable to a penalty of $100 for each offense. (R. S. § 4424; Mar. 4, 1915, ch. 184, § 4, 38 Stat. 1217; Oct. 9, 1940, ch. 777, § 4, 54 Stat. 1028.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 31, 16 Stat. 450.

CODIFICATION

R.S. § 4424, before being incorporated in the Code, was amended by act May 4, 1915, which substituted the words "an unexpired certificate of approval or an unexpired temporary certificate of approval" for the words "the certified copies of the certificate of approval," and omitted the words "and a certified copy thereof" following the words "a certificate authorizing the same."

AMENDMENTS

1940—Act Oct. 9, 1940, omitted provisions relating to receiving or carrying gunpowder in violation of requirements.

EFFECTIVE DATE AND SEPARABILITY OF 1940 AMENDMENT

Effective date and separability of act Oct. 9, 1940, see note under section 170 of this title.

CROSS REFERENCES

Appropriations, see section 170b of this title.

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170b, 362 of this title.

§ 403. Punishment for certifying falsely.

Every inspector who willfully certifies falsely touching any steam vessel, as to her hull, accommodations, boilers, engines, machinery, or their appurtenances, or any of her equipments, or any matter or thing contained in any certificate signed and sworn to by him, shall be punished by fine of not more than $500, or imprisonment for not more than six months, or both. (R. S. § 4425.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 32, 16 Stat. 450.

TRANSFER OF FUNCTIONS

The offices of local inspectors of the Bureau of Marine Inspection and Navigation were abolished and their inspection functions transferred to the Commandant of the Coast Guard by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Unauthorized fees for inspection of vessels, penalties, see section 1912 of Title 18.

§ 404. Inspection of ferryboats, canal boats, and small craft; regulations; exemptions.

The hulls and boilers of every ferryboat, canal boat, yacht or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the Secretary of the department in which the Coast Guard is operating, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided,* That in open steam launches of ten gross tons and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen gross tons carrying freight for hire and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections 494 to 498 of this title, relating to the imposition and enforcement of penalties and the enforcement of law: *Provided, however,* That until June 30, 1956, no vessel registered or licensed as a vessel of the United States of fifteen gross tons or less on December 31, 1953, shall be deemed to be subject to the inspection provisions of this section notwithstanding the fact that such vessel may thereafter be found to have a tonnage in excess of fifteen gross tons, unless such finding results from an alteration in the length,

breadth, or depth effected after December 31, 1953: *Provided further,* That no vessel under one hundred and fifty gross tons, owned by or demise chartered to any cooperative or association engaged solely in transporting cargo owned by any one or more of the members of such cooperative or association on a nonprofit basis (1) between places within the inland waters of southeastern Alaska, as defined pursuant to section 151 of Title 33, or (2) between places within said inland waters of southeastern Alaska and Prince Rupert, British Columbia, or (3) between places within said inland waters of southeastern Alaska and places within the inland waters of the State of Washington, as also defined pursuant to such section, via sheltered waters, as defined in article I, of the Treaty between United States and Canada defining certain waters of the west coast of North America as sheltered waters, dated December 9, 1933, shall be deemed to be carrying freight for hire within the meaning of this section. As used herein, the phrase "engaged in fishing as a regular business" includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations. The exemption of the foregoing sentence for cannery tender or fishing tender vesels shall continue in force for five years from July 11, 1968. (R.S. § 4462; Dec. 22, 1890, ch. 26, 26 Stat. 692; May 16, 1906, ch. 2460, 34 Stat. 193; 1946 Reorg. Plan No. 3, §§ 101, 104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 31, 1954, ch. 1171, 68 Stat. 1047; May 10, 1956, ch. 258, § 6(a), (b), 70 Stat. 153; Aug. 23, 1958, Pub. L. 85–739, § 1, 72 Stat. 833; July 11, 1968, Pub. L. 90–397, § 1, 82 Stat. 341.)

Derivation

Act Feb. 28, 1871, ch. 100, § 58, 16 Stat. 456.

References in Text

This title, and title 52 of the Revised Statutes, referred to in the text, constitute R.S. §§ 4399—4500. For distribution of such sections in the Code, see note under section 170 of this title.

Codification

R.S. § 4426, as enacted in the Revised Statutes, was as follows: "The hull and boilers of every ferryboat, canal-boat, yacht, or other small craft of like character, propelled by steam, shall be inspected under the provisions of this title. Such other provisions of law for the better security of life, as may be applicable to such vessels, shall, by the regulations of the board of supervising inspectors, also be required to be complied with, before a certificate of inspection shall be granted; and no such vessel shall be navigated without a licensed engineer and a licensed pilot."

It was amended by act Dec. 22, 1890, by adding thereto a proviso, in the following words: *"Provided, however,* That in open steam-launches of ten tons burden and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer."

It was further amended by act Mar. 3, 1905, ch. 1457, § 4, 33 Stat. 1029, to read as follows: "The hull and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the board of supervising inspectors, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided, however,* That in open steam launches of ten tons burden and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen tons burden carrying freight or passengers for hire, propelled by gas, fluid, naphtha, or electric motors, shall be, and are hereby, made subject to all the provisions of section forty-four hundred and twenty-six of the Revised Statutes of the United States relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of this title applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections forty-four hundred and ninety-six, forty-four hundred and ninety-seven, forty-four hundred and ninety-eight, forty-four hundred and ninety-nine and forty-five hundred, relating to the imposition and enforcement of penalties and the enforcement of law."

It was again amended by act May 16, 1906, which inserted provision exempting vessels over fifteen tons engaged in fishing as regular business, and added provisions requiring vessels of fifteen tons or less, carrying passengers for hire, to carry life preservers and be in charge of a licensed person, and provision relating to requirement for obtaining the license and grounds for and effect of revoking it.

Amendments

1968—Pub. L. 90–397 added provisions defining "engaged in fishing as a regular business" and provided for the continued exemption for cannery tender or fishing tender vessels for five years from July 11, 1968.

1958—Pub. L. 85–739 inserted in third sentence proviso clause allowing vessels under 150 gross tons, owned or demise chartered to cooperative associations and carrying only merchandise of their members, to operate as uninspected vessels.

1956—Act May 10, 1956, § 6(b), substituted the words "Secretary of the department in which the Coast Guard is operating" for "Commandant of the Coast Guard" in the second sentence, the words "title 52 of the Revised Statutes" for "this title" in the third sentence, and reworded exemption of vessels over fifteen gross tons by deleting the words "or passengers" after "carrying freight" and added the words "and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire" following the words "for hire".

1954—Act Aug. 31, 1954, in third sentence of section added proviso relating to inspection of vessels. The proviso will terminate on June 30, 1956.

Effective Date of 1958 Amendment

Section 2 of Pub. L. 85–739 provided that: "This Act [amending this section] shall be effective immediately upon enactment [Aug. 23, 1958] and shall apply only to vessels theretofore constructed: *Provided, however,* That on and after Dec. 31, 1962, the transportation herein authorized shall be limited to and from places within said inland waters of southeastern Alaska not receiving annual weekly transportation service from any part of the United States by an established common carrier by water, except that this limitation shall be inapplicable to the transportation of cargo of a character not accepted for transportation by any such common carrier."

Effective Date of 1956 Amendment

Amendment of section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

Repeals

Section 6 (a) of act May 10, 1956, repealed act Jan. 18, 1897, ch. 61, 29 Stat. 489, which according to specific stipulation by act Mar. 3, 1905, ch. 1457, § 4, 33 Stat. 1029, was an amendment of this section. The repealed act

provided for regulations as to certain vessels propelled by gas, fluid, naphtha, or electric motors, and is now covered generally by sections 390 to 390g of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors" and "Coast Guard" for "local board of inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Certain Indians, residents of Metlakahtla, Alaska, although not citizens of United States, may receive licenses as operators of motorboats and other craft, and may be owners of such motorboats or other craft, subject to provisions of this section, see sections 237 and 238 of this title.

Exemption of vessels laid up and dismantled, see section 391(e) of this title.

Licenses for motorboat operators, see section 526f of this title.

Revocation and suspension of licenses, see section 239 of this title.

Section applicable to steam vessels navigating the water of Irondequoit Bay, New York, and carrying passengers, see section 365 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 365, 390 to 390g, 391, 399 of this title.

§ 404a. Fishing vessels; transfer and transportation of catch of other vessels.

For the purposes of the laws of the United States relating to documentation and inspection of vessels of the United States, a vessel enrolled and licensed, or licensed as a vessel of the United States to engage in the fishery, shall not be deemed to be used in employment for which not licensed, and shall not be considered as engaged in the transportation of freight for hire, solely because such vessel occasionally takes on board on the high seas and transports without a monetary consideration to a port of the United States, the catch of another fishing vessel of the United States. (Pub. L. 87-177, Aug. 30, 1961, 75 Stat. 410.)

§ 405. Tugboats and freight boats.

The hull and boiler of every tugboat, towing boat, and freight boat shall be inspected, under the provisions of title 52 of the Revised Statutes; and the Coast Guard shall see that the boilers, machinery, and appurtenances of such vessel are not dangerous in form or workmanship, and that the safety valves, gauge cocks, low-water alarm indicators, steam gauges, and fusible plugs are all attached in conformity to law; and the officers navigating such vessels shall be licensed in conformity with the provisions of sections 214, 224, 226, 228, 229, and 230 of this title and shall be subject to the same provisions of law as officers navigating passenger steamers. (R.S. § 4427; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 58, 16 Stat. 456.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Provisions authorizing tugboats to carry certain persons in addition to the crew, such persons not to be passengers and not to be carried for hire, and requiring vessels carrying such persons to carry a life-preserver for every such person carried, were made by act July 9, 1886, ch. 755, §§ 1, 2, 24 Stat. 129, incorporated in this Code as sections 458 and 459 of this title. This act was amended by act Feb. 23, 1901, ch. 465, 31 Stat. 800, which in amending the act described it as follows: "That the amendment to section forty-four hundred and twenty-seven, approved July ninth, eighteen hundred and eighty-six, entitled 'An Act Relating to the Licensing of Vessels Engaged in Towing to Carry Persons in Addition to Their Crews,' be amended to read as follows."

Neither the provisions of act July 9, 1886, so amended, nor those of the amendatory act, related to the subject of this section, although, in the clause of the amendatory act quoted above, the former act was described as an amendment to this section.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Exemption of vessels laid up and dismantled, see section 391(e) of this title.

Motorboats carrying passengers for hire to have licensed operator, see section 526f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 391 of this title.

§ 406. Construction of boilers and unfired pressure vessels.

All boilers and unfired pressure vessels constructed of iron or steel plates or other approved metals for use on vessels subject to inspection shall be made of material that has been tested, inspected, and stamped in accordance with the requirements of this Act. (R. S. § 4428; June 13, 1933, ch. 61, 48 Stat. 126.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 35, 16 Stat. 451.

REFERENCES IN TEXT

Words "this Act", referred to in the text, are so in Statutes at Large. In R. S. § 4428, as originally enacted, a similar reference read "this title," meaning title LII of the Revised Statutes, but this was amended by act June 13, 1933 to read "this Act" which in the Revised Statutes is ambiguous. Reference to act of June 13, 1933, might have been intended. It was incorporated in this Code as this section and sections 361, 392, and 407—412 of this title.

AMENDMENTS

1933—Act June 13, 1933, amended section generally.

§ 407. Punishment for improper construction.

Any person, firm, or corporation who constructs a boiler, or steam pipe connecting the boilers, or an unfired pressure vessel for use on vessels subject to inspection, of iron or steel plates or other approved metals which have not been duly tested, inspected, and stamped according to the provisions of this Act and the requirements of the Commandant of the Coast Guard; or who knowingly uses any defective material in the construction of such boiler, steam pipe, or pressure vessel; or who drifts any rivet hole to make it come fair; or who delivers any such boiler, steam pipe, or pressure vessel for use, knowing it to be defective in design, material, or construction, shall be fined $1,000. Nothing in this Act shall be so construed as to prevent from being used on such vessels any boiler, steam generator, steam pipe, or unfired pressure vessel which may not be constructed of riveted iron or steel plates: *Provided,* That scientific data and facts are submitted to enable the Commandant of the Coast Guard to satisfy himself that such boiler, steam generator, or pressure vessel is equal in strength and as safe from explosion as one of the best quality of iron or steel plates of riveted construction: *Provided, however,* That the Commandant of the Coast Guard may grant permission to use any boiler, steam generator, or unfired pressure vessel not of iron or steel plate riveted construction upon the certificate of the Coast Guard official for the district wherein such boiler, steam generator, or pressure vessel is to be used, and other satisfactory proof that the use of the same is safe and efficient, said permit to be valid until the Commandant acts thereon: *Provided further,* That such boilers, steam generators, or pressure vessels may be constructed with seamless shells or by means of any approved method of welding governed by the rules and regulations prescribed by the Commandant of the Coast Guard. (R. S. § 4429; Aug. 7, 1882, ch. 433, § 1, 22 Stat. 310; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 13, 1933, ch. 61, 48 Stat. 126; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 35, 16 Stat. 451.

REFERENCES IN TEXT

Words "this Act", referred to in the text, are so in Statutes at Large. In R. S. § 4229, as originally enacted, a similar reference read "this title," meaning title LII of the Revised Statutes, but this was amended by act June 13, 1933, to read "this Act" which in the Revised Statutes is ambiguous. Reference to act June 13, 1933, might have been intended. It was incorporated in this Code as sections 361, 392, and 406—412 of this title.

CODIFICATION

R.S. § 4429, as enacted in the Revised Statutes, did not contain the proviso relating to a temporary permit. The proviso was added to the section by act Aug. 7, 1882.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 366 of this title.

AMENDMENTS

1933—Act June 13, 1933, amended section generally, and, among other changes, omitted provision relating to payment of one-half of fine to informers, and added proviso relating to construction of boilers, etc., with seamless shells or by welding.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors" and for "Secretary of Commerce"; "Coast Guard official" was substituted for "supervising inspector"; and, in second proviso, "until the next regular meeting of the board of supervising inspectors who shall act thereon" was changed to "until the Commandant acts thereon", on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 408. Boiler plates.

All iron or steel plates, or other material used in the construction of boilers or unfired pressure vessels for use on vessels subject to inspection shall be tested and inspected in such manner as shall be prescribed by the Commandant of the Coast Guard, so as to enable the Coast Guard to ascertain the tensile strength, homogeneity, toughness, and ability to withstand the effect of repeated heating and cooling; and no plate or other material shall be used in the construction of such boilers or pressure vessels which has not been tested, inspected, and approved under the rules and regulations of the Commandant of the Coast Guard: *Provided, however,* That small unfired pressure vessels having diameters not exceeding thirty inches and subject to a maximum allowable working pressure not exceeding one hundred pounds per square inch shall be exempt from this requirement.

The Commandant of the Coast Guard may detail Coast Guard officials to inspect iron or steel plates or other material at the mills where the same are manufactured; and if such plates or material are found in accordance with the rules of the Commandant of the Coast Guard, the Coast Guard official shall stamp the same with the initials of his name and the official stamp of the Coast Guard,

which stamp shall be authorized by the Commandant; and material so stamped shall be accepted by the Coast Guard officials of the various districts as being in full compliance with the requirements of this section regarding the test and inspection of such plates and material: *Provided,* That any person, firm, or corporation who affixes any false, forged, fraudulent, spurious, or counterfeit of the stamp herein authorized to be put on by a Coast Guard official shall be deemed guilty of a felony and shall be fined not less than $1,000 nor more than $5,000 and imprisoned not less than two years nor more than five years. (R. S. § 4430; Jan. 22, 1894, ch. 16, 28 Stat. 28; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 13, 1933, ch. 61, 48 Stat. 126; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 36, 16 Stat. 451.

CODIFICATION

R.S. § 4430, as enacted in the Revised Statutes, contained only the first sentence thereof, ending with the words, "inspected and approved under those rules." Act Jan. 22, 1894 amended the section by adding provisions relating to detail of assistant inspectors to inspect boiler plates at the manufacturing mills, stamping of plates found in accordance with rules, acceptance of stamped plates by local inspectors, and penalties for specified violations.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 366 of this title.

AMENDMENTS

1933—Act June 13, 1933, amended section generally and, among other changes, divided it into paragraphs, added to first paragraph the proviso exempting small unfired pressure vessels, and substituted "Director of the Bureau of Navigation and Steamboat Inspection" for "Supervising Inspector General".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the board of supervising inspectors, and to the Director of the Bureau of Marine Inspection and Navigation in first clause of second paragraph, were changed to Commandant of the Coast Guard, "Coast Guard" or "Coast Guard officials" was substituted for references to inspectors, "Coast Guard" was substituted for "Bureau of Marine Inspection and Navigation" in second paragraph, and provisions for approval and direction of the Secretary of Commerce were omitted, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

"Director of the Bureau of Navigation and Steamboat Inspection" was changed to "Director of the Bureau of Marine Inspection and Navigation" to conform to act May 27, 1936, which changed the Bureau of Navigation and Steamboat Inspection to the Bureau of Marine Inspection and Navigation. See note under former section 1 of this title.

§ 409. Stamping boiler plates.

Every plate of iron or steel, made for use in the construction of boilers, unfired pressure vessels, or riveted steam pipe shall be distinctly and permanently stamped by the manufacturer thereof, and, if practicable, in such places that the marks shall be left visible when such plates are assembled, with the name of the manufacturer, and the minimum tensile strength in pounds per square inch, and the Coast Guard officials shall keep a record in their office of the stamps upon all plates, material, and boilers which they inspect. (R. S. § 4431; June 13, 1933, ch. 61, 48 Stat. 127; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 37, 16 Stat. 451.

AMENDMENTS

1933—Act June 13, 1933, included reference to unfired pressure vessels or riveted steam pipe and made other technical changes.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to inspectors was changed to Coast Guard officials on authority of 1946 Reorg. Plan. No. 3. See note under former section 1 of this title.

§ 410. Counterfeiting stamps.

Any person, firm, or corporation who counterfeits, or causes to be counterfeited, any of the marks or stamps prescribed for iron or steel plates or other material tested and inspected under this Act, or who designedly stamps, or causes to be stamped falsely, any such plates or material; and every person who stamps or marks, or causes to be stamped or marked, any such plates or material with the name or trade mark of another, with the intent to mislead or deceive, shall be fined $2,000, and may in addition thereto, at the discretion of the court, be imprisoned not exceeding two years. (R. S. § 4432; June 13, 1933, ch. 61, 48 Stat. 127.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 38, 16 Stat. 452.

REFERENCES IN TEXT

Words "this Act", referred to in the text, are so in Statutes at Large. The use of "this Act" in the Revised Statutes is ambiguous. Reference to act June 13 1933,

might have been intended. The act was incorporated in this Code as sections 361, 392, and 406—412 of this title.

AMENDMENTS

1933—Act June 13, 1933, included references to material throughout and omitted provision for payment of one-half of fine to informer, among other changes.

§ 411. Pressure of steam allowable.

The Commandant of the Coast Guard is empowered to prescribe formulas, rules, and regulations for the design, material, and construction of boilers, unfired pressure vessels, and appurtenances thereof, and steam piping for use on vessels subject to the provisions of this Act. The maximum working pressure shall be determined by formulas prescribed by the Commandant of the Coast Guard, and no such boiler, pressure vessel, or appurtenance thereof shall be designed or operated where the factor of safety is less than four: *Provided,* That the minimum thickness and maximum allowable working pressure of valves, fittings, and other appurtenances shall be determined by formulas prescribed by the Commandant of the Coast Guard. (R. S. § 4433; June 13, 1933, ch. 61, 48 Stat. 127; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 39, 16 Stat. 452.

REFERENCES IN TEXT

Words "this Act", referred to in the text, are so in Statutes at Large. In R. S. § 4433, as originally enacted, a similar reference read "this title," meaning title LII of the Revised Statutes, but this was amended by act June 13, 1933, to read "this Act" which in the Revised Statutes is ambiguous. Reference to act of June 13, 1933, might have been intended. It was incorporated in this Code as sections 361, 392, and 406—412 of this title.

AMENDMENTS

1933—Act June 13, 1933, amended section generally.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 412. Thickness of boiler plate.

The maximum allowable thickness of shell plates and the details of material, design, and construction of externally fired boilers shall be determined by action of the Commandant of the Coast Guard. (R. S. § 4434; Feb. 11, 1885, ch. 55, 23 Stat. 298; Feb. 28, 1895, ch. 139, § 1, 28 Stat. 690; Mar. 2, 1909, ch. 244, §§ 1, 2, 35 Stat. 687; June 13, 1933, ch. 61, 48 Stat. 127; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 39, 16 Stat. 452.

CODIFICATION

Upon incorporation into the Code, R.S. § 4434, as amended by acts Feb. 11, 1885; Feb. 28, 1895; Mar. 2, 1909, read as follows:

"No externally fired boiler having its shell constructed of iron or steel plates, exceeding an average thickness of thirty-eight one-hundredths of an inch, shall be employed on any steam vessel navigating the Red River of the North or rivers flowing into the Gulf of Mexico or their tributaries; and no externally fired boiler employed on any such steam vessel shall have less than three inches space between its shell and any of its internal flues, and not less than three inches space between such flues when any such flues are more than five inches in diameter, the measurements to be taken from the center of the length of the tapered section of said flues; and every such externally fired boiler employed on any such steam vessel shall be provided with a manhole in the lower part of the front head thereof, of such dimensions as may be prescribed by the Board of Supervising Inspectors, in all cases where the distance between its internal flues is less than three inches. Externally fired boilers having shells constructed of iron or steel plates not exceeding an average thickness of fifty one-hundredths of an inch may, in the discretion of the Supervising Inspector General, be authorized and employed on steam vessels navigating the Atlantic and Pacific Oceans, or salt water bays, or sounds, or the Great Lakes, or any of them, and waters flowing to and from the same, or any of them: *Provided,* That on inspection, no plate that is by this section limited to a thickness of thirty-eight one-hundredths of an inch and no plate that is by this section limited to a thickness of fifty one-hundredths of an inch shall be rejected for use if found to exceed those dimensions, respectively, if the approved average thickness thereof does not exceed the limits therein specified, and the amount of steam pressure that will be permitted to be carried in boilers constructed in accordance with the requirements of this section shall be determined from measurements showing the least thickness of the plates.

"All externally fired boilers, constructed of iron or steel, prior to March 2, 1909, and then in use on any such vessels, wherein the space between the shell and any of its internal flues or between such flues is less than three inches, shall be deemed lawfully constructed."

AMENDMENTS

1933—Act June 13, 1933, amended section generally.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§ 413. Obstructing safety valves.

Every person who intentionally loads or obstructs, or causes to be loaded or obstructed, in any way or manner, the safety valve of a boiler, or who employs any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the certificate of the Coast Guard, or who intentionally deranges or hinders the operation of any machinery or device employed to denote the state of the water or steam in any boiler, or to give warning of approaching danger, or who intentionally permits the water to fall below the prescribed low-water line of the boiler, and every person concerned therein, directly or indirectly, shall be guilty of a misdemeanor, and shall be fined $200, and may also be imprisoned not exceeding five years. (R. S. § 4437; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 40, 16 Stat. 452.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "inspectors" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 414. Records and reports of inspections and licenses.

Coast Guard officials shall keep a record of certificates of inspection of vessels, their boilers, engines, and machinery, and of all their acts in their examination and inspection of steamers, whether of approval or disapproval; and when a certificate of approval is recorded, the original shall be delivered to the collector or other chief officer of the customs of the district. They shall also keep a like record of all licenses granted to masters, mates, pilots, and engineers, and of all refusals of the same, of all suspensions and revocations of license, of all refusals, suspensions, or revocations of which they shall receive notices from other districts. They shall also keep an accurate account of every steamer boarded by them during the year, and of all their official acts and doings. (R. S. § 4457; Oct. 9, 1940, ch. 777, § 5, 54 Stat. 1028; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, §§ 13, 61, 16 Stat. 445, 457.

AMENDMENTS

1940—Act Oct. 9, 1940, deleted "certificates authorizing gunpowder to be carried as freight by any steamer carrying passengers, and of" in second sentence following "keep a like record of."

EFFECTIVE DATE AND SEPARABILITY OF 1940 AMENDMENT

Effective date and separability of act Oct. 9, 1940, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard officials" was substituted for "local inspectors" and provisions requiring reports of decisions, violations of law, and official acts and doings to the supervising inspectors were omitted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Appropriations, see section 170b of this title.

Certificate of inspection to be subscribed and filed, see section 399 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 170b of this title.

§ 415. Instruments, stationery, and printing for supervising inspectors and local boards.

CODIFICATION

Section, R. S. § 4460; acts Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to procurement of instruments and other office supplies for supervising inspectors and local boards of inspectors. Such offices and boards were abolished by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097. See note under section 1 of this title.

§ 416. Regulations.

The Commandant of the Coast Guard shall make such regulations as may be necessary to secure the proper execution and carry out the purposes of title 52 of the Revised Statutes, and sections 369 and 382b of this title. (R. S. § 4462; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1,

37 Stat. 736; May 27, 1936, ch. 463, § 7, 49 Stat. 1386; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 65, 16 Stat. 458.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903 and Mar. 4, 1913. See note under section 366 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

§§ 417 to 419. Omitted.

CODIFICATION

Section 417, act May 27, 1936, ch. 463, § 7, 49 Stat. 1386, related to rules and regulations, and is now covered by section 416 of this title.

Sections 418 and 419, act May 27, 1936, ch. 463, §§ 8, 9, 49 Stat. 1386, authorized appropriations to carry out sections 239, 369, 373—374a, 382b, 417—419 of this title and section 597a-1 of former Title 5 and repealed all laws or parts of laws inconsistent therewith.

PROCEDURE; DECISIONS AND REVIEW THEREOF

§§ 431 to 434. Omitted.

CODIFICATION

Sections 431—434 were superseded by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, which abolished the boards and offices to which these sections related. See note under former section 1 of this title.

Section 431, acts June 10, 1918, ch. 95, § 1, 40 Stat. 602; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for appeals from any decision or action of a board of local inspectors to the supervising inspector and from him to the Director of the Bureau of Marine Inspection and Navigation.

Section 432, acts June 10, 1918, ch. 95, § 2, 40 Stat. 603; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, provided for decision of disagreements between local inspectors by the supervising inspector and review of decisions and actions of the board of local inspectors by the supervising inspector and by the Director of the Bureau of Marine Inspection and Navigation.

Section 433, acts June 10, 1918, ch. 95, § 3, 40 Stat. 603; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, related to powers of the Director of the Bureau of Marine Inspection and Navigation and supervising inspectors in reviewing actions and decisions.

Section 434, act June 10, 1918, ch. 95, § 4, 40 Stat. 603, related to regulations for enforcement of former sections 431—433 of this title.

§ 435. Reinspections and notice for repairs; enforcement of requirements.

In addition to the annual or biennial inspection, the head of the department in which the Coast Guard is operating shall require the Coast Guard to examine, at proper times, inspected vessels arriving and departing to and from their respective ports, so often as to enable them to detect any neglect to comply with the requirements of law, and also any defects or imperfections becoming apparent after the inspection aforesaid, and tending to render the navigation of such vessels unsafe; and if there shall be discovered any omission to comply with the law, or that repairs have become necessary to make such vessel safe, the master shall at once be notified in writing as to what is required. All inspections and orders for repair shall be made promptly. When it can be done safely, repairs may be permitted to be made where those interested can most conveniently do them. And whenever it is ascertained that any vessel subject to the provisions of this title or Acts amendatory or supplementary thereto, has been or is being navigated or operated without complying with the terms of the vessel's certificate of inspection regarding the number and class of licensed officers and crew, or without complying with the provisions of law and her said certificate as to the number or kind of life-saving or fire-fighting apparatus, or without maintaining in good and efficient condition her lifeboats, fire pumps, fire hose, and life preservers, or that for any other reason said vessel cannot be operated with safety to life, the owner or master of said vessel shall be ordered to correct such unlawful conditions, and the vessel may be required to cease navigating at once and to submit to reinspection; and in case the said orders shall not at once be complied with, the vessel's certicate of inspection shall be revoked, and the owner, master, or agent of said vessel shall immediately be given notice, in writing, of such revocation; and no new certificate of inspection shall be again issued to her until the provisions of this title or Acts amendatory or supplementary thereto have been complied with. Any vessel subject to the provisions of this title or Acts amendatory or supplementary thereto operating or navigating or attempting to operate or navigate after the revocation of her certificate of inspection and before the issuance of a new certificate, shall, upon application by a department or agency charged with the enforcement of such title or Acts, to any district court of the United States having jurisdiction, and by proper order or action of said court in the premises, be seized summarily by way of libel and held without privilege of release by bail or bond until a proper certificate of inspection shall have been issued to said vessel: *Provided*, That the owner, master, or person in charge of any vessel whose certificate shall have been so revoked may within thirty days after receiving notice of such revocation appeal to the head of the department in which the Coast Guard is operating for a reexamination of the

case, and upon such appeal the said head of the department shall have power to revise, modify, or set aside such action of revocation, and direct the issuance to such vessel of her original certificate or of a new certificate of inspection; and in case the said head of the department shall so direct the issuance of a certificate, all judicial process against said vessel based on this section shall thereupon be of no further force or effect, and the vessel shall thereupon be released. (R.S. § 4453; Mar. 3, 1905, ch. 1454, § 2, 33 Stat. 1023; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 4, 1956, ch. 350, § 4, 70 Stat. 225.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 21, 16 Stat. 448.

REFERENCES IN TEXT

The words "this title" referred to in the text, in the expression "under this title or Acts amendatory or supplementary thereto", mean title 52 of the Revised Statutes. For distribution of title 52, sections 4399—4500, of the Revised Statutes, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Prior to incorporation in the Code, R.S. § 4453 was amended by act Mar. 3, 1905, which added after the words, "where those interested can most conveniently do them," at the end of the section as originally enacted, provisions for enforcement of compliance with the terms of the certificate of inspection and the provisions of law.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913. See note under section 362 of this title.

In the original text, the last clause of the first sentence read "he may apply for a reexamination of the case to the supervising inspector as provided in the preceding section." The preceding section, R.S. § 4452, was repealed by act June 10, 1918, ch. 95, § 5, 40 Stat. 603, but provision for reexamination by supervising inspectors was made by other sections of that act, incorporated as former sections 431—434 of this title.

AMENDMENTS

1956—Act June 4, 1956, amended section generally to reflect the changeover from an annual inspection to a biennial inspection of cargo ships, the transfer of Coast Guard functions to the head of the department in which the Coast Guard is operating, and certain other technical changes.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to local inspectors and supervising inspectors were changed to Coast Guard officials, "Commandant of the Coast Guard" was substituted for "Secretary of Commerce", and a provision at end of first sentence providing for application to the supervising inspector for reexamination of the requirements of local inspectors was omitted, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 399, 636 of this title.

§ 436. Penalty for failure to make repairs on notice.

If any master or owner of any inspected vessel shall refuse or neglect to comply with the requirements of the examining official, made in pursuance of section 435 of this title, and shall, contrary thereto and while the same remains unreversed, employ the vessel by navigating her, the master and owner shall be liable to a penalty of $500 for each offense, one-half for the use of the informer; for which sum the vessel itself shall be liable, and may be seized and proceeded against by libel in any district court having jurisdiction; and the master and owner, and the vessel itself, shall, in addition thereto, be liable for any damage to passengers and their baggage which shall occur from any defects as stated in the notice prescribed by section 435 of this title. (R. S. § 4454; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 4, 1956, ch. 350, § 5, 70 Stat. 226.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 21, 16 Stat. 448.

AMENDMENTS

1956—Act June 4, 1956, substituted the words "inspected vessel" for "steamer", and "examining" for "Coast Guard".

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard official" was substituted for "local inspectors", and phrase "by the supervising inspector" following "unreversed" was omitted, on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Misconduct or neglect of ship officers or owners causing death, punishment for, see section 1115 of Title 18, Crimes and Criminal Procedure.

§§ 437 to 440. Omitted.

CODIFICATION

Sections have been omitted from the Code for the reasons stated below.

Section 437, R. S. § 4455, related to the modification of actions of inspectors of one district by the inspectors of another district. The offices of the inspectors were abolished by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

Section 438, R. S. § 4456, related to inspections by local boards of inspectors in other districts not having boards. The boards were abolished by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

Section 439, R. S. § 4410; acts May 22, 1912, ch. 130, § 1, 37 Stat. 116; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380, related to reports by supervising inspectors and examination of actions of the inspectors and the local boards. The boards and offices were abolished by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

Section 440, R. S. § 4451; acts June 19, 1886, ch. 421, § 1, 24 Stat. 79; Apr. 4, 1888, ch. 61, § 2, 25 Stat. 80; May 28, 1896, ch. 252, § 6, 29 Stat. 179; Mar. 4, 1913, ch. 142, § 1, 37 Stat. 785, which related to payment of witness fees under section 239 of this title, was superseded by the amendment of that section by act May 27, 1936, ch. 463, § 4, 49 Stat. 1381.

OCEANOGRAPHIC RESEARCH VESSELS

§ 441. Exemption of oceanographic research vessels from inspection laws; definitions.

As used in sections 441 to 445 of this title—

(1) the term "oceanographic research vessel" means a vessel which the Secretary of the department in which the Coast Guard is operating finds is being employed exclusively in instruction in oceanography or limnology, or both, or exclusively in oceanographic research, including, but not limited to, such studies pertaining to the sea as seismic, gravity meter and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research;

(2) the term "scientific personnel" means persons who are aboard a vessel solely for the purpose of engaging in scientific research, instructing, or receiving instruction, in oceanography or limnology.

(Pub. L. 89-99, § 1, July 30, 1965, 79 Stat. 424.)

§ 442. Vessel not considered passenger vessel.

An oceanographic research vessel shall not be considered a passenger vessel, a vessel carrying passengers, or a passenger-carrying vessel under the provisions of the laws relating to the inspection and manning of merchant vessels by reason of the carriage of scientific personnel. (Pub. L. 89-99, § 2, July 30, 1965, 79 Stat. 424.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 441 of this title.

§ 443. Vessel not engaged in trade or commerce.

An oceanographic research vessel shall not be deemed to be engaged in trade or commerce. (Pub. L. 89-99, § 3, July 30, 1965, 79 Stat. 424.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 441 of this title.

§ 444. Scientific personnel not considered seamen.

Scientific personnel on an oceanographic research vessel shall not be considered seamen under the provisions of title 53 of the Revised Statutes and Act amendatory thereof or supplementary thereto. (Pub. L. 89-99, § 4, July 30, 1965, 79 Stat. 424.)

REFERENCES IN TEXT

Title 53 of the Revised Statutes, referred to in text, was comprised of sections 4501-4612 of the Revised Statutes and is now contained in sections 542a, 543, 545, 546, 561, 562, 564—571, 574—578, 591—597, 600, 660, 661—669, 674—679, 682—685, 701—703, 705—707, 709, 710 and 711—713 of this title. Sections 4602 and 4606 of the Revised Statutes, which were formerly classified to sections 704 and 708 of this title were repealed. See notes under such former sections 704 and 708.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 441 of this title.

§ 445. Exemption by regulation.

If the Secretary of the department in which the Coast Guard is operating determines that the application to any oceanographic research vessel of any provision of title 52 or title 53 of the Revised Statutes, or Acts amendatory thereof or supplementary thereto, is not necessary in the performance of the mission of the vessel, he may by regulation exempt any such vessel from such provision, upon such terms and conditions as he may specify. (Pub. L. 89-99, § 5, July 30, 1965, 79 Stat. 424.)

REFERENCES IN TEXT

Titles 52 and 53 of the Revised Statutes, referred to in text, were comprised of sections 4399—4500 and 4501—4612 of the Revised Statutes and are now contained in sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230—234, 239, 240, 361, 362, 364, 372, 375, 381, 391, 391a, 392, 393, 399, 400, 402—414, 416, 435, 436, 451—453, 460, 461, 462, 464, 467, 470—482, 489—498, 542a, 543, 545, 546, 561, 562, 564—571, 574—578, 591—597, 600, 660, 661—669, 674—679, 682—685, 701—703, 705—707, 709, 710 and 711—713 of this title. Sections 4602 and 4606 of the Revised Statutes, which were formerly classified to sections 704 and 708 of this title were repealed. See notes under such former sections 704 and 708.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 441 of this title.

Chapter 15.—TRANSPORTATION OF PASSENGERS AND MERCHANDISE BY STEAM VESSELS

Sec.
451. Number of passengers allowable.
452. Penalty for carrying too many passengers.
453. Special permit for excursions.
454. Regulations as to regattas or marine parades.
455. Enforcement of regulations; use of public or private vessels.
456. Transfer of authority to regulate to head of other department.
457. Penalties for violations of regulations.
458. Vessels on Great Lakes carrying persons not passengers.
459. Life preservers.
460. Count or list of passengers.
460a. Same; exemption of certain vessels.
461. Penalty for failure to keep list of passengers.
462. Recovery of penalties.
463 to 464. Repealed.
465. Dangerous articles not to be carried on passenger steamers; gasoline in automobiles; regulations.
466. Repealed.
466a. Rules as to accommodations for export animals.
466b. Violation of rules; penalty.
467. Discharge of petroleum at terminal ports.
468, 469. Repealed.
470. Watchmen on passenger steamers.
471. Punishment for failure to keep watchmen.
472. Repealed.
473. Steering, navigating, and signaling apparatus.
474 to 476. Repealed.
477. Stairways and gangways.
478. Accommodation of deck passengers.
479. Penalty for not providing proper accommodations for passengers.
480. River steamers to be anchored when navigation is unsafe.

Sec.
481. Regulations for vessels subject to Coast Guard.
(a) Lifesaving and firefighting equipment, muster lists, tackle and hawsers, bilge systems.
(b) Operation factors; foreign vessels; exemptions.
(c) Penalty for violation; libel.
(d) Penalty for manufacture or sale of defective equipment.
482. Water-tight bulkheads in lake steamers carrying passengers.
483. Water-tight bulkheads not required on certain steamers.
484 to 487. Repealed.
488. Substitute for second operator of radio apparatus on cargo steamers navigating the Great Lakes
489. Use of instruments for security of life to be approved.
490. Repealed.
491. Liability of master and owners for damage to passengers.
492. Copies of laws governing marine inspection to be kept on passenger vessels.
493. Name of steamer exhibited.
494. Duties of customs officers.
495. Penalty for omission of duty by customs officers.
496. Registry or enrollment denied to vessels not complying with law.
497. Penalty for failure to comply with provisions.
498. Penalty in cases not provided for.

CROSS REFERENCES

Rates—

Carriers to establish, observe, and enforce reasonable rates and regulations, see section 817 of this title.

Discriminatory rates prohibited; supervision by Federal Maritime Commission, see section 816 of this title.

Free transportation of Government personnel in American vessels prohibited; exceptions; reduction in Government rate; penalty, see section 817b of this title.

Reductions not to be increased without approval of Federal Maritime Commission, see section 818 of this title.

§ 451. Number of passengers allowable.

The Coast Guard officials shall state in every certificate of inspection granted to vessels carrying passengers, other than ferryboats, the number of passengers of each class that any such vessel has accommodation for and can carry with prudence and safety. They shall report their action to the Commandant of the Coast Guard, who may at any time order the number of such passengers decreased, giving his reasons therefor in writing, and thereupon the Coast Guard officials shall change the certificate of inspection of such vessel to conform with the decision of the Commandant of the Coast Guard. Whenever the allowance of passengers shall be increased by any Coast Guard officials such increase shall be reported to the Commandant of the Coast Guard, together with the reasons therefor, and such increase shall not become effective until the same has been approved in writing by the Commandant of the Coast Guard. (R. S. § 4464; Feb. 14, 1917, ch. 63, § 1, 39 Stat. 918; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 48, 16 Stat. 454.

CODIFICATION

R.S. § 4464, as originally enacted, read as follows: "The inspectors shall state in every certificate of inspection granted to steamers carrying passengers, other than ferryboats, the number of passengers of each class that any such steamer has accommodations for, and can carry with prudence and safety."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the board of local inspectors and the supervising inspector of the district were changed to Coast Guard officials and Commandant of the Coast Guard, respectively, on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§ 452. Penalty for carrying too many passengers.

It shall not be lawful to take on board of any vessel a greater number of passengers than is stated in the certificate of inspection, and for every violation of this provision the master or owner shall be liable to any person suing for the same to forfeit the amount of passage money and $10 for each passenger beyond the number allowed.

The master or owner of the vessel, or either or any of them, who shall knowingly violate this provision shall be liable to a fine of not more than $100 or imprisonment of not more than thirty days, or both. (R. S. § 4465; Feb. 14, 1917, ch. 63, § 2, 39 Stat. 918.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 48, 16 Stat. 454.

CODIFICATION

R.S. § 4465, prior to incorporation in the Code, was amended by act Feb. 14, 1917, which added the second par.

CROSS REFERENCES

Penalty as lien upon vessel, see section 462 of this title.

Petty offense defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 462 of this title.

§ 453. Special permit for excursions.

If any passenger vessel engages in excursions, the Coast Guard officials shall issue to such vessel a special permit, in writing, for the occasion, in which shall be stated the additional number of passengers that may be carried and the number and kind of life-saving appliances that shall be provided for the safety of such additional passengers; and they shall also, in their discretion, limit the route and distance for such excursions: *Provided, however,* That the issuance of such special permit shall be reported by the Coast Guard officials to the Commandant of the Coast Guard, and such special permit shall not be effective until approved by the said Commandant

of the Coast Guard. (R. S. § 4466; Feb. 14, 1917, ch. 63, § 3, 39 Stat. 918; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 48, 16 Stat. 454.

CODIFICATION

R.S. § 4466, prior to incorporation in the Code, was amended by act Feb. 14, 1917, which susbstituted "vessel" for "steamer" and "board of local inspectors" for inspectors," and added the proviso.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the board of local inspectors and the supervising inspector of the district were changed to Coast Guard officials and Commandant of the Coast Guard, respectively, on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§ 454. Regulations as to regattas or marine parades.

The Commandant of the Coast Guard is authorized and empowered in his discretion to issue from time to time regulations, not contrary to law, to promote the safety of life on navigable waters during regattas or marine parades. (Apr. 28, 1908, ch. 151, § 1, 35 Stat. 69; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor, should, thereafter, be called the Secretary of Commerce.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 455, 456, 457 of this title.

§ 455. Enforcement of regulations; use of public or private vessels.

To enforce such regulations the Commandant of the Coast Guard may detail any public vessel in the service of the Coast Guard and make use of any private vessel tendered gratuitously for the purpose, or upon the request of the Commandant of the Coast Guard the head of any other department may enforce the regulations issued under sections 454 and 456 of this title by means of any public vessel of such department and of any private vessel tendered gratuitously for the purpose. (Apr. 28, 1908, ch. 151, § 2, 35 Stat. 69; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913. See note under section 454 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and a reference to the Department of Commerce was changed to Coast Guard on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 456, 457 of this title.

§ 456. Transfer of authority to regulate to head of other department.

The authority and power bestowed upon the Commandant of the Coast Guard by sections 454 and 455 of this title may be transferred for any special occasion to the head of another department by the President whenever in his judgment such transfer is desirable. (Apr. 28, 1908, ch. 151, § 3, 35 Stat. 69; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913. See note under section 454 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 455, 457 of this title.

§ 457. Penalties for violations of regulations.

For any violation of regulations issued pursuant to sections 454 to 456 of this title the following penalties shall be incurred:

(a) A licensed officer shall be liable to suspension or revocation of license in the manner now prescribed by law for incompetency or misconduct.

(b) Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of $500.

(c) The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of $500, unless the violation of regulations shall have occurred without his knowledge.

(d) Any other person shall be liable to a penalty of $250.

The Commandant of the Coast Guard is authorized and empowered to mitigate or remit any penalty herein provided for in the manner prescribed by law for the migration or remission of penalties for violation of the navigation laws. (Apr. 28, 1908, ch. 151, § 4, 35 Stat. 69; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913. See note under section 454 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§ 458. Vessels on Great Lakes carrying persons not passengers.

Any steam vessel engaged in the business of towing vessels, rafts, or water craft of any kind, also steam vessels engaged in oyster dredging and planting, and fishing steamers engaged in food fishing on the Great Lakes and all other inland waters of the United States, and not carrying passengers, may be authorized and licensed by the Coast Guard to carry on board such number of persons, in addition to its crew, as the Coast Guard, in its judgment, shall deem necessary to carry on the legitimate business of such towing, oyster and fishing steamers, not exceeding, however, one person to every net ton of measurement of said steamer: *Provided, however,* That the person so allowed to be carried shall not be carried for hire. (July 9, 1886, ch. 755, § 1, 24 Stat. 129; Feb. 23, 1901, ch. 465, 31 Stat. 800; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

This section and section 459 of this title are from act Feb. 23, 1901. That act was entitled "An act to amend section forty-four hundred and twenty-seven, Title Fifty-Two, of the Revised Statutes, relating to inspectors of hulls and boilers." But the enacting clause and amendatory provisions of the Act began as follows: "Be it enacted, * * * That the amendment to section forty-four hundred and twenty-seven, approved July ninth, eighteen hundred and eighty-six, entitled 'An act relating to the licensing of vessels engaged in towing to carry persons in addition to their crews,' be amended to read as follows:"

The provisions which followed were substitutes for those of sections 1 and 2 of act July 9, 1886, and must be regarded as amendatory thereof, the subject-matter of neither act having any relation to the provisions of R.S. § 4427, mentioned in the title of the amendatory act.

Act July 9, 1886, referred to above, was as follows: "That any steam-vessel engaged in the business of towing vessels, rafts, or water-craft of any kind, and not carrying passengers, may be authorized and licensed by the supervising inspector of the district in which said steamer shall be employed, to carry on board such number of persons, in addition to its crew, as the supervising inspector in his judgment, shall deem necessary to carry on the legitimate business of such towing steamers, not exceeding, however, one person to every net ton of measurement of said steamer: Provided, however, That the person so allowed to be carried shall not be carried for hire."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies,

and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "supervising inspector of the district in which said steamer shall be employed" and for "supervising inspector" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 459 of this title.

§ 459. Life preservers.

Every steam vessel licensed under section 458 of this title shall carry and have on board, in accessible places, one life preserver for every person allowed to be carried, in addition to those provided for the crew of such vessel. (July 9, 1886, ch. 755, § 2, 24 Stat. 129; Feb. 23, 1901, ch. 465, 31 Stat. 801.)

CODIFICATION

Prior to incorporation in the Code, act Feb. 23, 1901, reenacted act July 9, 1886, without change. See note under section 458 of this title.

§ 460. Count or list of passengers.

The master of every passenger steamer shall keep a correct count of all the passengers received and delivered from day to day, which count shall be open to the inspection of the Coast Guard and officers of the customs at all times, and the aggregate number of passengers shall be furnished to the Coast Guard as often as called for: *Provided, however,* That a correct list of passengers received and delivered from day to day shall be kept, instead of a correct count, by the masters of seagoing passenger steamers in the coastwise trade and by the masters of passenger steamers on the Great Lakes on routes exceeding three hundred miles: *Provided further,* That nothing herein shall affect existing laws relative to vessels running between this country and foreign ports. (R. S. § 4467; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; May 28, 1908, ch. 212, § 3, 35 Stat. 425; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 49, 16 Stat. 454.

CODIFICATION

R.S. § 4467, as enacted in the Revised Statutes, was as follows: "The master of every passenger-steamer shall keep a correct list of all the passengers received and delivered from day to day, noting the places where received and where landed, which record shall be open to the inspection of the inspectors and officers of the customs at all times; and the aggregate number of passengers shall be furnished to inspectors as often as called for; but on routes not exceeding one hundred miles, the number of passengers, if kept, shall be sufficient."

It was amended by act Feb. 27, 1877, by substituting "open" for "opened" preceding "to the inspection".

It was again amended by act May 28, 1908, to read as set forth here.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to inspectors were changed to Coast Guard on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Steerage passengers, regulation of vessels carrying, see chapter 6 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 461 of this title.

§ 460a. Same; exemption of certain vessels.

Notwithstanding any provision of law to the contrary, no collector of customs shall require the master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel. (Aug. 7, 1946, ch. 783, 60 Stat. 883.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 461. Penalty for failure to keep list of passengers.

Every master of any passenger steamer who fails, through negligence or design, to keep a count or list of passengers as required by section 460 of this title shall be liable to a penalty of $100. (R. S. § 4468; May 28, 1908, ch. 212, § 4, 35 Stat. 425.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 49, 16 Stat. 454.

CODIFICATION

R.S. § 4468, prior to incorporation in the Code, was amended by act May 28, 1908, which inserted "count or" preceding "list of passengers".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 462 of this title.

§ 462. Recovery of penalties.

The penalties imposed by sections 452 and 461 of this title shall be a lien upon the vessel in each case; but a bond may, as provided in other cases, be given to secure the satisfaction of the judgment. (R. S. § 4469.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 49, 16 Stat. 454.

§§ 463 to 464. Repealed. Pub. L. 86-244, § 3(a) (1), (2), (8), Sept. 9, 1959, 73 Stat. 476.

Section 463, R.S. § 4470; act Mar. 3, 1905, ch. 1437, § 7, 33 Stat. 1031, related to requirements for steam smothering systems and is now covered by section 481(a) (2) of this title.

Section 463a, act Oct. 9, 1940, ch. 777, § 2(a), 54 Stat. 1028, related to precautions against fire and is now covered by section 481(a) (2) of this title.

Section 464, R.S. § 4471; acts June 30, 1906, ch. 3919, 34 Stat. 797; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; June 20, 1936, ch. 618, 49 Stat. 1540; July 5, 1937, ch. 438, 50 Stat. 477; Aug. 10, 1939, ch. 644, 53 Stat. 1344, required certain passenger steamers to be equipped with fire pumps and hose, and sprinkler systems, and is now covered by section 481 (a) (2), (b) (3) of this title.

§ 465. Dangerous articles not to be carried on passenger steamers; gasoline in automobiles; regulations.

CODIFICATION

Section has been transferred to section 170 of this title.

§ 466. Repealed. Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

Section, R. S. § 4473, imposed a penalty for unlawfully carrying cotton or hemp on a passenger steamer.

§ 466a. Rules as to accommodations for export animals.

The Secretary of Agriculture is authorized to examine all vessels which are to carry export cattle, horses, mules, asses, sheep, goats, or swine from the ports of the United States to foreign countries, and to prescribe by rules and regulations or orders the accommodations which said vessels shall provide for export cattle, horses, mules, asses, sheep, goats, or swine as to space, ventilation, fittings, food and water supply, and such other requirements as he may decide to be necessary for the safe and proper transportation and humane treatment of such animals. (Mar. 3, 1891, ch. 521, § 1, 26 Stat. 833; May 28, 1928, ch. 824, 45 Stat. 789.)

AMENDMENTS

1928—Act May 28, 1928, inserted references to horses. mules, asses, sheep. goats, or swine.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 466b of this title.

§ 466b. Violation of rules; penalty.

Whenever the owner, owners, or master of any vessel carrying export cattle, horses, mules, asses, sheep, goats, or swine shall willfully violate or cause or permit to be violated any rule, regulation, or order made pursuant to section 466a of this title the vessel in respect of which such violation shall occur may be prohibited from again carrying cattle, horses, mules, asses, sheep, goats, or swine from any port of the United States for such length of time, not exceeding one year, as the Secretary of Agriculture may direct, and such vessel shall be refused clearance from any port of the United States accordingly. (Mar. 3, 1891, ch. 521, § 2, 26 Stat. 833; May 28, 1928, ch. 824, 45 Stat. 790.)

AMENDMENTS

1928—Act May 28, 1928, inserted references to horses. mules, asses, sheep. goats, or swine.

§ 467. Discharge of petroleum at terminal ports.

When crude petroleum of a flash point not less than one hundred and fifty degrees Fahrenheit is carried in the double-bottom fuel tanks of steamers using the same for fuel, the crude petroleum carried in such tanks in excess of the necessities of the voyage may be discharged at terminal ports when no passengers are on board the ship. Crude petroleum carried and discharged under these conditions will not be considered stores or cargo within the contemplation of section 170 of this title, and will be considered as only for use as fuel within the contemplation of section 391a (1) of this title. (R. S. § 4474; Oct. 18, 1888, ch. 1197, 25 Stat. 564; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; July 17, 1914, ch. 146, 38 Stat. 511; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; Sept. 23, 1950, ch. 1002, 64 Stat. 981.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 4, 16 Stat. 442.

CODIFICATION

R.S. § 4474, prior to incorporation in the Code, was amended by act Oct. 18, 1888, which added a proviso authorizing the Secretary of Commerce to permit use of petroleum as fuel on steamers not carrying passengers without a certificate of the supervising inspector and a provision penalizing violations.

It was again amended by act July 17, 1914, which added proviso authorizing discharge of excess petroleum when no passengers are on board and provision that such discharged petroleum will not be considered stores or cargo.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" and "Department of Commerce" for "Treasury Department" to conform to act Feb. 14, 1903, which transferred the duties, etc., of the Secretary of the Treasury, relating to merchant vessels, to the Secretary of Commerce and Labor; and act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should thereafter be called the Secretary of Commerce.

AMENDMENTS

1950—Act Sept. 23, 1950, omitted provisions of this section requiring special licenses from the Coast Guard for use of petroleum for motive power, with imposition of a penalty for violation of any of the conditions imposed, and added the reference to section 391a (1) of this title.

TRANSFER OF FUNCTIONS

In former provisions of this section, references to the Secretary of Commerce were changed to Commandant of the Coast Guard, and "Coast Guard" was substituted for "supervising inspector of steamboats for the district wherein such vessel is registered", "Department of Commerce", and "supervising inspector of the district where the vessel is to be used", on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 468, 469. Repealed. Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

Sections, R. S. §§ 4475, 4476, related to the mode of packing and unlawful shipment of dangerous articles, and are now covered by section 170 of this title.

§ 470. Watchmen on passenger steamers.

Every steamer carrying passengers during the nighttime shall keep a suitable number of watchmen in the cabins, and on each deck, to guard against fire or other dangers, and to give alarm in case of accident or disaster. (R. S. § 4477.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 6, 16 Stat. 442.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 471 of this title.

§ 471. Punishment for failure to keep watchmen.

For any neglect to keep the watchmen required by section 470 of this title, the license of the officer in charge of the vessel for the time being shall be revoked; and every owner of such vessel who neglects or refuses to furnish the number of men necessary to keep watch as required, shall be fined $1,000. (R. S. § 4478.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 6, 16 Stat. 442.

§ 472. Repealed. Pub. L. 86-244, § 3(a)(3), Sept. 9, 1959, 73 Stat. 476.

Section, R.S. § 4479, required steam vessels to be provided with fire extinguishers and is now covered by section 481(a)(2) of this title.

§ 473. Steering, navigating, and signaling apparatus.

Every steamer carrying passengers shall be provided with such tiller ropes, tiller rods, or chains for the purpose of steering and navigating the vessel, and such bell pulls for signalizing the engineer from the pilot house, and such tubes or other arrangement to repeat back the signal to the pilot house, as may be prescribed by the Commandant of the Coast Guard. (R. S. § 4480; Mar. 3, 1905, ch. 1456, § 2, 33 Stat. 1028; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 10, 16 Stat. 443.

CODIFICATION

R.S. § 4480, prior to amendment by act Mar. 3, 1905, read as follows: "Every steamer carrying passengers shall be provided with wire tiller-ropes, or iron rods or chains, for the purpose of steering and navigating the vessel, and shall employ wire bell-pulls for signalizing the engineer from the pilot-house, together with tubes of proper size so arranged as to return the sound of the engine-bells to the pilot-house, or other arrangement to repeat back the signal. But on any such vessel navigated by the mariners' compass, so much of such wire rope or chain may be dispensed with and disused as shall influence or disturb the working of the compass."

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913. See note under section 454 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors, with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§§ 474 to 476. Repealed. Pub. L. 86-244, § 3(a) (4)—(6), Sept. 9, 1959, 73 Stat. 476.

Section 474, R.S. § 4481, required certain river steamers to carry boats and is now covered by section 481 (a)(1), (b)(3) of this title.

Section 475, R.S. § 4482; act June 4, 1956, ch. 349, 70 Stat. 223, related to the carriage of life preservers for passengers and crew on board river steamers and floats in lieu of life preservers and is now covered by section 481 (a)(1) of this title.

Section 476, R.S. § 4483; act Mar. 3, 1905, ch. 1456, § 3, 33 Stat. 1028, required certain river steamers to keep prescribed fire buckets and axes and is now covered by section 481(a)(2) of this title.

§ 477. Stairways and gangways.

Every steam vessel described in section 481 of this title carrying passengers on the main deck shall be provided with permanent stairways and other sufficient means, convenient to the passengers, for their escape to the upper deck, in case of the vessel sinking or of other accident endangering life; and in the stowage of freight upon such deck, where passengers are carried, gangways or passages, sufficiently large to allow persons to pass freely through them, shall be left open both fore and aft of the vessel, and also to and along the guards on each side. (R. S. § 4484.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 9, 16 Stat. 443.

CODIFICATION

"Section 481 of this title" was substituted for "section 474 of this title" on authority of section 3 (a)(4) and (b) of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed section 474 and deemed a reference to it in any other law as a reference to section 481. See References in Other Laws to Repealed Provisions note set out under section 481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 479 of this title.

§ 478. Accommodation of deck passengers.

The captain or mate of every steam vessel described in section 481 of this title carrying passengers upon the main deck shall assign to all deck passengers, when taking passage, the space on deck they may occupy during the voyage, and such space shall not thereafter be occupied by freight, nor overcrowded by other persons, nor shall freight be stowed about the boilers or machinery, in such a manner as to obstruct or prevent the engineer from readily attending to his duties. (R. S. § 4485.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 9, 16 Stat. 443.

CODIFICATION

"Section 481 of this title" was substituted for "section 474 of this title" on authority of section 3 (a)(4) and (b)

of Pub. L. 86-244, Sept. 9, 1959, 73 Stat. 476, which had repealed section 474 and deemed a reference to it in any other law as a reference to section 481. See References in Other Laws to Repealed Provisions note set out under section 481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 479 of this title.

§ 479. Penalty for not providing proper accommodations for passengers.

For every violation of the provisions of sections 477 and 478 of this title the owners of the vessel shall be punished by a fine of $300. (R. S. § 4486.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 9, 16 Stat. 443.

§ 480. River steamers to be anchored when navigation is unsafe.

On any steamers navigating rivers only, when, from darkness, fog, or other cause, the pilot or watch shall be of opinion that the navigation is unsafe, or, from accident to or derangement of the machinery of the boat, the chief engineer shall be of the opinion that the further navigation of the vessel is unsafe, the vessel shall be brought to anchor, or moored as soon as it can prudently be done: *Provided*, That if the person in command shall, after being so admonished by either of such officers, elect to pursue such voyage, he may do the same; but in such case both he and the owners of such steamer shall be answerable for all damages which shall arise to the person of any passenger, or his baggage, from such causes in so pursuing the voyage, and no degree of care or diligence shall in such case be held to justify or excuse the person in command or the owners. (R. S. § 4487.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 42, 16 Stat. 453.

§ 481. Regulations for vessels subject to Coast Guard.

(a) Lifesaving and firefighting equipment, muster lists, tackle and hawsers, bilge systems.

In order to provide against hazard to life and property, the Secretary of the Department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") shall prescribe such rules and regulations as may be necessary for vessels subject to inspection and certification by the United States Coast Guard with respect to the following matters:

(1) Lifesaving equipment, including, but not limited to, the number, type, size, capacity, details of construction, methods of operation, stowage, maintenance, manning, use, testing, and inspecting of such equipment, and drills and exercises necessary to assure proper functioning and use of such equipment.

(2) Firefighting equipment and precautionary measures guarding against fire, including, but not limited to, the number, type, size, capacity, details of construction, methods of operation, stowage, maintenance, manning, use, testing, and inspecting of such equipment, and drills and exercises necessary to assure proper functioning and use of such equipment.

(3) Muster lists, including, but not limited to, the posting of such lists, and prescribing the special duties to be performed by crew members in the event of emergency.

(4) Ground tackle and hawsers, including, but not limited to, the number, size, stowage, use, maintenance, manning, testing, and inspection.

(5) Bilge systems for the removal of liquid from the various parts of the vessel, including, but not limited to, design, installation, capacity, composition, functioning, manning, testing, and inspection.

(b) Operation factors; foreign vessels; exemptions.

(1) In prescribing rules and regulations pursuant to this section, the Secretary shall give consideration to the age, size, service, route, and other factors affecting the operation of the vessels.

(2) Unless otherwise prescribed by treaty or other international agreement, the rules and regulations prescribed by the Secretary pursuant to this section shall be applicable to all foreign vessels carrying passengers from ports of the United States.

(3) The Secretary may, upon his own motion, or upon the application of any interested party, determine that the application to any vessel of the rules and regulations prescribed pursuant to this section, or any part thereof, is not necessary in the public interest, and he may order such vessel exempt from their application upon such terms and conditions and for such periods of time as he may specify in the order.

(c) Penalty for violations; libel.

The owner or operator of any vessel who neglects or refuses to provide and equip his vessel with the lifesaving, firefighting, or other equipment, or take other measures required by the rules or regulations issued pursuant to this section shall be liable to the United States in a penalty of $1,000 for each such neglect or refusal for which sum the vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the violation; and any master or person in charge of such vessel who so defaults shall be liable to a penalty of $500.

(d) Penalty for manufacture or sale of defective equipment.

Any person who willfully and knowingly manufactures or sells, or offers for sale, or has in his possession with intent to sell, any lifesaving, firefighting, or other equipment subject to the provisions of title 52 of the Revised Statutes, as amended, which is so defective as to be inefficient to accomplish the purpose for which it is intended, shall be fined not more than $10,000 and may, in addition thereto, in the discretion of the Court, be imprisoned for a term not exceeding five years. (R.S. § 4488; Mar. 2, 1889, ch. 418, § 1, 25 Stat. 1012; Apr. 11, 1891, ch. 41, 51, 27 Stat. 16; Mar. 3, 1905, ch. 1454, § 3, 33 Stat. 1024; Mar. 4, 1915, ch. 153, § 14, 38 Stat. 1170; June 12, 1916, ch. 141, 39 Stat. 224; June 30, 1932, ch. 314, §§ 501, 502(b), 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; Aug. 10, 1939, ch. 643, 53 Stat. 1343; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Aug. 30, 1954, ch. 1076, § 1(29), 68 Stat. 968; Sept. 9, 1959, Pub. L. 86-244, § 1, 73 Stat. 475.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 52, 16 Stat. 455.

REFERENCES IN TEXT

For distribution of title 52, [sections 4399—4500] of the Revised Statutes, as amended, referred to in subsec. (d), of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4488, as enacted in the Revised Statutes, was as follows: "Every steamer navigating the ocean, or any lake, bay, or sound of the United States, shall be provided with such numbers of lifeboats, floats, rafts, life-preservers, and drags, as will best secure the safety of all persons on board such vessel in case of disaster; and every seagoing vessel carrying passengers, and every such vessel navigating any of the northern or northwestern lakes, shall have the lifeboats required by law, provided with suitable boat-disengaging apparatus, so arranged as to allow such boats to be safely launched while such vessels are under speed or otherwise, and so as to allow such disengaging apparatus to be operated by one person, disengaging both ends of the boat simultaneously from the tackles taken by which it may be lowered to the water. And the board of supervising inspectors shall fix and determine, by their rules and regulations, the kind of lifeboats, floats, rafts, life-preservers, and drags that shall be used on such vessels, and also the kind and capacity of pumps or other appliances for freeing the steamer from water in case of heavy leakage, the capacity of such pumps or appliances being suited to the navigation in which the steamer is employed."

It was amended by act Mar. 2, 1889, by inserting after the words "life-preservers," wherever they occurred, the words "line-carrying projectiles, and the means of propelling them."

It was again amended by act Mar. 3, 1905, principally by adding the following provisions: "Every vessel subject to the provisions of this title shall, while in operation, carry one life-preserver for each and every person allowed to be carried on said vessel by the certificate of inspection, including each member of the crew: Provided, however, That upon such vessels and under such conditions as are specified in section forty-four hundred and eighty-two floats may be substituted for life-preservers. Any person who willfully and knowingly manufactures or sells, or offers for sale, or has in his possession with intent to sell, life-preservers containing metal or other nonbuoyant material, for the purpose of increasing the weight thereof, or more metal or other such material than is reasonably necessary for the construction thereof, or who shall so manufacture, sell, offer for sale, or possess with intent to sell any other articles commonly used for preservation of life or the prevention of fire on board vessels subject to the provisions of this title, which articles shall be so defective as to be inefficient to accomplish the purposes for which they are respectively intended and designed, shall upon conviction, be fined not more than two thousand dollars, and may, in addition thereto, in the discretion of the court be imprisoned not exceeding five years."

It was again amended by act Mar. 4, 1915, by adding to the section as last amended all that part of the section as set forth here beginning with the words "The powers bestowed by this section upon the Board of Supervising Inspectors in respect of life-boats, floats," etc., to the end of the section, with the exception of the third and fourth subdivisions under the fourth subsection headed "Life Jackets and Life Buoys," which in said last-named amendment read as follows:

"Third. The minimum number of life buoys with which vessels are to be provided is fixed as follows:

"Length of the vessel under four hundred feet, minimum number of buoys, twelve; length of the vessel, four hundred and under six hundred feet, minimum number of buoys, eighteen; length of the vessel, six hundred and under eight hundred feet, minimum number of buoys, twenty-four; length of the vessel, eight hundred feet and over, minimum number of buoys, thirty.

"Fourth. All the buoys shall be fitted with beckets securely seized. At least one buoy on each side shall be fitted with a life line of at least fifteen fathoms in length. The number of luminous buoys shall not be less than one-half of the total number of lifebuoys, and in no case less than six. The lights shall be efficient self-igniting lights which can not be extinguished in water, and they shall be kept near the buoys to which they belong, with the necessary means of attachment."

The section was further amended by act June 12, 1916, by striking out the subdivisions above quoted and substituting therefor other subdivisions three and four, so as to make the section read as set forth here.

Section 2 of act Mar. 2, 1889, provided that the act should take effect Feb. 1, 1890. The amending Act was suspended for one year, by act Mar. 29, 1890, ch. 56, 26 Stat. 33; and the Secretary of the Treasury was authorized to suspend it for a further period of one year, by act Mar. 3, 1891, ch. 549, 26 Stat. 1083, so far as it related to steamers plying exclusively upon lakes or bays. The provision inserted by the amending act was repealed by act Apr. 11, 1892, in so far as it related to the carrying of the line-carrying projectiles, etc., on steamers plying exclusively upon any of the lakes, bays, or sounds of the United States. The repealing Act was as follows:

"Be it enacted, etc., That the provisions of an act entitled 'An act to amend sections forty-four hundred and eighty-eight and forty-four hundred and eighty-nine of the Revised Statutes, requiring life-saving appliances on steamers,' approved March second, eighteen hundred and eighty-nine, be, and the same are hereby, repealed so far as they relate to the carrying of line-carrying projectiles and the means of propelling them on steamers plying exclusively upon any of the lakes, bays, or sounds of the United States.

"Sec. 2. That nothing herein contained shall be construed to repeal or affect the provisions of said act so far as they apply to ocean-going steamers; and that all acts or parts of acts inconsistent with this be, and the same are hereby, repealed."

The amendatory act of Mar. 3, 1905, may be regarded as superseding, not only the prior amendatory act of Mar. 2, 1889, but also the repealing act of Apr. 11, 1892.

Provisions of the amendatory act of Mar. 4, 1915, omitted here, amended R.S. § 4463, incorporated as section 222 of this title, and repealed R.S. § 4489.

The section last mentioned, as amended by act Mar. 2, 1889, read as follows: "The owner of any such steamer who neglects or refuses to provide such lifeboats, floats, rafts, life-preservers, line-carrying projectiles, and the means of propelling them, drags, pumps, or appliances, as are, under the provisions of the preceding section, required by the board of supervising inspectors, and approved by the Secretary of the Treasury, shall be fined one thousand dollars."

AMENDMENTS

1959—Pub. L. 86-244 substituted provisions authorizing the Secretary of the Department in which the Coast Guard is operating to prescribe regulations governing life-saving equipment, firefighting equipment, muster lists, ground tackle, hawsers and bilge systems aboard vessels and to order exemptions therefrom, made the regulations applicable to foreign vessels unless otherwise prescribed by treaty or other international agreement, subjected the owner or operator of any vessel and the master or person in charge to civil penalties of $1,000 and $500, respectively, and prescribed fine and imprisonment, for statutory regulations as to life-saving appliances on ocean, lake, and sound steamers and foreign vessels and subjected the owner and master of a vessel to fines within limits of $500 to $5,000 and $50 to $500, respectively.

1954—Act Aug. 30, 1954 repealed the next to last paragraph appearing under the heading "Embarkation of the Passengers in the Lifeboats and Rafts" which required that all regulations authorized by this section be submitted to Congress as soon as practicable after being made.

1939—Act Aug. 10, 1939 amended first paragraph; first two sentences.

CONFLICTING PROVISIONS

Section 2 of Pub. L. 86-244 provided that: "To the extent that any existing provision of law, or any rule or regulation prescribed pursuant thereto, is in conflict with any provision of section 4488 of the Revised Statutes (46 U.S.C. 481), such section as amended by this

Act [this section], and the rules and regulations hereafter prescribed pursuant thereto, shall prevail."

REFERENCES IN OTHER LAWS TO REPEALED PROVISIONS

Section 3(b) of Pub. L. 86-244 provided that: "Any reference in any other law to any Act, or any part thereof, repealed by this Act [sections 396, 463—464, 472, 474—476 and 490 of this title repealed by subsec. (a)] shall be deemed as a reference to section 4488 of the Revised Statutes, as amended (46 U.S.C. 481) [this section]."

SAVINGS CLAUSE

Section 4 of Pub. L. 86-244 provided that: "Any rights or liabilities existing on the effective date of this Act [Sept. 9, 1959] shall not be affected by the enactment of this Act [amending this section and repealing sections 396, 463—464, 472, 474—476 and 490 of this title]. Any procedures or rules or regulations in effect on the effective date of this Act [Sept. 9, 1959] shall remain in effect until modified or superseded under the authority of this Act."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the Secretary of Commerce and the Board of Supervising Inspectors throughout this section were changed to Commandant of the Coast Guard, and provisions for approval of regulations by the Secretary of Commerce were omitted, on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5. Reference to Supervising Inspector General was changed to Director of the Bureau of Marine Inspection and Navigation and then to Commandant of the Coast Guard on authority of acts June 30, 1932, and May 27, 1936, and the Reorg. Plan. See note under former section 1 of this title.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1929

International Convention for Safety of Life at Sea, 1929, and enforcement thereof, see 54 Stat. Pt. 2, 1683, particularly Arts. 13—23 and Regulations XXIV—XL of the Treaty, and Ex. Ord. No. 7548, Feb. 5, 1937, 2 F.R. 307. See, also, References in Text note under section 170 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170b, 362, 397, 477, 478 of this title.

§ 482. Water-tight bulkheads in lake steamers carrying passengers.

Every seagoing steamer, and every steamer navigating the great northern or northwestern lakes, carrying passengers, the building of which has been completed after the 28th day of August, 1871, shall have not less than three water-tight cross bulkheads, such bulkheads to reach to the main deck in single-decked vessels, otherwise to the deck next below the main deck; to be made of iron plates, sustained upon suitable framework; and to be properly secured to the hull of the vessel. The position of such bulkheads and the strength of material of which the same shall be constructed shall be determined by the general rules of the Commandant of the Coast Guard. (R. S. § 4490; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 53, 16 Stat. 455.

CODIFICATION

R.S. § 4490, prior to incorporation in the Code, was amended by act Feb. 27, 1877, which substituted "carrying" for "carry" before "passengers."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervising Inspectors" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

CROSS REFERENCES

Water-tight bulkheads not required on steam vessels of one hundred tons or under engaged in coastwise bays and harbors, see section 483 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 483 of this title.

§ 483. Water-tight bulkheads not required on certain steamers.

Steam vessels of one hundred tons burden or under, engaged in the coastwise bays and harbors of the United States, may be licensed by the Coast Guard to carry passengers or excursions on the ocean or upon the Great Lakes of the North or Northwest, not exceeding fifteen miles from the mouth of such bays or harbors, without being required to have the three water-tight cross bulkheads provided by section 482 of this title for other passenger steamers: *Provided*, That in the judgment of the Coast Guard such steamers shall be safe and suitable for such navigation without danger to human life, and that they shall have one water-tight collision bulkhead not less than five feet abaft the stem of said steamer. (July 9, 1886, ch. 755, § 3, 24 Stat. 129; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to United States local inspectors of steam vessels were changed to Coast Guard on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§§ 484 to 487. Repealed. June 19, 1934, ch. 652, title VI, § 602 (e), as added May 20, 1937, ch. 229, § 15, 50 Stat. 17, and amended Aug. 13, 1954, ch. 735, § 5, 68 Stat. 729, eff. Nov. 13, 1954.

Sections are now covered by chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Section 484, acts June 24, 1910, ch. 379, § 1, 36 Stat. 629; July 23, 1912, ch. 250, § 1, 37 Stat. 199, related to radio-communication apparatus on vessels navigating the Great Lakes.

Sections 485 and 486, act June 24, 1910, ch. 379, §§ 2, 3, 36 Stat. 630, related to efficiency of radio apparatus, penalty for violations, and separate offenses.

Section 487, acts June 24, 1910, ch. 379, § 4, 36 Stat. 630; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 19, 1934, ch. 652, title I, § 1, title VI, § 604 (a), 48 Stat. 1064, 1103, related to regulations by Federal Communications Commission.

§ 488. Substitute for second operator of radio apparatus on cargo steamers navigating the Great Lakes.

CODIFICATION

Section, act July 23, 1912, ch. 250, § 2, 37 Stat. 200, which related to substitution for second radio operator referred to in section 484 of this title, was dependent for its existence on section 484 and was omitted because of the repeal of that section.

§ 489. Use of instruments for security of life to be approved.

No kind of instrument, machine, or equipment, for the better security of life, provided for by title 52 of the Revised Statutes, shall be used on any steam vessel which shall not first be approved by the Commandant of the Coast Guard. (R. S. § 4491; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 11, 16 Stat. 445.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury," to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See, note under section 467 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organizations and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Board of Supervisory Inspectors, and also by the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

§ 490. Repealed. Pub. L. 86-244, § 3(a)(7), Sept. 9, 1959, 73 Stat. 476.

Section, R.S. § 4492, provided that barges carrying passengers while in tow of any steamer shall be subject to the provisions of former sections 474—476 and 481 of this title relating to fire buckets, axes, life preservers, and yawls, and prescribed a penalty for violation thereof and is now covered by section 481 (a) (1), (2), (c) of this title.

§ 491. Liability of master and owners for damage to passengers.

Whenever damage is sustained by any passenger or his baggage, from explosion, fire, collision, or other cause, the master and the owner of such vessel, or either of them, and the vessel shall be liable to each and every person so injured, to the full amount of damage if it happens through any neglect or failure to comply with the provisions of title 52 of the Revised Statutes, or through known defects or imperfections of the steaming apparatus or of the hull; and any person sustaining loss or injury through the carelessness, negligence, or willful misconduct of any master, mate, engineer, or pilot, or his neglect or refusal to obey the laws governing the navigation of such steamers, may sue such master, mate, engineer, or pilot, and recover damages for any such injury caused by any such master, mate, engineer, or pilot. (R. S. § 4493.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 43, 16 Stat. 453.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CROSS REFERENCES

Owner's liability limited to proportion of any or all debts and liabilities that his individual share of vessels bears to the whole, see section 189 of this title.

§ 492. Copies of laws governing marine inspection to be kept on passenger vessels.

Every master or commander of any steam vessel carrying passengers shall keep on board of such vessel at least two copies of the provisions of title 52 of the Revised Statutes, to be furnished to him by the Commandant of the Coast Guard; and if the master or commander neglects or refuses to do so, or shall unreasonably refuse to exhibit a copy of the same to any passenger who asks for it, he shall be liable to a penalty of $20. (R. S. § 4494; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 50, 16 Stat. 455.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 467 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

CROSS REFERENCES

Motorboats exempt from carrying copies of pilot rules, see section 526k of this title.

§ 493. Name of steamer exhibited.

Every steam vessel of the United States, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in length, on each outer side of the pilot house, if it has such, and in case the vessel has side wheels, also on the outer side of each wheelhouse; and if any such steamboat be found without having her name placed as required, she shall be subject to the same penalty and forfeiture as provided by law in the case of a vessel of the United States found without having her name, and the name of the port to which she belongs, painted on her stern. (R. S. § 4495.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 50, 16 Stat. 455.

CROSS REFERENCES

Painting or marking names of vessels on stern, see section 46 of this title.

§ 494. Duties of customs officers.

All collectors, or other chief officers of the customs, and all inspectors within the several districts, shall enforce the provisions of title 52 of the Revised Statutes against all steamers arriving and departing. (R. S. § 4496.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 30, 16 Stat. 450.

REFERENCES IN TEXT

For distribution of Title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The offices of local inspectors were abolished and their inspection functions transferred to the Commandant of the Coast Guard by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 404, 495 of this title.

§ 495. Penalty for omission of duty by customs officers.

Every collector, or other chief officer of the customs, or inspector, who negligently or intentionally omits any duty under section 494 of this title, shall be liable to removal from office, and to a penalty of $100 for each offense, to be sued for in an action of debt. (R. S. § 4497.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 30, 16 Stat. 450.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix of Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The offices of local inspectors were abolished and their inspection junctions transferred to the Commandant of the Coast Guard by 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 404 of this title.

§ 496. Registry or enrollment denied to vessels not complying with law.

A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under title 52 of the Revised Statutes until all the provisions of such title applicable to such vessel have been fully complied with and until the copy of the certificate of inspection required by such title for such vessel has been filed with said collector or other chief officer of customs: *Provided,* That the license granted to any vessel, if presented to any collector of customs at any time within thirty calendar days prior to the date of expiration shown thereon, may be renewed by the endorsement by the collector of customs for a period of one year from the date of expiration shown on the license, if there be on file in the office of the collector at that time a copy of the certificate of inspection required by title 52 of the Revised Statutes, which is in force on the date renewal is made. (R. S. § 4498; Mar. 3, 1905, ch. 1457, § 9, 33 Stat. 1032; Mar 4, 1915, ch. 184, § 5, 38 Stat. 1218; June 2, 1939, ch. 168, 53 Stat. 798.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 1, 16 Stat. 440.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4498, as enacted in the Revised Statutes, was as follows: "No license, register, or enrollment shall be granted, nor any other papers be issued, by any collector or other chief officer of the customs, to any vessel propelled in whole or in part by steam, until he shall have satisfactory evidence that all the provisions of this title have been fully complied with."

It was amended by act Mar. 3, 1905, to read as follows: "A register, enrollment or license shall not be granted or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title until all the provisions of this title applicable to such vessel have been fully complied with and until the certificate of inspection required by this title for such vessel has been filed with said collector."

It was again amended by act Mar. 4, 1915, to require filing of copy of certificate of inspection and added provision for such filing with chief officer of customs.

AMENDMENTS

1939—Act June 2, 1939, added proviso relating to renewal of license.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The offices of local inspectors were abolished and their inspection functions transferred to the Commandant of the Coast Guard by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, set out in the Appendix to Title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 404 of this title.

§ 497. Penalty for failure to comply with provisions.

If any vessel propelled in whole or in part by steam be navigated without complying with the terms of title 52 of the Revised Statutes, the owner shall be liable to the United States in a penalty of $500 for each offense, one-half for the use of the informer, for which sum the vessel so navigated shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense. Persons or corporations chartering or engaging or contracting for the use of vessels subject to title 52 of the Revised Statutes under such terms and conditions that they have full and exclusive control of the management and operation of such vessels, shall be subject to the same penalties for violations of the provisions of title 52 of the Revised Statutes as are now imposed upon owners of vessels thereunder, and in such cases the owners shall not be liable to such penalties for such

violations by such charterers or contractors. (R. S. § 4499; Mar. 3, 1905, ch. 1454, § 4, 33 Stat. 1025.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 1, 16 Stat. 440.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CODIFICATION

R.S. § 4499, as enacted in the Revised Statutes, contained only the first sentence. The second sentence was added by act Mar. 3, 1905.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 404 of this title.

§ 498. Penalty in cases not provided for.

The penalty for the violation of any provision of title 52 of the Revised Statutes, not otherwise especially provided for, shall be a fine of $500, recoverable one-half for the use of the informer. (R. S. § 4500.)

DERIVATION

Act Feb. 28, 1871, ch. 100, § 68, 16 Stat. 458.

REFERENCES IN TEXT

For distribution of title 52, sections 4399—4500, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 170 of this title.

CROSS REFERENCES

Section as applicable to foreign private steam vessels, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 404 of this title.

Chapter 16.—REGULATION OF MOTORBOATS

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.
511 to 520. Repealed.
521, 522. Omitted.

SUBCHAPTER II.—MOTORBOAT ACT OF 1940

526. "Motorboat" defined; inspection.
526a. Classification of motorboats.
526b. Lights.
526c. Whistles or other sound-producing appliances.
526d. Bells.
526e. Life preservers, etc.
526f. Motorboats and small craft carrying passengers for hire; operators' licenses.
526g. Fire extinguishers.
526h. Exemption of racing outboard motorboats from requirement of sound and fire extinguishing equipment.
526i. Carburetor flame arrestors and backfire traps.
526j. Ventilation of engine and fuel compartment bilges on open vessels using volatile liquids as fuel.
526k. Carrying copies of pilot rules.
526l. Reckless or negligent operation of vessels; prohibition; accident assistance, information and report.
526m. Same; penalty.
526n. Same; arrest; procedure after arrest.
526o. Violations generally; penalties.
526p. Regulations; remission or mitigation of fines, penalties, etc.
526q. Application of other laws.
526r. Laws unaffected.
526s. Authorization of appropriations.
526t. Repealed.
526u. Application of subchapter; "State" defined.

SUBCHAPTER III.—FEDERAL BOATING PROGRAM OF 1958

Sec.
527. Definitions.
527a. Numbering of vessels.
(a) Exceptions.
(b) State or Federal system.
(c) Overall system; standards for approval of State system.
(d) Federal system.
(e) Duration of initial or renewal certificate under Federal system.
(f) Display of number.
(g) Size; availability for inspection, and documentary nature of certificate.
(h) Withdrawal of State system approval; notice.
527b. Federal numbering system; notice of transfer of interest, destruction or abandonment of vessel, change of address.
527c. Same; fees.
527d. Regulations; Federal numbering system exemptions.
527e. Violations generally.
(a) Penalties.
(b) Assessment and collection, remission or mitigation of penalties; discontinuance of prosecution.
(c) Inspection by Coast Guard.
527f. Declaration of policy.
527g. Publication of findings; public inspection.
527h. Enforcement provisions; State jurisdiction unimpaired; approval of State numbering system.

SUBCHAPTER I.—GENERAL PROVISIONS

§§ 511 to 519. Repealed. Apr. 25, 1940, ch. 155, § 19, 54 Stat. 167.

Sections, act June 9, 1910, ch. 268, §§ 1—9, 36 Stat. 462, 463, prescribed certain regulations and penalties in connection with the operation of motorboats, and is now covered by sections 526—526t of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 515—517 of this title became effective one year from Apr. 25, 1940.

§ 520. Repealed. May 10, 1956, ch. 258, § 6 (a), 70 Stat. 153.

Section, act Jan. 18, 1897, ch. 61, 29 Stat. 489, related to regulations as to certain vessels propelled by gas, fluid, naphtha, or electric motors, and is now covered generally by sections 390 to 390g of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

§§ 521, 522. Omitted.

CODIFICATION

Section 521, act Aug. 7, 1939, ch. 558, § 1, 53 Stat. 1257, omitted from the Code, related to exemption of outboard motorboats for racing from provisions of sections 514 and 516 of this title which have been repealed. See section 526h of this title.

Section 522, act Aug. 7, 1939, ch. 558, § 2, 53 Stat. 1257, which related to exempting motorboats from carrying copies of pilot rules, was omitted as superseded by section 526k of this title.

SUBCHAPTER II.—MOTORBOAT ACT OF 1940

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 527e of this title.

§ 526. "Motorboat" defined; inspection.

The word "motorboat" where used in this subchapter shall include every vessel propelled by machinery and not more than sixty-five feet in length

except tugboats and towboats propelled by steam. The length shall be measured from end to end over the deck, excluding sheer: *Provided*, That the engine, boiler, or other operating machinery shall be subject to inspection by the Coast Guard, and to its approval of the design thereof, on all said motorboats, which are more than forty feet in length, and which are propelled by machinery driven by steam. (Apr. 25, 1940, ch. 155, § 1, 54 Stat. 163; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to local inspectors of steam vessels were changed to Coast Guard on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

§ 526a. Classification of motorboats.

Motorboats subject to the provisions of this subchapter shall be divided into four classes as follows:

Class A. Less than sixteen feet in length.

Class 1. Sixteen feet or over and less than twenty-six feet in length.

Class 2. Twenty-six feet or over and less than forty feet in length.

Class 3. Forty feet or over and not more than sixty-five feet in length. (Apr. 25, 1940, ch. 155, § 2, 54 Stat. 163.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 526b, 526c, 526d of this title.

§ 526b. Lights.

Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(a) Every motorboat of classes A and 1 of section 526a of this title shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

(b) Every motorboat of classes 2 and 3 of section 526a of this title shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel; namely, from right ahead to two points abaft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

(c) Motorboats of classes A and 1 of section 526a of this title when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this section. Motorboats of classes 2 and 3 of section 526a of this title when so propelled, shall carry the colored side lights, suitably screened, but not the white lights, prescribed by this section. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(d) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subchapter, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(e) When propelled by sail and machinery any motor boat shall carry the lights required by this section for a motor boat propelled by machinery only.

(f) Any motor boat may carry and exhibit the lights required by the Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951 (65 Stat. 406—420), as amended, in lieu of the lights required by this section. (Apr. 25, 1940, ch. 155, § 3, 54 Stat. 164; June 4, 1956, ch. 353, §§ 1, 2, 70 Stat. 228.)

REFERENCES IN TEXT

Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951, referred to in subsec. (f), are classified to section 1051 et seq. of Title 33, Navigation and Navigable Waters, and to sections 1430 and 1509 of Title 49, Transportation.

AMENDMENTS

1956—Subsec. (c). Act June 4, 1956, § 1, required motorboats of classes A and 1, when propelled by sail alone, to carry the combined lantern but not the white light aft.

Subsec. (e) and (f) added by act June 4, 1956, § 2.

§ 526c. Whistles or other sound-producing appliances.

Every motorboat of class 1, 2, or 3 of section 526a of this title, shall be provided with an efficient whistle or other sound-producing mechanical appliance. (Apr. 25, 1940, ch. 155, § 4, 54 Stat. 164.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526h of this title.

§ 526d. Bells.

Every motorboat of class 2 or 3 of section 526a of this title shall be provided with an efficient bell. (Apr. 25, 1940, ch. 155, § 5, 54 Stat. 164.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526h of this title.

§ 526e. Life preservers, etc.

Every motorboat subject to any of the provisions of this subchapter and also all vessels propelled by machinery other than by steam more than sixty-five feet in length shall carry at least one life preserver, or life belt, or ring buoy, or other device of the sort prescribed by the regulations of the Commandant of the Coast Guard, for each person on board, so placed as to be readily accessible: *Provided,* That every such motorboat and every such vessel propelled by machinery other than by steam more than sixty-five feet in length carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the Commandant of the Coast Guard, for each person on board. (Apr. 25, 1940, ch. 155, § 6, 54 Stat. 164; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

EFFECTIVE DATE

Section 19 of act Apr. 25, 1940, provided that this section and sections 526f and 526g of this title should take effect one year from Apr. 25, 1940.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526o of this title.

§ 526f. Motorboats and small craft carrying passengers for hire; operators' licenses.

No such motorboat, and no other vessel of fifteen gross tons or less propelled by machinery other than steam, while carrying passengers for hire, shall be operated or navigated except in charge of a person duly licensed for such service by the Secretary of the department in which the Coast Guard is operating. Whenever any person applies to be licensed as operator of any motorboat, or of any other vessel of fifteen gross tons or less propelled by machinery, carrying passengers for hire, the Secretary shall make diligent inquiry as to his character, and shall carefully examine the applicant orally as well as the proofs which he presents in support of his claim, and if the Secretary is satisfied that his capacity, experience, habits of living, and character are such to warrant the belief that he can safely be entrusted with the duties and responsibilities of the station for which he makes application, the Secretary shall grant him a license authorizing him to discharge such duties on any such motorboat, or on any other vessel of fifteen gross tons or less propelled by machinery, carrying passengers for hire, for the term of five years. Such license shall be subject to suspension or revocation on the same grounds and in the same manner with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title: *Provided,* That motorboats and other vessels of fifteen gross tons or less propelled by machinery shall not be required to carry licensed officers except as required in this subchapter: *And provided further,* That licenses herein prescribed shall not be required of motorboats or of any other vessels of fifteen gross tons or less propelled by machinery engaged in fishing contests previously arranged and announced. (Apr. 25, 1940, ch. 155, § 7, 54 Stat. 165; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; May 10, 1956, ch. 258, § 6(c), 70 Stat. 154.)

AMENDMENTS

1956—Act May 10, 1956, extended its provisions to cover vessels of 15 gross tons or less propelled by machinery other than steam, and by making technical changes.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section effective on June 1, 1958, or on the first day of the sixth month following the prescription of rules and regulations by the Secretary under section 390b of this title, whichever is later, see note set out under section 390 of this title.

EFFECTIVE DATE

Section 19 of act Apr. 25, 1940, provided that this section and sections 526e and 526g of this title shall take effect one year from Apr. 25, 1940.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to local board of inspectors were changed to Coast Guard on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390 to 390g, 526o of this title.

§ 526g. Fire extinguishers.

Every motorboat and also every vessel propelled by machinery other than by steam more than sixty-five feet in length shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Commandant of the Coast Guard, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible. (Apr. 25, 1940, ch. 155, § 8, 54 Stat. 165; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

EFFECTIVE DATE

Section 19 of act Apr. 25, 1940, provided that this section and sections 526e and 526f of this title shall take effect one year from Apr. 25, 1940.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors. with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 526h, 526o of this title.

§ 526h. Exemption of racing outboard motorboats from requirement of sound and fire extinguishing equipment.

The provisions of sections 526c, 526d, and 526g of this title shall not apply to motorboats propelled by outboard motors while competing in any race previously arranged and announced or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race. (Apr. 25, 1940, ch. 155, § 9, 54 Stat. 165.)

§ 526i. Carburetor flame arrestors and backfire traps.

Every motorboat and also every vessel propelled by machinery other than by steam more than sixty-five feet in length shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Commandant of the Coast Guard: *Provided,* That this section shall apply only to such motorboats or vessels, the construction of which or the replacement of the engine or engines of which is commenced subsequent to April 25, 1940. (Apr. 25, 1940, ch. 155, § 10, 54 Stat. 165; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

§ 526j. Ventilation of engine and fuel compartment bilges on open vessels using volatile liquids as fuel.

Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by regulations of the Commandant of the Coast Guard for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases: *Provided,* That this section shall apply only to such motorboats or vessels, the construction or decking over of which is commenced subsequent to April 25, 1940. (Apr. 25, 1940, ch. 155, § 11, 54 Stat. 165; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "board of supervising inspectors with the approval of the Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

§ 526k. Carrying copies of pilot rules.

Motorboats shall not be required to carry on board copies of the pilot rules. (Apr. 25, 1940, ch. 155, § 12, 54 Stat. 166.)

§ 526*l*. Reckless or negligent operation of vessels; prohibition; accident assistance, information and report.

(a) No person shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, limb, or property of any person. To "operate" means to navigate or otherwise use a motorboat or a vessel.

(b) In the case of collision, accident, or other casualty involving a motorboat or other vessel subject to this subchapter, it shall be the duty of the operator, if and so far as he can do so without serious danger to his own vessel, or persons aboard, to render such assistance as may be practicable and necessary to other persons affected by the collision, accident, or casualty in order to save them from danger caused by the collision, accident, or casualty. He shall also give his name, address, and identification of his vessel to any person injured and to the owner of any property damaged. The duties imposed by this subsection shall be in addition to any duties otherwise provided by law.

(c) In the case of collision, accident, or other casualty involving a motorboat or other vessel subject to this subchapter, the operator thereof, if the collision, accident, or other casualty results in death or injury to any person, or damage to property in excess of $100, shall file with the Secretary of the Department within which the Coast Guard is operating, unless such operator is required to file an accident report with the State under section 527a(c)(6) of this title, a full description of the collision, accident, or other casualty, including such information as the Secretary may by regulation require. (Apr. 25, 1940, ch. 155, § 13, 54 Stat. 166; Sept. 2, 1958, Pub. L. 85-911, § 6(a), 72 Stat. 1756.)

AMENDMENTS

1958—Pub. L. 85-911 designated existing provisions as subsec. (a), defined the term "operate" therein, and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 526n, 527g of this title.

§ 526m. Same; penalty.

Any person who shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, limb, or property of any person shall be deemed guilty of a misdemeanor and on conviction thereof by any court of competent jurisdiction shall be punished by a fine not exceeding $2,000, or by imprisonment for a term of not exceeding one year, or by both such fine and imprisonment, at the discretion of the court. (Apr. 25, 1940, ch. 155, § 14, 54 Stat. 166.)

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526p of this title.

§ 526n. Same; arrest; procedure after arrest.

Any officer of the United States authorized to enforce the navigation laws of the United States, shall have power and authority to swear out process and to arrest and take into custody, with or without process, any person who may commit any act or offense prohibited by section 526*l* of this title, or who may violate any provision of said section: *Provided,* That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: *Provided, further,* That whenever an arrest is made under the provisions of this subchapter, the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offense alleged against him, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. (Apr. 25, 1940, ch. 155, § 15, 54 Stat. 166.)

§ 526*o*. Violations generally; penalties.

If any motorboat or vessel subject to any of the provisions of this subchapter is operated or navigated in violation of this subchapter or any regulation issued thereunder, the owner or operator, either one or both of them, shall, in addition to any other penalty prescribed by law be liable to a penalty of $100: *Provided,* That in the case of motorboats or vessels subject to the provisions of this subchapter carrying passengers for hire, a penalty of $200 shall be imposed on the owner or operator, either one or both of them, thereof for any violation of section 526e, 526f, or 526g of this title or of any regulations pertaining thereto. For any penalty incurred under this section the motorboat or vessel shall be held liable and may be proceeded against by way of libel in the district court of any district in which said motorboat or vessel may be found. (Apr. 25, 1940, ch. 155, § 16, 54 Stat. 166; Sept. 2, 1958, Pub. L. 85-911, § 6(b), 72 Stat. 1756.)

AMENDMENTS

1958—Pub. L. 85-911 deleted the phrase "than that contained in section 526m of this title" following "prescribed by law".

§ 526p. Regulations; remission or mitigation of fines, penalties, etc.

The Commandant of the Coast Guard shall establish all necessary regulations required to carry out in the most effective manner all of the provisions of this subchapter, and such regulations shall have the force of law. The Commandant of the Coast Guard or any officer of the Coast Guard authorized by the Commandant may, upon application therefor, remit or mitigate any fine, penalty, or forfeiture incurred under this subchapter or any regulation thereunder relating to motorboats or vessels, except the penalties provided for in section 526m of this title. The Commandant of the Coast Guard shall establish such regulations as may be necessary to secure the enforcement of the provisions of this subchapter by any officer of the United States authorized to enforce the navigation laws of the United States. (Apr. 25,

1940, ch. 155, § 17, 54 Stat. 166; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the board of supervising inspectors and to the Secretary of Commerce were changed to Commandant of the Coast Guard, reference to Department of Commerce was changed to Coast Guard, and provisions for approval of regulations by the Secretary of Commerce were omitted on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

§ 526q. Application of other laws.

The proviso contained in the last paragraph of section 223 of this title shall apply also with like force and effect to motorboats as defined in this subchapter.

Motorboats as defined in this subchapter are exempted from the provisions of section 361 of this title. (Apr. 25, 1940, ch. 155, § 18, 54 Stat. 166.)

§ 526r. Laws unaffected.

Nothing in this subchapter shall be deemed to alter or amend section 367 or 391a of this title, or repeal Acts of Congress or treaties embodying or revising international rules for preventing collisions at sea. (Apr. 25, 1940, ch. 155, § 19, 54 Stat. 167.)

§ 526s. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter. (Apr. 25, 1940, ch. 155, § 20, 54 Stat. 167.)

§ 526t. Repealed. Pub. L. 85-911, § 12, Sept. 2, 1958, 72 Stat. 1758, eff. Apr. 1, 1960.

Section, act Apr. 25, 1940, ch. 155, § 21, 54 Stat. 167, related to necessity of keeping on board certificate of award of number and is now covered by section 527a(g) of this title.

§ 526u. Application of subchapter; "State" defined.

(a) This subchapter shall apply to every motorboat or vessel on the navigable waters of the United States, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia, and every motorboat or vessel owned in a State and using the high seas.

(b) As used in this subchapter—

The term "State" means a State of the United States, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia. (Apr. 25, 1940, ch. 155, § 22, as added Sept. 2, 1958, Pub. L. 85-911, § 6(c), 72 Stat. 1756, and amended Mar. 28, 1960, Pub. L. 86-396, 74 Stat. 10.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-396 substituted "Guam, the Virgin Islands, the Commonwealth of Puerto Rico," for "its Territories."

Subsec. (b). Pub. L. 86-396 substituted "Guam, the Virgin Islands, the Commonwealth of Puerto Rico" for "a Territory of the United States."

SUBCHAPTER III.—FEDERAL BOATING PROGRAM OF 1958

§ 527. Definitions.

As used in this subchapter—

(1) The term "undocumented vessel" means any vessel which is not required to have, and does not have, a valid marine document issued by the Bureau of Customs.

(2) The word "vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(3) The word "Secretary" means the Secretary of the Department in which the Coast Guard is operating.

(4) The word "owner" means the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(5) The term "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia. (Pub. L. 85-911, § 2, Sept. 2, 1958, 72 Stat. 1754; Pub. L. 87-171, § 1 (1), Aug. 30, 1961, 75 Stat. 408.)

AMENDMENTS

1961—Par. (5). Pub. L. 87-171 substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam" for "a Territory of the United States."

EFFECTIVE DATE

Section 11 of Pub. L. 85-911 provided that:

"(a) Except section 3(d) [section 527a(d) of this title], this Act shall take effect on the date of its enactment [Sept. 2, 1958].

"(b) Section 3(d) of this Act [section 527a(d) of this title] shall take effect April 1, 1960."

SHORT TITLE

Section 1 of Pub. L. 85-911 provided that Pub. L. 85-911, enacting this subchapter, adding section 526u, amending sections 526*l* and 526o, and repealing, eff. Apr. 1, 1960, sections 288 and 526t of this title, should be popularly known as the "Federal Boating Act of 1958."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later tha December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were

already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 527a. Numbering of vessels.

(a) Exceptions.

Every undocumented vessel propelled by machinery of more than 10 horsepower, whether or not such machinery is the principal source of propulsion, using the navigable water of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia, and every such vessel owned in a State and using the high seas, shall be numbered in accordance with this subchapter, except—

(1) foreign vessels temporarily using the navigable waters of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia;

(2) public vessels of the United States;

(3) State and municipal vessels;

(4) ships' lifeboats; and

(5) vessels designated by the Secretary under section 527d(b) of this title.

(b) State or Federal system.

The owner of an undocumented vessel required to be numbered under subsection (a) of this section shall secure a number for such vessel in the State in which it is principally used, in accordance with the State numbering system approved by the Secretary in accordance with subsection (c) of this section, or if no such numbering system has been approved by the Secretary for the State where such vessel is principally used, shall secure a number for such vessel in accordance with subsection (d) of this section.

(c) Overall system; standards for approval of State system.

The Secretary shall establish an overall numbering system for the numbering of vessels required to be numbered under subsection (a) of this section. He shall approve any State system for numbering vessels which is submitted to him which meets the standards set forth below:

(1) The system of numbering shall be in accordance with the overall system of numbering established by the Secretary.

(2) The certificate of number and the number awarded shall be valid for a period not exceeding three years, unless canceled or surrendered, and may be renewed for additional periods.

(3) The number awarded shall be required to be painted on, or attached to, each side of the bow of the vessel for which it was issued, and shall be of such size, color, and type, as may be prescribed by the Secretary. No other number shall be permitted to be carried on the bow of such vessel.

(4) The certificate of number shall be pocket size and shall be required to be at all times available for inspection on the vessel for which issued, whenever such vessel is in use.

(5) The owner shall be required to furnish to a designated State official, notice of the transfer of all or any part of his interest in any numbered vessel, and of the destruction or abandonment of such vessel, within a reasonable time thereof. The owner shall be required to notify a designated State official of any change in his address within a reasonable time of such change.

(6) The State shall require that reports be made to it of accidents involving vessels numbered by it under its numbering system, and shall compile and transmit to the Secretary such statistics on such accidents.

(7) The State shall recognize the validity of a number awarded to any vessel by another State under a numbering system approved by the Secretary under this subchapter, or awarded a number by the Secretary, for a period of at least ninety days.

(8) In the case of a State having its numbering system approved after April 1, 1960, such State shall accept and recognize any valid certificate of number awarded under subsection (d) of this section for so long as such certificate would otherwise be valid under such subsection (d), except that where such a certificate would remain valid for more than one year after the date when such State's numbering system was approved, the State may accept and recognize the validity of such certificate for a lesser period, but such period shall not end sooner than one year from the date of approval of such system.

(9) The State may exempt any vessel or class of vessels from the numbering provisions of its system if such vessel or class of vessels has been made exempt from the numbering provisions of subsection (d) of this section by the Secretary under section 527d(b) of this title.

(10) The States may charge fees in connection with the award of certificates of number and renewals thereof.

(11) The States may require that the operator of a vessel required to be numbered hereunder shall hold a valid safety certificate to be issued under such terms and conditions as may be provided by State law.

(d) Federal system.

The owner of an undocumented vessel required to be numbered under subsection (a) of this section who uses his vessel principally in a State which does not have a numbering system approved by the Secretary under subsection (c) of this section, shall make application to the Secretary, and upon payment of the fee established under section 527c of this title, such owner shall be granted a certificate of number containing the number awarded such vessel by the Secretary.

(e) Duration of initial or renewal certificate under Federal system.

The certificate of number initially awarded to an owner under subsection (d) of this section shall be valid for three years from the date of the owner's birthday next occurring after the date the certificate of number is issued, unless surrendered or canceled pursuant to regulations of the Secretary. If at the end of such period such ownership has remain[1] unchanged, such owner shall, upon application and payment of the fee established under

[1] So in original. Probably should read "remained".

section 527c of this title, be granted a renewal of such certificate of number for an additional three-year period.

(f) Display of number.

The number awarded under subsection (c) or (d) of this section shall be painted on, or attached to, each side of the bow of the vessel for which it was issued, and shall be of such size, color, and type as may be prescribed by the Secretary. No other number shall be carried on the bow of such vessel.

(g) Size; availability for inspection, and documentary nature of certificate.

The certificate of number granted under subsection (c) or (d) of this section shall be pocket size and shall be required to be at all times available for inspection on the vessel for which issued whenever such vessel is in use, and shall constitute a document in lieu of a marine document that sets forth an official number issued by the Bureau of Customs.

(h) Withdrawal of State system approval; notice.

Whenever the Secretary determines that a State is not administering its approved system for numbering vessels in accordance with the standards set forth under subsection (c) of this section, he may withdraw such approval. The Secretary shall not withdraw his approval of a State system of numbering until he has given notice in writing to the State setting forth specifically wherein the State has failed to maintain such standards. (Pub. L. 85-911, § 3, Sept. 2, 1958, 72 Stat. 1754; Pub. L. 87-171, § 1(2), Aug. 30, 1961, 75 Stat. 408.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-171 substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam" for "its Territories", wherever appearing.

EFFECTIVE DATE

Section, except. subsec. (d), effective Sept. 2, 1958, and subsec. (d), effective Apr. 1, 1960, see note under section 527 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 526*l*, 527b, 527c, 527d, 527e, 527g, 527h of this title.

§ 527b. Federal numbering system; notice of transfer of interest, destruction or abandonment of vessel, change of address.

The owner of any vessel numbered under section 527a(d) of this title shall furnish to the Secretary notice of the transfer of all or any part of his interest in any numbered vessel, and of the destruction, or abandonment of such vessel, within a reasonable time thereof. The owner shall notify the Secretary of any change in his address within a reasonable time of such change. (Pub. L. 85-911, § 4, Sept. 2, 1958, 72 Stat. 1756.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 527e of this title.

§ 527c. Same; fees.

The Secretary may prescribe reasonable fees or charges for the numbering of a vessel, or renewal thereof, under subsections (d) and (e) of section 527a of this title. (Pub. L. 85-911, § 5, Sept. 2, 1958, 72 Stat. 1756.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 527a of this title.

§ 527d. Regulations; Federal numbering system exemptions.

(a) The Secretary shall make such rules and regulations as may be necessary to carry out the provisions of this subchapter: *Provided,* That such rules and regulations shall be submitted to the Speaker of the House and the President of the Senate when Congress is in session, and shall not become effective until sixty days thereafter.

(b) The Secretary may, from time to time, and for such periods as he may prescribe, exempt any vessel or class of vessels from the numbering provisions of subsection (d) of section 527a of this title. (Pub. L. 85-911, § 7, Sept. 2, 1958, 72 Stat. 1757.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 527a, 527e of this title.

§ 527e. Violations generally.

(a) Penalties.

Whoever being the owner of a vessel required to be numbered under this subchapter, violates section 527a or 527b of this title, or regulations established by the Secretary under section 527d of this title, shall be liable to a penalty of $50 for each violation. Whoever operates a vessel in violation of section 527a of this title, or regulations established by the Secretary under section 527d of this title, shall be liable to a penalty of $50 for each violation.

(b) Assessment and collection, remission or mitigation of penalties; discontinuance of prosecution.

The Secretary may assess and collect any penalty incurred under this subchapter or any regulations prescribed pursuant to section 527d of this title. The Secretary may, in his discretion, remit or mitigate any penalty imposed under this section, or discontinue prosecution therefor on such terms as he may deem proper.

(c) Inspection by Coast Guard.

Commissioned, warrant, and petty officers of the Coast Guard may board any vessel required to be numbered under this subchapter at any time such vessel is found upon the navigable waters of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia, or on the high seas, address inquiries to those on board, require appropriate proof of identification therefrom, examine the certificate of number issued under this subchapter, or in the absence of such certificate require appropriate proof of identification of the owner of the vessel, and, in addition, examine such vessel for compliance with this subchapter, subchapter II of this chapter, and the applicable rules of the road. (Pub. L. 85-911, § 8, Sept. 2, 1958, 72 Stat. 1757; Pub. L. 87-171, § 1(2), Aug. 30, 1961, 75 Stat. 408.)

AMENDMENTS

1961—Subsec. (c). Pub. L. 87-171 substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam" for "its Territories."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary

of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 527f. Declaration of policy.

It is declared to be the policy of Congress to encourage uniformity of boating laws, rules, and regulations as among the several States and the Federal Government to the fullest extent practicable, subject to reasonable exceptions arising out of local conditions. In the interest of fostering the development, use, and enjoyment of all the waters of the United States it is further declared to be the policy of the Congress hereby to encourage the highest degree of reciprocity and comity among the several jurisdictions. The Secretary, acting under the authority of section 141 of Title 14 shall to the greatest possible extent enter into agreements and other arrangements with the States to insure that there shall be the fullest possible cooperation in the enforcement of both State and Federal statutes, rules, and regulations relating to recreational boating. (Pub. L. 85-911, § 9, Sept. 2, 1958, 72 Stat. 1757.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 527h of this title.

§ 527g. Publication of findings; public inspection.

The Secretary is authorized and directed to compile, analyze, and publish, either in summary or detailed form, the information obtained by him from the accident reports transmitted to him under section 527a(c)(6), and under section 526*l*(c) of this title, together with such findings concerning the causes of such accidents and such recommendations for their prevention as he may deem necessary. Such information shall be made available for public inspection in such manner as the Secretary may deem practicable. (Pub. L. 85-911, § 10, Sept. 2, 1958, 72 Stat. 1757.)

§ 527h. Enforcement provisions; State jurisdiction unimpaired; approval of State numbering system.

The applicability and the jurisdiction for enforcement, upon the navigable waters of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia, of the laws of the United States and of any State which require the numbering and otherwise regulate the use of undocumented vessels, shall be as follows:

(1) Such laws of the United States shall be applicable and enforced on such waters by law enforcement officers of the United States.

(2) Such laws of any State in a State having a numbering system approved by the Secretary under section 527a(c) of this title shall be applicable and enforced on such waters by law enforcement officers of the State or by law enforcement officers of the appropriate subdivisions of the State.

(3) Nothing herein shall preclude enforcement of State or Federal laws pursuant to agreements or other arrangements entered into between the Secretary and any State within the contemplation of section 527f of this title.

(4) Nothing herein shall interfere with, abrogate or limit the jurisdiction of any State: *Provided, however,* That the Secretary shall not approve any State system for numbering which does not fully comply with the standards set forth in section 527a(c) of this title.

(Pub. L. 85-911, § 13, Sept. 2, 1958, 72 Stat. 1758; Pub. L. 87-171, § 1(2), Aug. 30, 1961, 75 Stat. 408.)

AMENDMENTS

1961—Pub. L. 87-171 substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam" for "its Territories."

Chapter 17.—REGULATION OF FISHING VOYAGES

Sec.
531. Agreement for fishing voyage.
532. Penalty for violating agreement.
533. Recovery of shares of fish under agreement.
534. Discharge of vessel on bond by owner.

§ 531. Agreement for fishing voyage.

The master of any vessel of the burden of twenty tons or upward, qualified according to law for carrying on the bank and other cod fisheries, or the mackerel fishery, bound from a port of the United States to be employed in any such fishery, at sea, shall, before proceeding on such fishing voyage, make an agreement in writing with every fisherman who may be employed therein, except only an apprentice or servant of himself or owner, and, in addition to such terms of shipment as may be agreed on, shall, in such agreement, express whether the same is to continue for one voyage or for the fishing season, and shall also express that the fish or the proceeds of such fishing voyage or voyages which may appertain to the fishermen shall be divided among them in proportion to the quantities or number of such fish which they may respectively have caught. Such agreement shall be indorsed or countersigned by the owner of such fishing vessel or his agent. (R. S. § 4391.)

DERIVATION

Acts June 19, 1813, ch. 2, § 1, 3 Stat. 2; Mar. 3, 1865, ch. 117, 13 Stat. 535.

CROSS REFERENCES

Licensing vessels for carrying on the coasting trade or fisheries, see section 251 et seq. of this title.

Waiver of compliance with navigation and vessel inspection laws for defense purposes, see note preceding former section 1 of this title.

§ 532. Penalty for violating agreement.

If any fisherman, having engaged himself for a voyage or for the fishing season in any fishing vessel and signed an agreement therefor, thereafter and while such agreement remains in force and to be performed deserts or absents himself from such vessel without leave of the master thereof, or of the owner or his agent, such deserter shall be liable to the same penalties as deserting seamen are subject to in the merchant service, and may in the like manner, and upon the like complaint and proof, be apprehended and detained; and all costs of process and commitment, if paid by the master or owner, shall be deducted out of the share of fish or proceeds of any fishing voyage to which such deserter had or shall become entitled. Every fisherman, having so engaged himself, who during such fishing voyage refuses or neglects his proper duty on board the fishing vessel, being thereto ordered or required by the

master thereof, or otherwise resists his just commands to the hinderance or detriment of such voyage, besides being answerable for all damages arising thereby, shall forfeit to the use of the owner of such vessel his share of any public allowance which may be paid upon such voyage. (R. S. § 4392.)

DERIVATION

Act June 19, 1813, ch. 2, § 1, 3 Stat. 2.

CROSS REFERENCES

Penalty for desertion by seamen in merchant service, see sections 576 and 701 of this title.

§ 533. Recovery of shares of fish under agreement.

Whenever an agreement or contract is so made and signed for a fishing voyage or for the fishing season, and any fish caught on board such vessel during the same are delivered to the owner or to his agent, for cure, and sold by such owner or agent, such vessel shall, for the term of six months after such sale, be liable for the master's and every other fisherman's share of such fish, and may be proceeded against in the same form and to the same effect as any other vessel is by law liable, and may be proceeded against for the wages of seamen or mariners in the merchant service. Upon such proceeding for the value of a share or shares of the proceeds of fish so delivered and sold it shall be incumbent on the owner or his agent to produce a just account of the sales and division of such fish according to such agreement or contract; otherwise the vessel shall be answerable upon such proceeding for what may be the highest value of the shares demanded. But in all cases the owner of such vessel or his agent, appearing to answer in such proceeding, may offer thereupon his account of general supplies made for such fishing voyage and of other supplies therefor made to either of the demandants, and shall be allowed to produce evidence thereof in answer to their demands respectively; and judgment shall be rendered upon such proceeding for the respective balances which upon such an inquiry shall appear. (R. S. § 4393.)

DERIVATION

Act June 19, 1813, ch. 2, § 2, 3 Stat. 2.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 534 of this title.

§ 534. Discharge of vessel on bond by owner.

When process shall be issued against any vessel so liable, if the owner thereof or his agent will give bond to each fisherman in whose favor such process shall be instituted, with sufficient security, to the satisfaction of two justices of the peace, of whom one shall be named by such owner or agent, and the other by the fisherman or fishermen pursuing such process, or if either party shall refuse, then the justice first appointed shall name his associate, with condition to answer and pay whatever sum shall be recovered by him or them on such process, there shall be an immediate discharge of such vessel. Nothing in this section or section 533 of this title shall prevent any fisherman from having his action at common law for his share or shares of fish or the proceeds thereof. (R. S. § 4394.)

DERIVATION

Act June 19, 1813, ch. 2, § 2, 3 Stat. 2.

Chapter 18.—MERCHANT SEAMEN

SHIPPING COMMISSIONERS

Sec.
541. Repealed.
542. Bond and oath.
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543. When officers of customs shall act.
544. Vessels in coastwise trade.
545. Duties.
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562. Indenture of apprentice to be produced; assignment.
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564. Shipping articles.
565. Rules for shipping articles.
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568. Penalty for knowingly shipping seamen without articles.
569. Shipping seamen to replace those lost by desertion or casualty.
570. Shipping seamen in foreign ports.
571. Penalty for violating section 570 of this title.
572. Voyage or term for which seamen may be shipped; reshipment.
573. Voyage or term of seamen shipped in foreign port; reshipment; bond.
574. Shipping articles for vessels in coasting trade.
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642. Accounting as to wages.
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(a) Issuance; form and contents.
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Sec.
643. Continuous discharge book and certificate of identification—Continued
(d) Entries.
(e) Certificate of discharge; issuance; form and contents.
(f) Records of discharge books and certificates.
(g) Election to carry discharge book or certificate; penalty for discrimination because of.
(h) Loss of discharge book or certificate.
(i) Application to fishing or whaling vessels or yachts.
(j) Enforcement by Commandant of the Coast Guard.
(k) Performance of duties by collector, deputies, or masters.
(*l*) Report by master of employment or discharge of seaman not shipped or discharged before Coast Guard official.
643a. Same; exception as to unrigged vessels.
643b. Same; extension of section 643 (*l*) to other vessels and waters in national interest.
644. Rules for settlement.
645. Certificate of character.
646. Discharge of crews in coastwise trade.

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651. Coast Guard official as arbiter.
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653. Complaint that vessel is unseaworthy.
654. Proceedings on examination of vessel.
655. Refusal to proceed when vessel found seaworthy.
656. Appointment of inspectors by consul in foreign port.
657. Report of inspectors.
658. Discharge of crew on account of unseaworthiness; penalty for sending unseaworthy vessel to sea.
659. Payment of charges for inspection.
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660–1. Space and accommodations for crew; hospital compartments.
660a. Inspection of crew quarters.
(a) Time and extent.
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660b. Same; exception as to unrigged vessels.
661. Neglect to provide sufficient stores.
662. Complaint as to provisions or water; examination.
663. Forfeiture for false complaint as to provisions or water.
664. Permission from master to enter complaint as to provisions or water.
665. Allowance for reduction of provisions.
666. Medicines.
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669. Clothing and heat.
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671. Same; vessels engaged in whaling or fishing business.
672. Requirements, qualifications, and regulations as to crews.
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(b) Certificate of service as able seaman.
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(d) Muster of the crew on motion or information; rules and regulations; examination of applicant for certificate of service as able seaman; new certificates.
(e) Members of engine department.
(f) Rules as to certificates of service or efficiency.
(g) Certificates of service for other ratings.
(h) Suspension or revocation of certificates of service or efficiency.
(i) Penalty for serving without certificate of service.
(j) Effect of section on other laws.
(k) Freedom of seamen unimpaired.
(*l*) Effective date of section.

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672–1. Exception to section 672; certain sail vessels.
672–2. Same; certain persons as able seamen.
672a. Nationality of crews.
(a) Officers and pilots.
(b) Seamen.
(c) Vacancies on foreign voyage.
(d) Penalty for violating section.
672b. Exceptions to section 672; unrigged vessels, tugs, and towboats.
(a) Able seamen; rating.
(b) Service and rating equal to coal passer or wiper.
672b–1. Exception to section 672; seagoing barges.
672c. Definitions.
673. Requirements as to watches; duties of seamen; hours of work; penalty; right of seamen to discharge; effective date.
674. List of crew to be delivered to collector.
675. Certificate to list of crew; record.
676. Rules as to list of crew.
677. Production of copy of list on return of vessel; production of persons named.
678. Subsistence to destitute seamen; return to United States.
679. Transportation of destitute seamen to United States.
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682. Wages on discharge.
683. Penalty for neglect of consular officer to collect wages; incapacitated seaman.
684. Wages on discharge in case of sale.
685. Wages on justifiable complaint of seaman.
686, 687. Repealed.
688. Recovery for injury to or death of seaman.
689. Enforcement of sections 643, 660a, 672, 672a, 673, and 710a; rules and regulations.
690. Application of sections 643, 660a, 672, 672a, 673, 689, and 710a to fishing or whaling vessels or yachts.
691. Separability of sections 643, 660a, 672, 672a, 673, 689, and 710a.
692. Appropriation to carry out provisions of sections 643, 660a, 672, 672a, 673, 689, and 710a.

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701. Various offenses; penalties.
702. Entry of offense in log book.
703. Duty of consular officers as to insubordination
704. Repealed.
705. Enforcement of forfeitures.
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708. Repealed.
709. Soliciting seamen as lodgers.
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710a. Repealed.
710b, 710c. Transferred.
711. Recovery of penalties and forfeitures.
712. Surrendering officer inflicting corporal punishment; liability of master.
713. Definitions, schedule, and tables.

SHIPPING COMMISSIONERS

§ 541. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 635, 639.

Section, R.S. § 4501; acts June 26, 1884, ch. 121, § 27, 23 Stat. 59; June 19, 1886, ch. 421, § 1, 24 Stat. 79; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 10, 1921, ch. 18, § 304, 42 Stat. 24, related to the appointment, accounts and compensation of shipping commissioners.

§ 542. Bond and oath.

CODIFICATION

Section, R.S. § 4502; acts Apr. 26, 1906, ch. 1875, 34 Stat. 137; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to the bonds and oaths of shipping commissioners, whose

offices were abolished by 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097. See note under former section 1 of this title.

§ 542a. Demanding or receiving remuneration for supplying seamen for merchant vessels; penalty.

Every Coast Guard official to whom the duties of shipping commissioner have been delegated and every clerk or employee in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant vessels shall for every such offense be liable to a penalty of not more than $200. (R. S. § 4595; June 19, 1886, ch. 421, § 1, 24 Stat. 79; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 7, 17 Stat. 263.

CODIFICATION

Act June 19, 1886, abolished fees, and eliminated the words "excepting the lawful fees payable under this title" following the words "any merchant vessels" which appeared in R.S. § 4595.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in like-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 543. When officers of customs shall act.

In any port in which no Coast Guard official to perform the duties of shipping commissioner shall have been appointed, the whole or any part of the business of a shipping commissioner shall be conducted by the collector or deputy collector of customs of such port; and in respect of such business such customhouse shall be deemed a shipping office, and the collector or deputy collector of customs to whom such business shall be committed, shall, for all purposes, be deemed a Coast Guard official to whom the duties of shipping commissioner within the meaning of title 53 of the Revised Statutes have been delegated. (R. S. § 4503; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 8, 17 Stat. 263.

REFERENCES IN TEXT

Title 53 of the Revised Statutes, referred to in the text, is now contained in sections 542a, 543, 545, 546, 561, 562, 564—571, 574—578, 591—597, 600, 602—605, 621—628, 641—643, 644, 645, 651—660, 661—669, 674—679, 682—685, 701, 703, 705—707, 709, 710, and 711—713 of this title. Sections 4602 and 4606 of the Revised Statutes, which were formerly classified to sections 704 and 708 of this title, were repealed. See notes under former sections 704 and 708.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard official to perform the duties of", "Coast Guard official to whom the duties of" and "have been delegated" were inserted on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in like-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

§ 544. Vessels in coastwise trade.

None of the provisions of sections 201 to 203, 542a, 545, 546, 561, 562, 564 to 571, 577, 578, 591 to 595, 600, 621 to 628, 641, 642, 644, 645, 651, 652, 662 to 669, 703 to 709, 711, 713 of this title shall apply to sail or steam vessels engaged in the coastwise trade, except the coastwise trade between the Atlantic and Pacific coasts, or in the lake-going trade touching at foreign ports or otherwise, or in the trade between the United States and the British North American possessions, or in any case where the seamen are by

custom or agreeement entitled to participate in the profits or result of a cruise, or voyage. (June 9, 1874, ch. 260, 18 Stat. 64; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCES IN TEXT

Sections 704 and 708 of this title, which are included in the reference in this section, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, effective Sept. 1, 1948, and are now covered by sections 2196 and 2279, respectively, of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Sections of this title enumerated in text of this section constituted, in the original, a reference to the Shipping Commissioners' Act of June 7, 1872, ch. 322, 17 Stat. 262.

Act Mar. 3, 1911, imposed upon the district courts the powers and duties formerly conferred upon circuit courts. This affected the words "circuit courts" appearing in act June 9, 1874, which words were from the title of another act referred to in act June 9, 1874, and translated in this section as "sections 201—203 * * * of this title".

CROSS REFERENCES

Shipment of crews for vessels in coastwise trade to be made at request of master or owner of such vessel, see section 563 of this title.

§ 545. Duties.

The general duties of a Coast Guard official to whom the duties of shipping commissioner have been delegated shall be:

First. To afford facilities for engaging seamen by keeping a register of their names and characters.

Second. To superintend their engagement and discharge, in manner prescribed by law.

Third. To provide means for securing the presence on board at the proper times of men who are so engaged.

Fourth. To facilitate the making of apprenticeships to the sea service.

Fifth. To perform such other duties relating to merchant seamen or merchant ships as may be required by law. (R. S. § 4508; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 4, 17 Stat. 263.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 546. Penalty for personating shipping commissioner.

Any person other than a Coast Guard official to whom the duties of shipping commissioner under title 53 of the Revised Statutes have been delegated, who shall perform or attempt to perform, either directly or indirectly, the duties which are by such title set forth as pertaining to a shipping commissioner, shall be liable to a penalty of not more than $500. Nothing in such title, however, shall prevent the owner, or consignee, or master of any vessel except vessels bound from a port in the United States to any foreign port, other than vessels engaged in trade between the United States and the British North American possessions, or the West India Islands, or the Republic of Mexico, and vessels of the burden of seventy-five tons or upward bound from a port on the Atlantic to a port on the Pacific, or vice versa, from performing, himself, so far as his vessel is concerned, the duties of shipping commissioner under title 53 of the Revised Statutes. Whenever the master of any vessel shall engage his crew, or any part of the same, in any collection district where no Coast Guard official to perform the duties of shipping commissioner shall have been appointed, he may perform for himself the duties of such commissioner. (R. S. § 4504; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts June 7, 1872, ch. 322, §§ 8, 12, 17 Stat. 263, 264; Jan. 15, 1873, ch. 35, 17 Stat. 410.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard official to whom the duties of shipping" and "have been delegated" were inserted in first sentence and "Coast Guard official to perform the duties of" was inserted in last sentence on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Shipment by officials of crews for vessels engaged in the coastwise trade, etc., see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§§ 547 to 549. Omitted.

CODIFICATION

Sections have been omitted because of the abolishment, by 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, of the offices of shipping commissioners to which they referred. See note under former section 1 of this title.

Section 547, R. S. § 4505, related to employment and duties of clerks for shipping commissioners.

Section 548, R. S. § 4506, related to seals of shipping commissioners and the effect as evidence of instruments signed and sealed by them.

Section 549, R. S. § 4507; act Mar. 3, 1897, ch. 389, § 1, 29 Stat. 687, related to the furnishing of office space and supplies for shipping commissioners.

SHIPMENT OF CREW

§ 561. Apprentices.

Every Coast Guard official to whom the duties of shipping commissioner appointed under title 53 of the Revised Statutes have been delegated shall, if applied to for the purpose of apprenticing boys to the sea service, by any master or owner of a vessel, or by any person legally qualified, give such assistance as is in his power for facilitating the making of such apprenticeships; but such Coast Guard official shall ascertain that the boy has voluntarily consented to be bound, and that the parents or guardian of such boy have consented to such apprenticeship, and that he has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom such boy is to be bound is a proper person for the purpose. Such apprenticeship shall terminate when the apprentice becomes eighteen years of age. Such Coast Guard official shall keep a register of all indentures of apprenticeship made before him. (R. S. § 4509; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 9, 17 Stat. 263.

REFERENCES IN TEXT

For distribution of Title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

MINIMUM AGE (SEA) CONVENTION (REVISED) 1936

Minimum Age (Sea) Convention (Revised) 1936, which provides for minimum age of apprentices of 15 years, see 54 Stat. Pt. 2, 1705.

CROSS REFERENCES

Application of section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 562. Indenture of apprentice to be produced; assignment.

The master of every foreign-going vessel shall, before carrying any apprentice to sea from any place in the United States, cause such apprentice to appear before the Coast Guard official to whom the duties of shipping commissioner have been delegated before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof if any; and the name of the apprentice, with the date of the indenture and of the assignment or assignments thereof, if any, shall be entered on the agreement; which shall be in the form as near as may be given in the table marked "A" in the schedule annexed to this chapter, and no such assignment shall be made without the approval of such Coast Guard official, of the apprentice, and of his parents or his guardian. For any violation of this section, the master shall be liable to a penalty of not more than $100. (R. S. § 4510; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 10, 17 Stat. 264.

REFERENCES IN TEXT

For table "A" in schedule, referred to in the text, see section 713 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 563. Shipment of crews; shipping agreements.

Coast Guard officials to whom the duties of shipping commissioners have been delegated may ship crews for any vessel engaged in the coastwise trade, or the trade between the United States and the Dominion of Canada, or Newfoundland, or the West Indies, or the Republic of Mexico, at the request of the master or owner of such vessel.

When a crew is shipped by such Coast Guard official for any American vessel in the coastwise trade, or the trade between the United States and the Dominion of Canada, or Newfoundland, or the West Indies, or Mexico, as authorized by this section, an agreement shall be made with each seaman engaged as one of such crew in the same manner as is provided by sections 564 and 565 of this title, not however including the sixth and eighth items of section 564 of this title, and such agreement shall be posted as provided in section 577 of this title, and such seaman shall be discharged and receive their wages as provided by the first clause of section 596 of this title, and also by sections 593 to 595, 597, 600, 603, 604, 625 to 628, 641 to 643, 644, 645 and 651 of this title; but in all other respects such shipment of seamen and such shipping agreement shall be regarded as if both shipment and agreement had been entered into between the master of a vessel and a seaman without going before such Coast Guard official: *Provided,* That the clothing of any seaman shall be exempt from attachment, and that any person who shall detain such clothing when demanded by the owner shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than six months or fined not more than $500, or both. (June 19, 1886, ch. 421, § 2, 24 Stat. 80; Aug. 19, 1890, ch. 801, 26 Stat. 320; Feb. 18, 1895, ch. 97, 28 Stat. 667; Mar. 3, 1897, ch. 389, § 8, 29 Stat. 689; Apr. 11, 1904, ch. 1140, 33 Stat. 168; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

The first paragraph of this section is from act June 19, 1886. The original text provided that commissioners might "ship and discharge crews," etc. which is set forth in section 646 of this title.

The original text also contained a provision that shipping and discharging fees should be one-half that prescribed by R.S. § 4612, for the purpose of determining the compensation of shipping commissioners. Section 1 of the Act of 1886, discontinued the collection of such fees, but provided for payment of such compensation as the officers affected would have received prior to the passage of the act. As shipping commissioners were not then receiving fees, but compensation fixed by the Secretary of the Treasury, under former section 541 of this title, that obsolete provision of the original text was evidently designed to aid him in fixing such compensation.

Second paragraph of this section is from act Aug. 19, 1890, as amended.

That act originally read substantially as set forth in this section, down to and including the words, "as is provided by sections four thousand five hundred and eleven and four thousand five hundred and twelve of the Revised Statutes" [sections 564 and 565 of this title] continuing to the end as follows; "for the shipment of the crews of other vessels; and the provisions of sections forty-five hundred and twenty-two, forty-five hundred and twenty-four, forty-five hundred and twenty-five, forty-five hundred and twenty-six, forty-five hundred and twenty-seven, forty-five hundred and twenty-eight, forty-five hundred and fifty-four, forty-five hundred and ninety-six, forty-five hundred and ninety-seven, forty-five hundred and ninety-eight, forty-five hundred and ninety-nine, forty-six hundred and one, forty-six hundred and two, forty-six hundred and three, forty-six hundred and four, forty-six hundred and five, forty-six hundred and ten, and forty-six hundred and twelve of the Revised Statutes shall extend to and embrace such vessels in the coastwise trade and the trade between the United States and the Dominion of Canada, or Newfoundland, or the West Indies, or Mexico, where their crews have been shipped by a shipping commissioner, to the same extent and with the same force and effect as if said vessels had been mentioned and embraced in the language and terms of said sections."

The original text of that part of the second paragraph commencing with the words "and also by sections" referred to R.S. §§ 4526—4528, 4530, 4535, 4536, 4542—4547, 4549—4554, and 4602. R.S. §§ 4536 was repealed by act Mar. 4, 1915, ch. 153, § 12, 38 Stat. 1169. The other sections mentioned were carried into the sections of this title mentioned in the text as above set forth.

Act Feb. 18, 1895, substituted, instead of the part of the section last quoted, the provisions beginning with the words "not however including the sixth," etc., to the end of the section substantially as set forth, except for subsequent changes hereinafter mentioned.

Act Mar. 3, 1897, struck out, after the words "not however including the sixth," the word "seventh", and after the words "four thousand five hundred and fifty-four" [section 651] inserted the words "and four thousand six hundred and two" [former section 704 of this title].

Act Apr. 11, 1904, changed the words, in the last proviso, "shall be liable to a penalty of not exceeding one hundred dollars," to read, "shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than six months or fined not more than five hundred dollars, or both."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 331 of this title.

§ 564. Shipping articles.

The master of every vessel bound from a port in the United States to any foreign port other than vessels engaged in trade between the United States and the British North American possessions, or the West India Islands, or Mexico, or of any vessel of the burden of seventy-five tons or upward, bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall, before he proceeds on such voyage, make an agreement, in writing or in print, with every seaman whom he carries to sea as one of the crew, in the manner hereinafter mentioned; and every such agreement shall be, as near as may be, in the form given in the table marked A, in the

schedule annexed to this chapter, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars:

First. The nature and, as far as practicable, the duration of the intended voyage or engagement, and the port or country at which the voyage is to terminate.

Second. The number and description of the crew, specifying their respective employments.

Third. The time at which each seaman is to be on board, to begin work.

Fourth. The capacity in which each seaman is to serve.

Fifth. The amount of wages which each seaman is to receive.

Sixth. A scale of the provisions which are to be furnished to each seaman.

Seventh. Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which may be sanctioned by Congress or authorized by the Commandant of the Coast Guard not contrary to or not otherwise provided for by law, which the parties agree to adopt.

Eighth. Any stipulations in reference to advance and allotment of wages, or other matters not contrary to law. (R. S. § 4511; Mar. 3, 1897, ch. 389, § 19, 29 Stat. 691; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Acts June 7, 1872, ch. 322, § 12, 17 Stat. 264; Jan. 15, 1873, ch. 35, 17 Stat. 410.

REFERENCES IN TEXT

For table "A" in schedule, referred to in the text, see section 713 of this title.

CODIFICATION

Act Mar. 3, 1897, amended R.S. § 4511 to read, substantially, as above set forth. As enacted originally that part of the seventh paragraph following the words "sanctioned by Congress" read "as proper to be adopted, and which the parties agree to adopt."

Act Feb. 14, 1903, substituted "Secretary of Commerce" for "Secretary of the Treasury."

Act Mar. 4, 1913, provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

REPEALS

Paragraph Eighth of this section was repealed, in so far as it related to the domestic trade as defined in section 701 of this title, by act Dec. 21, 1898, ch. 28, § 25, 30 Stat. 764. See section 701 of this title and note thereunder.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Shipping agreements for coastwise trade or trade with Canada, Newfoundland, West Indies or Mexico to be made with crew as provided in this section, see section 563 of this title.

Voyage or term for which seaman may be shipped and reshipment, see sections 572, 573 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, 566 of this title.

§ 565. Rules for shipping articles.

The following rules shall be observed with respect to agreements:

First. Every agreement, except such as are otherwise specially provided for, shall be signed by each seaman in the presence of a Coast Guard official to whom the duties of shipping commissioner have been delegated.

Second. When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by such Coast Guard official, and the other part shall contain a special place or form for the description and signatures of persons engaged subsequently to the first departure of the ship and shall be delivered to the master.

Third. Every agreement entered into before such Coast Guard official shall be acknowledged and certified under the hand and official seal of such Coast Guard official. The certificate of acknowledgment shall be indorsed on or annexed to the agreement; and shall be in the following form:

"State of ——, County of ——:

"On this ——— day of ———, personally appeared before me, a Coast Guard official in and for the said county, A. B., C. D., and E. F., severally known to me to be the same persons who executed the foregoing instrument, who each for himself acknowledged to me that he had read or had heard read the same; that he was by me made acquainted with the conditions thereof, and understood the same; and that, while sober and not in a state of intoxication, he signed it freely and voluntarily, for the uses and purposes therein mentioned." (R. S. § 4512; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 13, 17 Stat. 265.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power

vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Shipping agreements for coastwise trade and trade with Canada, Newfoundland, West Indies, and Mexico, to be made with crew as provided by this section, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, of this title.

§ 566. Exception as to shipping articles.

Section 564 of this title shall not apply to masters of vessels where the seamen are by custom or agreement entitled to participate in the profits or result of a cruise or voyage, nor to masters of coastwise nor to masters of lake-going vessels that touch at foreign ports; but seamen may, by agreement, serve on board such vessels a definite time, or, on the return of any vessel to a port in the United States, may reship and sail in the same vessel on another voyage. (R. S. § 4513; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252.)

DERIVATION

Acts June 7, 1872, ch. 322, § 12, 17 Stat. 264; Feb. 27, 1877, ch. 69, 19 Stat. 252.

CODIFICATION

The words "without the payment of additional fees to the shipping commissioner, by either the seamen or the master," were included at end of section as enacted originally. They were omitted as superseded by section 331 of this title.

Act Feb. 27, 1877, struck out "The preceding section" at beginning of R.S. § 4513.

CROSS REFERENCES

Sections inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 567. Penalty for shipping without agreement.

If any person shall be carried to sea, as one of the crew on board of any vessel making a voyage as hereinbefore specified, without entering into an agreement with the master of such vessel, in the form and manner, and at the place and times in such cases required, the vessel shall be held liable for each such offense to a penalty of not more than $200. But the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed away himself without the knowledge of the master, mate, or of any of the officers of the vessel, or who shall have falsely personated himself to the master, mate, or officers of the vessel, for the purpose of being carried to sea. (R. S. § 4514.)

DERIVATION

Act June 7, 1872, ch. 322, § 14, 17 Stat. 265.

CROSS REFERENCES

Sections inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 569, of this title.

§ 568. Penalty for knowingly shipping seamen without articles.

If any master, mate, or other officer of a vessel knowingly receives, or accepts, to be entered on board of any merchant vessel, any seaman who has been engaged or supplied contrary to the provisions of title 53 of the Revised Statutes, the vessel on board of which such seaman shall be found shall, for every such seaman, be liable to a penalty of not more than $200. (R. S. § 4515.)

DERIVATION

Act June 7, 1872, ch. 322, § 14, 17 Stat. 265.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 569, of this title.

§ 569. Shipping seamen to replace those lost by desertion or casualty.

In case of desertion or casualty resulting in the loss of one or more of the seamen, the master must ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same or higher grade or rating with those whose places they fill, and report the same to the United States consul at the first port at which he shall arrive, without incurring the penalty prescribed by sections 567 and 568 of this title. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4516; Dec. 21, 1898, ch. 28, §§ 1, 26, 30 Stat. 755, 764; Mar. 4, 1915, ch. 153, § 1, 38 Stat. 1164.)

DERIVATION

Act June 7, 1872, ch. 322, § 14, 17 Stat. 265.

CODIFICATION

Act Mar. 4, 1915, amended section to read as set forth above.

Act Dec. 21, 1898, amended R.S. § 4516 to read: "In case of desertion or casualty resulting in the loss of one or more seamen, the master must ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same grade or rating and equally expert with those whose place or position they refill, and report the same to the United States consul at the first port at

which he shall arrive, without incurring the penalty prescribed by the two preceding sections."

R.S. § 4516, as enacted originally, read: "In case of desertion, or of casualty resulting in the loss of one or more seamen, the master may ship a number equal to the number of whose services he has been deprived by desertion or casualty, and report the same to the United States consul at the first port at which he shall arrive, without incurring the penalty prescribed by the two preceding sections."

EXCEPTION

Section 26 of act Dec. 21, 1898, provided that that act should apply to all vessels not specifically exempted, but sections 569, 576, 593, 596, 597, 599, 604, 653—656, 658, 663, 665, 669, 713 of this title should not apply to fishing or whaling vessels or yachts.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 672, of this title.

§ 570. Shipping seamen in foreign ports.

Every master of a merchant vessel who engages any seaman at a place out of the United States, in which there is a consular officer shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage seamen in his presence; and the rules governing the engagement of seamen before a Coast Guard official to whom the duties of shipping commissioner have been delegated in the United States, shall apply to such engagements made before a consular officer; and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise duly made. (R. S. § 4517; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 15, 17 Stat. 265.

CODIFICATION

Act Apr. 5, 1906, abolished the grade of commercial agent and eliminated the words "or commercial agent" after the words "commercial officer" in R.S. § 4517.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 571, of this title.

§ 571. Penalty for violating section 570 of this title.

Every master who engages any seaman in any place in which there is a consular officer, otherwise than as required by section 570 of this title, shall incur a penalty of not more than $100, for which penalty the vessel shall be held liable. (R. S. § 4518; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act June 7, 1872, ch. 322, § 15, 17 Stat. 265.

CODIFICATION

Act Apr. 5, 1906, eliminated the words "or commercial agent" after the words "consular officer."

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This secton is referred to in section 544 of this title.

§ 572. Voyage or term for which seamen may be shipped; reshipment.

A master of a vessel in the foreign trade may engage a seaman at any port in the United States, in the manner provided by law, to serve on a voyage to any port, or for the round trip from and to the port of departure, or for a definite time, whatever the destination. The master of a vessel making regular and stated trips between the United States and a foreign country may engage a seaman for one or more round trips, or for a definite time, or on the return of said vessel to the United States may reship such seaman for another voyage in the same vessel, in the manner provided by law. (June 26, 1884, ch. 121, § 19, 23 Stat. 58.)

CODIFICATION

Section was part of the Shipping Act of June 26, 1884.

Words "without the payment of additional fees to any officer for such reshipment or re-engagement" at end of section as enacted originally, were omitted as superseded by section 331 of this title.

§ 573. Voyage or term of seaman shipped in foreign port; reshipment; bond.

Every master of a vessel in the foreign trade may engage any seaman at any port out of the United States, in the manner provided by law, to serve for one or more round trips from and to the port of

departure, or for a definite time, whatever the destination; and the master of a vessel clearing from a port of the United States with one or more seamen engaged in a foreign port as herein provided shall not be required to reship in a port of the United States the seamen so engaged, or to give bond, to produce said seamen before a boarding officer on the return of said vessel to the United States. (June 26, 1884, ch. 121, § 20, 23 Stat. 58.)

CODIFICATION

Section was part of Shipping Act of June 26, 1884.

As enacted originally, the words "or to give bond" were followed by the words "as required by section forty-five hundred and seventy-six of the Revised Statutes." R.S. § 4576 was amended by act Mar. 3, 1897, ch. 389, § 3, 29 Stat. 688, so as to eliminate the requirement for a bond.

CROSS REFERENCES

Production of copy of list of crew before boarding officer on return of vessel, see section 677 of this title.

§ 574. Shipping articles for vessels in coasting trade.

Every master of any vessel of the burden of fifty tons or upward, bound from a port in one State to a port in any other than an adjoining State, except vessels of the burden of seventy-five tons or upward, bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall, before he proceeds on such voyage, make an agreement in writing or in print, with every seaman on board such vessel except such as shall be apprentice or servant to himself or owners, declaring the voyage or term of time for which such seaman shall be shipped. (R. S. § 4520.)

DERIVATION

Acts July 20, 1790, ch. 29, § 1, 1 Stat. 131; June 7, 1872, ch. 322, § 12, 17 Stat. 264.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

§ 575. Penalty for shipping without articles.

If any master of such vessel of the burden of fifty tons or upward shall carry out any seaman or mariner, except apprentices or servants, without such contract or agreement being first made and signed by the seamen, such master shall pay to every such seaman the highest price or wages which shall have been given at the port or place where such seaman was shipped, for a similar voyage, within three months next before the time of such shipping, if such seaman shall perform such voyage; or if not, then for such time as he shall continue to do duty on board such vessel; and shall moreover be liable to a penalty of $20 for every such seaman, recoverable, one-half to the use of the person prosecuting for the same, and the other half to the use of the United States. Any seaman who has not signed such a contract shall not be bound by the regulations nor subject to the penalties and forfeitures contained in title 53 of the Revised Statutes. (R. S. § 4521.)

DERIVATION

Act July 20, 1790, ch. 29, § 1, 1 Stat. 131.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

§ 576. Penalty for omitting to begin voyage.

At the foot of every such contract to ship upon such a vessel of the burden of fifty tons or upward there shall be a memorandum in writing of the day and the hour when such seaman who shipped and subscribed shall render himself on board to begin the voyage agreed upon. If any seaman shall neglect to render himself on board the vessel for which he has shipped at the time mentioned in such memorandum without giving twenty-four hours' notice of his inability to do so, and if the master of the vessel shall, on the day in which such neglect happened, make an entry in the log book of such vessel of the name of such seaman, and shall in like manner note the time that he so neglected to render himself after the time appointed, then every such seaman shall forfeit for every hour which he shall so neglect to render himself one-half of one day's pay, according to the rate of wages agreed upon, to be deducted out of the wages. If any such seaman shall wholly neglect to render himself on board of such vessel, or having rendered himself on board shall afterwards desert, he shall forfeit all of his wages or emoluments which he has then earned. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4522; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; Dec. 21, 1898, ch. 28, §§ 2, 26, 30 Stat. 755, 764.)

DERIVATION

Acts July 20, 1790, ch. 29, § 2, 1 Stat. 131; Feb. 27, 1877, ch. 69, 19 Stat. 252.

CODIFICATION

Act Dec. 21, 1898, aside from changes in phraseology, amended R.S. § 4522 by inserting the phrase "without giving twenty-four hours notice of his inability to do so" in the second sentence, the substitution, in the same sentence, of the words "one-half of one day's pay" for "one day's pay," and the substitution of the provisions of the third sentence for the following provisions: "If any such seaman shall wholly neglect to render himself on board of such vessel, or having rendered himself on board, shall afterward desert and escape, so that the vessel proceed to sea without him, he shall be liable to pay to the master, owner, or consignee of the vessel, a sum equal to that paid to him by advance at the time of signing the contract, over and besides the sum so advanced, both which sums shall be recoverable in any court, or before any justice of any state, city, town, or county within the United States, which, by the laws thereof, have cognizance of debts of equal value, against such seaman or mariner, or his surety or sureties, in case he shall have given surety to proceed the voyage."

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

§ 577. Posting copy of agreement.

The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, omitting signatures, to be placed or posted up in such part of the vessel as to be accessible to the crew; and on default shall be liable to a penalty of not more than $100. (R. S. § 4519.)

DERIVATION

Act June 7, 1872, ch. 322, § 20, 17 Stat. 266.

CROSS REFERENCES

Application of section to crew in coastwise trade, or trade with Canada, Newfoundland, West Indies, or Mexico, see section 563 of this title.

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, of this title.

§ 578. Unlawful shipments void.

All shipments of seamen made contrary to the provisions of any act of Congress shall be void; and any seaman so shipped may leave the service at any time, and shall be entitled to recover the highest rate of wages of the port from which the seaman was shipped, or the sum agreed to be given him at his shipment. (R. S. § 4523.)

DERIVATION

Acts July 20, 1840, ch. 48, 5 Stat. 395; June 7, 1872, ch. 322, § 15, 17 Stat. 265.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 579. Repealed. Aug. 7, 1946, ch. 770, § 1 (38), 60 Stat. 866.

Section, R. S. § 207, provided for reports to Congress by the Secretary of State concerning returns of collectors.

WAGES OF MASTERS AND SEAMEN

§ 591. Commencement of wages.

A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens. (R. S. § 4524.)

DERIVATION

Act June 7, 1872, ch. 322, § 30, 17 Stat. 268.

REPEAL OF PRIOR LAWS

R.S. § 4584, providing for the disposal of extra wages obtained for seamen upon their discharge, was repealed by act June 26, 1884, ch. 121, § 8, 23 Stat. 55.

R.S. §§ 4585–4587 provided for the collection, from the masters or owners of vessels, of the sum of 40 cents per month for each seaman employed thereon, to be retained out of the wages of such seamen. The moneys so collected were to be placed to the credit of "the fund for the relief of sick and disabled seamen" in the Treasury, and that fund was appropriated for the expenses of the Marine Hospital Service, and was to be employed for the care and relief of sick and disabled seamen, by R.S. § 4803. These three sections were repealed by the Shipping Act, act June 26, 1884, ch. 121, § 15, 23 Stat. 57.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 592. Wages not dependent on freight earned.

No right to wages shall be dependent on the earning of freight by the vessel; but every seaman or apprentice who would be entitled to demand and receive any wages if the vessel on which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same of the master or owner in personam, notwithstanding that freight has not been earned. But in all cases of wreck or loss of vessel, proof that any seaman or apprentice has not exerted himself to the utmost to save the vessel, cargo, and stores shall bar his claim. (R. S. § 4525.)

DERIVATION

Act June 7, 1872, ch. 322, § 32, 17 Stat. 268.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 593. Termination of wages by loss of vessel; transportation to place of shipment.

In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the loss or wreck of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period. Such seaman shall be considered as a destitute seaman and shall be treated and transported to port of shipment as provided in sections 678 and 679 of this title. This section shall apply to fishing and whaling vessels but not to yachts. (R. S. § 4526; Dec. 21, 1898, ch. 28, §§ 3, 26, 30 Stat. 755, 764; Mar. 5, 1934, ch. 40, 48 Stat. 395.)

DERIVATION

Act June 7, 1872, ch. 322, § 33, 17 Stat. 269.

CODIFICATION

Act Dec. 21, 1898, added the second sentence and substituted "loss or wreck" for "wreck or loss" in the first sentence of R.S. § 4526.

AMENDMENTS

1934—Act Mar. 5, 1934, provided that this section "shall apply to fishing and whaling vessels, notwithstanding the provisions of section 26" of act Dec. 21, 1898. See provisions of that section in note to section 701 of this title.

EXCEPTION

Section 26 of act Dec. 21, 1898, provided that this section should not apply to fishing or whaling vessels or yachts. Act Mar. 5, 1934, provided that this section should apply to fishing and whaling vessels, notwithstanding act Dec. 21, 1898.

CROSS REFERENCES

Application of section to vessels in the coastwise trade, etc., see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 594. Right to wages in case of improper discharge.

Any seaman who has signed an agreement and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, a sum equal in amount to one month's wages as compensation, and may, on adducing evidence satisfactory to the court hearing the case, of having been improperly discharged, recover such compensation as if it were wages duly earned. (R. S. § 4527.)

DERIVATION

Act June 7, 1872, ch. 322, § 21, 17 Stat. 266.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen in coastwise trade, etc., to receive wages under this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 595. Conduct as affecting right.

No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, after the time fixed by the agreement for him to begin work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offense committed by him. (R. S. § 4528.)

DERIVATION

Act June 7, 1872, ch. 322, § 34, 17 Stat. 269.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen in coastwise trade, etc., to receive wages under this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 596. Time for payment.

The master or owner of any vessel making coasting voyages shall pay to every seaman his wages within two days after the termination of the agreement under which he was shipped, or at the time such seaman is discharged, whichever first happens; and in case of vessels making foreign voyages, or from a port on the Atlantic to a port on the Pacific, or vice versa, within twenty-four hours after the cargo has been discharged, or within four days after the seaman has been discharged, whichever first happens; and in all cases the seaman shall be entitled to be paid at the time of his discharge on account of wages a sum equal to one-third part of the balance due him. Every master or owner who refuses or neglects to make payment in the manner hereinbefore mentioned without sufficient cause shall pay to the seaman a sum equal to two days' pay for each and every day during which payment is delayed beyond the respective periods, which sum shall be recoverable as wages in any claim made before the court; but this section shall not apply to masters or owners of any vessel the seamen of which are entitled to share in the profits of the cruise or voyage. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4529; Dec. 21, 1898, ch. 28, §§ 4, 26, 30 Stat. 756, 764; Mar. 4, 1915, ch. 153, § 3, 38 Stat. 1164.)

DERIVATION

Acts July 20, 1790, ch. 29, § 6, 1 Stat. 133; June 7, 1872, ch. 322, § 35, 17 Stat. 269.

CODIFICATION

R.S. § 4529, as enacted originally, provided that the masters or owners of vessels making voyages from Atlantic to Pacific ports, or vice versa, should pay to every seaman, his wages within two days after the termination of the agreement, or at the time of his discharge; that in case of vessels making foreign voyages the wages should be paid within three days after delivery of the cargo, or within five days after the seaman's discharge; that in all cases there should be paid at the time of the seaman's discharge one-fourth part of the balance due him; and that, in case of neglect or refusal to so pay, the master or owner should be liable to pay the seaman a sum not exceeding the amount of two days' pay for each day, not exceeding ten, during which the payment should be delayed.

Act Dec. 21, 1898, amended R.S. § 4529 to read substantially as above except that the second sentence provided for payment of a sum equal to one day's pay for each day during which payment was delayed.

Act Mar. 4, 1915, substituted two days' pay for each day of the delay.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Application of section to oyster vessels, see section 598 of this title.

Seamen in coastwise trade, etc., to be discharged and receive their wages as provided in the first clause of this section, see section 563 of this title.

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 597, 598, 604 of this title.

§ 597. Payment at ports.

Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the balance of his wages earned and remaining unpaid at the time when such demand is made at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended, and all stipulations in the contract to the contrary shall be void: *Provided,* Such a demand shall not be made before the expiration of, nor oftener than once in five days nor more than once in the same harbor on the same entry. Any failure on the part of the master to comply with this demand shall release the seaman from his contract and he shall be entitled to full payment of wages earned. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall be then due him, as provided in section 596 of this title: *Provided further,* That notwithstanding any release signed by any seaman under section 644 of this title any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: *And provided further,* That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4530; Dec. 21, 1898, ch. 28, §§ 5, 26, 30 Stat. 756, 764; Mar. 4, 1915, ch. 153, § 4, 38 Stat. 1165; June 5, 1920, ch. 250, § 31, 41 Stat. 1006.)

DERIVATION

Act July 20, 1790, ch. 29, § 6, 1 Stat. 133.

CODIFICATION

R.S. § 4530, as enacted originally, provided for the payment of one-third the wages due at every port, etc.

Act Dec. 21, 1898, amended R.S. § 4530 to read: "Every seaman on a vessel of the United States shall be entitled to receive from the master of the vessel to which he belongs one-half part of the wages which shall be due him at every port where such vessel, after the voyage has commenced, shall load or deliver cargo before the voyage is ended unless the contrary be expressly stipulated in the contract; and when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall then be due him as provided in section forty-five hundred and twenty-nine of the Revised Statutes."

Act Mar. 4, 1915, added the provisos and the sentence following the first proviso, commencing with the words "any failure," and changed the first part of the section to read as follows: "Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the wages which he shall have then earned at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended and all stipulations in the contract to the contrary shall be void."

By Act June 5, 1920, the words "the balance of his wages earned and remaining unpaid at the time when such demand is made" were substituted for "the wages which he shall have then earned" in the first sentence, and the words "nor more than once in the same harbor on the same entry" added to the first proviso.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Application of section to vessels in coastwise trade, etc., see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 563 of this title.

§ 598. Vessels engaged in taking oysters.

Sections 596, 599, and 604 of this title shall apply to all vessels engaged in the taking of oysters. (June 28, 1906, ch. 3583, § 4, 34 Stat. 551.)

CODIFICATION

Section as enacted originally, read: "Sections four, six, and twenty-four of chapter twenty-eight of the Acts of Congress, approved December twenty-first, eighteen hundred and ninety-eight, shall apply to all vessels engaged in the taking of oysters, anything in section twenty-six of said last-mentioned Act to the contrary notwithstanding".

Act Dec. 21, 1898, ch. 28, §§ 4, 6, 24, 30 Stat. 756, 763, mentioned in the original text, amended R.S. §§ 4529, 4547, and act June 26, 1884, ch. 121, § 10, 23 Stat. 55, respectively (sections 596, 599 and 604, of this title). Sections 26, 30 of that act provided that certain sections should not apply to fishing or whaling vessels or yachts.

§ 599. Advances and allotments.

(a) It shall be unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order, or note, or other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than $25 nor more than $100, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment, whether made within or without the United States or territory subject to the jurisdiction thereof, shall in no case except as herein provided absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than $500.

(b) It shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages he may earn (1) to his grandparents, parents, wife, sister, or children; (2) to an agency duly designated by the Secretary of the Treasury for the handling of applications for United States Savings Bonds, for the purpose of purchasing such bonds for the seaman; or (3) for deposits to be made in an account for savings, or investment opened by him and maintained in his name either at a savings bank or a United States postal savings depository subject to the governing regulations thereof, or a savings institution in which such accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) No allotment shall be valid unless in writing and signed by and approved by the Coast Guard official to whom the duties of shipping commissioner have been delegated. It shall be the duty of the said Coast Guard official to examine such allotments and the parties to them and enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made, or by directing the payments to be made to a savings bank or a United States postal savings depository in an account maintained in his name.

(d) No allotment except as provided in this section shall be legal. Any person who shall falsely claim to be such relation, as above described, or to be a savings bank or a United States postal savings depository and as such an allottee of the seaman under this section shall for every such offense be punished by a fine not exceeding $500 or imprisonment not exceeding six months, at the discretion of the court.

(e) This section shall apply as well to foreign vessels while in waters of the United States, as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

The master, owner, consignee, or agent of any vessel of the United States, or of any foreign vessel seeking clearance from a port of the United States, shall present his shipping articles at the office of clearance, and no clearance shall be granted any such vessel unless the provisions of this section have been complied with.

(f) The Commandant of the Coast Guard shall make regulations to carry out this section. This section shall not apply to fishing or whaling vessels or yachts.

(g) The provisions of this section shall not apply to, or render unlawful, deductions made by an employer from the wages of a seaman, pursuant to the written consent of the seaman, if (1) such deductions are paid into a trust fund established for the sole and exclusive benefit of seamen employed by such employer, and their families and dependents (or of such seamen, families, and dependents jointly with seamen employed by other employers and their families and dependents); and (2) such payments are held in trust for the purpose of providing, either from principal or income or both, for the benefit of such seamen, their families, and dependents, medical and/or hospital care, pensions on retirement or death of the seamen, life insurance, unemployment benefits, compensation for illness or injuries resulting from occupational activity, sickness, accident and disability compensation, or any one or more of the foregoing benefits, or for the purpose of purchasing insurance to provide any one or more of such benefits. (June 26, 1884, ch. 121, § 10, 23 Stat. 55; Dec. 21, 1898, ch. 28, §§ 24—26, 30 Stat. 763, 764; Apr. 26, 1904, ch. 1603, § 1, 33 Stat. 308; Mar. 4, 1915, ch. 153, § 11, 38 Stat. 1168; June 5, 1920, ch. 250, § 32, 41 Stat. 1006; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; May 31, 1939, ch. 158, 53 Stat. 794; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; Sept. 29, 1950, ch. 1109, 64 Stat. 1081; Jan. 10, 1951, ch. 1222, 64 Stat. 1239.)

CODIFICATION

Act June 26, 1884, ch. 121, as enacted read: "That it shall be, and is hereby, made unlawful in any case to pay any seaman wages before leaving the port at which such seaman may be engaged in advance of the time when he has actually earned the same, or to pay such advance wages to any other person, or to pay any person, other than an officer authorized by act of Congress to collect fees for such service, any remuneration for the shipment of seamen. Any person paying such advance wages or such remuneration shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not less than four times the amount of the wages so advanced or remuneration so paid, and may be also imprisoned for a period not exceeding six months, at the discretion of the court. The payment of such advanced wages or remuneration shall in no case, except as herein provided, absolve the vessel, or the master or owner thereof, from full payment of wages after the same shall have been actually earned, and shall be no defense to a libel, suit, or action for the recovery of such wages: Provided, That this section shall not apply to whaling-vessels: And provided further, That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his wife, mother, or other relative, but to no other person or corporation. And any person who shall falsely claim such relationship to any seaman in order to obtain wages so allotted shall, for every such offense, be punishable by a fine of not exceeding five hundred dollars, or imprisonment not exceeding six months, at the discretion of the court. This section shall apply as well to foreign vessels as to vessels of the United States; and any foreign vessel the master, owner, consignee, or agent of which has violated this section, or induced or connived at its violation, shall be refused a clearance from any port of the United States."

Act June 19, 1886, ch. 421, § 3, 24 Stat. 80, which was subsequently repealed by act Dec. 21, 1898, struck out the words "That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his wife, mother, or other relative, but to no other person or corporation," and inserted in lieu thereof the following: "That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of all or any portion of the wages which he may earn to his wife, mother, or other relative, or to an original creditor in liquidation of any just debt for board or clothing which he may have contracted prior to engagement, not exceeding ten dollars per month for each month of the time usually required for the voyage for which the seaman has shipped, under such regulations as the Secretary of the Treasury may prescribe, but no allotment to any other person or corporation shall be lawful," and struck out all of the last paragraph after the words "vessels of the United States," and inserted in lieu thereof the following: "And any master, owner, consignee, or agent of any foreign vessel who has violated this section shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for a similar violation."

Act Dec. 21, 1898, § 24, amended this section prior to its incorporation in the Code, to read:

"(a) It shall be, and is hereby, made unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages to any other person, any person paying such advance wages shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than four times the amount of the wages so advanced, and may also be imprisoned for a period not exceeding six months, at the discretion of the court. The payment of such advance wages shall in no case, excepting as herein provided, absolve the vessel or the master or owner thereof from full payment of wages after the same shall have been actually earned, and shall be no defense to a libel, suit, or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be liable to a penalty of not more than one hundred dollars.

"(b) It shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his grandparents, parents, wife, sister, or children. But no allotment whatever shall be allowed in the trade between the ports of the United States (except as provided in subdivision C of this section) or in trade between ports of the United States and the Dominion of Canada, Newfoundland, the West Indies and Mexico.

"(c) It shall be lawful for any seaman engaged in a vessel bound from a port on the Atlantic to a port on the Pacific or vice versa, or in a vessel engaged in foreign trade, except trade between the United States and the Dominion of Canada or Newfoundland or the West Indies or the Republic of Mexico, to stipulate in his shipping agreement for an allotment of an amount, to be fixed by regulation of the Commissioner of Navigation, with the approval of the Secretary of the Treasury not exceeding one month's wages, to an original creditor in liquidation of any just debt for board or clothing which he may have contracted prior to engagement.

"(d) No allotment note shall be valid unless signed by and approved by the shipping commissioner. It shall be the duty of said commissioner to examine such allotments and the parties to them and enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made.

"(e) No allotment except as provided for in this section shall be lawful. Any person who shall falsely claim to be such relation as above described of a seaman under this section or shall make a false statement of the nature or amount of any debt claimed to be due from any seaman

under this section shall for every such offense be punishable by a fine not exceeding five hundred dollars or imprisonment not exceeding six months, at the discretion of the court.

"(f) This section shall apply as well to foreign vessels as to vessels of the United States; and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for a similar violation: Provided, That treaties in force between the United States and foreign nations do not conflict.

"(g) Under the direction of the Secretary of the Treasury the Commissioner of Navigation shall make regulations to carry out this section."

Section 25 of the act repealed the previous amendatory provision of act June 19, 1886, and also repealed R.S. §§ 4531—4534 relating to allotments and advances of seamen's wages.

Section 26 of the act contained the last sentence in former subsec. (f).

Act Apr. 26, 1904, changed the words at the end of paragraph (a) to read: "he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than $500."

Act Mar. 4, 1915, amended section generally, and among other changes omitted subsec. (c), and redesignated former subsecs. (d)—(g) as (c)—(f).

Act June 5, 1920, inserted in paragraph (a) the words: "Whether made within or without the United States or territory subject to the jurisdiction thereof".

AMENDMENTS

1951—Subsec. (g). Act Jan. 10, 1951, added subsec. (g).

1950—Subsec. (b). Act Sept. 29, 1950, allowed seamen to make allotments from their wages to be used in the purchase of United States Savings Bonds or to be deposited in any institution in which the accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

1939—Subsecs. (b), (c), and (d). Act May 31, 1939, added provisions allowing deposits to be made in savings banks, or United States postal savings depository.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner in subsec. (c) was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated and "The Commandant of the Coast Guard" was substituted for "Under the direction of the Secretary of Commerce the Director of the Bureau of Marine Inspection and Navigation" in subsec. (f) on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

"Bureau of Navigation and Steamboat Inspection" was changed to "Bureau of Marine Inspection and Navigation" by act May 27, 1936.

Act June 30, 1932, consolidated and coordinated the Steamboat and Inspection Service of the Bureau of Navigation in the Department of Commerce into the Bureau of Navigation and Steamboat Inspection. See note under former section 1 of this title.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Fishing vessels, inapplicability of this section, see section 601 of this title.

Oyster vessels, application of this section, see section 598 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 598 of this title.

§ 600. Agreements as to loss of lien or right to wages.

No master or seaman shall, by any agreement other than is provided by title 53 of the Revised Statutes, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of title 53 of the Revised Statutes, and every stipulation by which any master or seamen consents to abandon his right to his wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative. (R.S. 4535; Apr. 25, 1968, Pub. L. 90-293, § 1(c), 82 Stat. 108.)

DERIVATION

Act June 7, 1872, ch. 322, § 31, 17 Stat. 268.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

AMENDMENTS

1968—Pub. L. 90-293 substituted "master or seamen" for "seamen" wherever appearing.

CROSS REFERENCES

Coastwise trade—

Application of this section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

Definition of master as used in this section, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, 608 of this title.

§ 601. Attachment or arrestment of wages; support of wife and minor children; State tax laws.

No wages due or accruing to any master, seaman, or apprentice shall be subject to attachment or arrestment from any court, and every payment of wages to a master, seaman, or apprentice shall be valid in law, notwithstanding any previous sale or assignment of wages or of any attachment, encumbrance, or arrestment thereon; and no assignment or sale of wages or of salvage made prior to the accruing thereof shall bind the party making the same, except such allotments as are authorized by this title. This section shall apply to fishermen employed on fishing vessels as well as to seamen: *Provided,* That nothing contained in this or any preceding section shall interfere with the order by any court regarding the payment by any master or seaman of any part of his wages for the support and maintenance of his wife and minor children: *And provided further,* That no part of the wages due or

accruing to a master, officer, or any other seaman who is a member of the crew on a vessel engaged in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade shall be withheld pursuant to the provisions of the tax laws of any State, Territory, possession, or Commonwealth, or a subdivision of any of them. (Mar. 4, 1915, ch. 153, § 12, 38 Stat. 1169; Sept. 14, 1959, Pub. L. 86–263, 73 Stat. 551; Apr. 25, 1968, Pub. L. 90–293, § 1(d), 82 Stat. 108.)

REFERENCES IN TEXT

Words "this title" in first sentence were so in original. The act of Mar. 4, 1915, was not subdivided into titles, and section 12 thereof did not directly amend any section of the Revised Statutes. The term "this title" is therefore ambiguous, but was probably intended to refer to Title 53 of the Revised Statutes, for distribution of which, see note under section 543 of this title.

The preceding sections of act Mar. 4, 1915, referred to in proviso of this section, affected sections 80, 569, 596, 597, 599, 656, 673, 701, 703, 712 and 713 of this title.

AMENDMENTS

1968—Pub. L. 90–293 substituted "master, seaman, or apprentice" for "seaman or apprentice" wherever appearing and substituted "master or seaman" for "seaman" in provision prohibiting interference with court orders regarding the payment of a portion of wages for the support and maintenance of a wife and minor children.

1959—Pub. L. 86–263 added proviso prohibiting withholding from seamen's wages for State, Territory or Commonwealth taxes.

CROSS REFERENCES

Definition of master as used in this section, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 608 of this title.

§ 602. Limit of sum recoverable during voyage.

No sum exceeding $1 shall be recoverable from any seaman, by any one person, for any debt contracted during the time such seaman shall actually belong to any vessel, until the voyage for which such seaman engaged shall be ended. (R. S. § 4537.)

DERIVATION

Act July 20, 1790, ch. 29, § 4, 1 Stat. 133.

§ 603. Summons for nonpayment.

Whenever the wages of any seaman are not paid within ten days after the time when the same ought to be paid according to the provisions of title 53 of the Revised Statutes, or any dispute arises between the master and seamen touching wages, the district judge for the judicial district where the vessel is, or in case his residence be more than three miles from the place, or he be absent from the place of his residence, then, any judge or justice of the peace, or any United States commissioner, may summon the master of such vessel to appear before him, to show cause why process should not issue against such vessel, her tackle, apparel, and furniture, according to the course of admiralty courts, to answer for the wages. (R. S. § 4546; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956.)

DERIVATION

Acts July 20, 1790, ch. 29, § 6, 1 Stat. 133; Aug. 23, 1842, ch. 188, § 1, 5 Stat. 517.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

CODIFICATION

R.S. § 4546 as enacted originally referred to "any commissioner of a circuit court." By act May 28, 1896, as amended by act Mar. 2, 1901, the office of commissioner of the circuit court was abolished, provision was made for the appointment, by the district courts, of United States commissioners, and all Acts applicable to commissioners of the Circuit Court, except as to appointment and fees, were made applicable to United States commissioners.

CROSS REFERENCES

Application of section to vessels in coastwise trade, etc., see section 563 of this title.

Seamen's rights generally, in Courts of the United States, see section 1916 of Title 28, Judiciary and Judicial Procedure.

Section inapplicable to proceedings brought by a master for the enforcement of a lien granted by section 606 of this title, see section 607 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 563, 607, of this title.

§ 604. Libel for wages.

If the master against whom such summons is issued neglects to appear, or, appearing, does not show that the wages are paid or otherwise satisfied or forfeited, and if the matter in dispute is not forthwith settled, the judge or justice or United States commissioner shall certify to the clerk of the district court that there is sufficient cause of complaint whereon to found admiralty process; and thereupon the clerk of such court shall issue process against the vessel. In all cases where the matter in demand does not exceed $100 the return day of the monition or citation shall be the first day of a stated or special session of court next succeeding the third day after the service of the monition or citation, and on the return of process in open court, duly served, either party may proceed therein to proofs and hearing without other notice, and final judgment shall be given according to the usual course of admiralty courts in such cases. In such suits all the seamen having cause of complaint of the like kind against the same vessel may be joined as complainants, and it shall be incumbent on the master to produce the contract and log book, if required to ascertain any matter in dispute; otherwise the complainants shall be permitted to state the contents thereof, and the burden of proof of the contrary shall be on the master. But nothing herein contained shall prevent any seaman from maintaining any action at common law for the recovery of his wages, or having immediate process out of any court having admiralty jurisdiction wherever any vessel may be found, in case she shall have left the port of delivery where her voyage ended before payment of the wages, or in case she shall be about to proceed to sea before the end of the ten days next after the day when such wages are due, in accordance with section 596 of this title. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4547; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Dec. 21, 1898, ch. 28, §§ 6, 26, 30 Stat. 756, 764; Mar. 2, 1901, ch. 814, 31 Stat. 956.)

DERIVATION

Acts July 20, 1790, ch. 29, § 6, 1 Stat. 133; Aug. 23, 1842, ch. 188, § 1, 5 Stat. 517.

CODIFICATION

For changes effected by acts May 28, 1896, and Mar. 2, 1901, see note under section 603 of this title.

Act Dec. 21, 1898, substituted the provisions of the second sentence for the words "and the suit shall be proceeded on in the court, and final judgment shall be given according to the usual course of admiralty courts in such cases"; substituted "may" for "shall" in the third sentence before the words "be joined as complainants"; made a slight change of phraseology concerning the burden of proof; and substituted the present provisions at the end of the section following the words "proceed to sea" for the words "before the end of ten days next after the delivery of her cargo or ballast."

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Coastwise trade vessels, application of section, see section 563 of this title.

Oyster vessels, application of section, see section 598 of this title.

Section inapplicable to proceedings brought by a master for the enforcement of a lien granted by section 606 of this title, see section 607 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 563, 598, 607 of this title.

§ 605. Wages payable in gold.

Moneys paid under the laws of the United States, by direction of consular officers or agents, at any foreign port or place, as wages, extra or otherwise, due American seamen, shall be paid in gold or its equivalent, without any deduction whatever, any contract to the contrary notwithstanding. (R. S. § 4548.)

DERIVATION

Act Mar. 3, 1873, ch. 265, 17 Stat. 602.

CROSS REFERENCES

Gold coinage discontinued in United States, see section 315b of Title 31, Money and Finance.

Obligations discharged by legal tender for public and private debts, see section 463 of Title 31.

§ 606. Master's lien for wages against vessel.

The master of a vessel documented, registered, enrolled, or licensed under the laws of the United States shall have the same lien for his wages against such vessel and the same priority as any other seaman serving on such vessel. (Pub. L. 90–293, § 1(a), Apr. 25, 1968, 82 Stat. 107.)

CROSS REFERENCES

Definition of master as used in this section, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 607, 608 of this title.

§ 607. Same; proceeding for enforcement.

Sections 603 and 604 of this title shall not apply in any proceeding brought by a master for the enforcement of the lien granted by section 606 of this title. (Pub. L. 90–293, § 1(b), Apr. 25, 1968, 82 Stat. 107.)

CROSS REFERENCES

Definition of master as used in this section, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 608 of this title.

§ 608. Same; definition of master.

For the purposes of sections 600, 601, 606, and 607 of this title, the term "master" shall include every person having command of any vessel documented, registered, enrolled, or licensed under the laws of the United States, except a person who has a financial interest valued at 5 per centum or more either of the corporation, partnership, or association which owns the vessel against which the lien is claimed, or of the market value of the vessel against which the lien is claimed. (Pub. L. 90–293, § 2, Apr. 25, 1968, 82 Stat. 108.)

WAGES ON CANAL BOATS

§ 611. Libel of canal boats for wages.

No canal boat, without masts or steam power, which is required to be registered, licensed, or enrolled and licensed, shall be subject to be libeled in any of the United States courts for the wages of any person who may be employed on board thereof, or in navigating the same. (R. S. § 4251.)

DERIVATION

Act July 20, 1846, ch. 60, § 1, 9 Stat. 38.

CROSS REFERENCES

Enrollment, license, and custom fees, exemption of canal boats, see section 336 of this title.

EFFECTS OF DECEASED SEAMEN

§ 621. Duty of master where seaman dies during voyage.

Whenever any seaman or apprentice belonging to or sent home on any merchant vessel, whether a foreign-going or domestic vessel, employed on a voyage which is to terminate in the United States, dies during such voyage, the master shall take charge of all moneys, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of such clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book, and cause it to be attested by the mate and one of the crew, containing the following particulars:

First. A statement of the amount of money so left by the deceased.

Second. In case of a sale, a description of each article sold, and the sum received for each.

Third. A statement of the sum due to deceased as wages, and the total amount of deductions, if any, to be made therefrom. (R. S. § 4538.)

DERIVATION

Act June 7, 1872, ch. 322, § 43, 17 Stat. 271.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Provision for payment of obligations in gold prohibited, see section 463 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 622 of this title.

§ 622. Proceedings in regard to effects.

In cases embraced by section 621 of this title, the following rules shall be observed:

First. If the vessel proceeds at once to any port in the United States, the master shall, within forty-eight hours after his arrival, deliver any such effects remaining unsold, and pay any money which he has taken charge of or received from such sale,

and the balance of wages due to the deceased, to the Coast Guard official to whom the duties of shipping commissioner have been delegated at the port of destination in the United States.

Second. If the vessel touches and remains at some foreign port before coming to any port in the United States, the master shall report the case to the United States consular officer there, and shall give to such officer any information he requires as to the destination of the vessel and probable length of the voyage; and such officer may, if he considers it expedient so to do, require the effects, money, and wages to be delivered and paid to him, and shall, upon such delivery and payment, give to the master a receipt; and the master shall within forty-eight hours after his arrival at his port of destination in the United States produce the same to the Coast Guard official to whom the duties of shipping commissioner have been delegated there. Such consular officer shall, in any such case, indorse and certify upon the agreement with the crew the particulars with respect to such delivery and payment.

Third. If the consular officer does not require such payment and delivery to be made to him, the master shall take charge of the effects, money, and wages, and shall, within forty-eight hours after his arrival at his port of destination in the United States, deliver and pay the same to the Coast Guard official to whom the duties of shipping commissioner have been delegated there.

Fourth. The master shall, in all cases in which any seaman or apprentice dies during the voyage or engagement, give to such officer or Coast Guard official an account, in such form as they may respectively require, of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified by an entry in the official log book, if there be any; and by such other vouchers, if any, as may be reasonably required by the officer or Coast Guard official to whom the account is rendered.

Fifth. Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United States, the Coast Guard official to whom the duties of shipping commissioner have been delegated shall grant to the master a certificate to that effect. No officer of customs shall clear any foreign-going vessel without the production of such certificate. (R. S. § 4539; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 44, 17 Stat. 271.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 624 of this title.

§ 623. Penalty for neglect of master.

Whenever any master fails to take such charge of the money or other effects of a seaman or apprentice during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as is above directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the district court in whose jurisdiction such port of destination is situate, and shall pay and deliver the same accordingly; and he shall, in addition, for every such offense, be liable to a penalty of not more than treble the value of the money or effects, or, if such value is not ascertained, not more than $200; and if any such money, wages, or effects are not duly paid, delivered, and accounted for by the master, the owner of the vessel shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the money and value be liable to the same penalty which is incurred by the master for a like offense; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the courts and by the modes of proceeding by which seamen are enabled to recover wages due to them. (R. S. § 4540; Mar. 3, 1911, ch. 231, 36 Stat. 1167.)

DERIVATION

Act June 7, 1872, ch. 322, § 45, 17 Stat. 271.

CODIFICATION

The word "district" was substituted for "circuit" before "court" to conform to act Mar. 3, 1911, sections 289 to 291 of which abolished the circuit courts, and transferred their powers and duties to the district courts.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 624. Duties of consular officers.

Whenever any such seaman or apprentice dies at any place out of the United States, leaving any money or effects not on board of his vessel, the consular officer of the United States at or nearest the place shall claim and take charge of such money and effects, and shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions of section 622 of this title, and shall quarterly remit to the district court of the district embracing the port from which such vessel sailed, or the port where the voyage terminates, all moneys belonging to or arising from the sale of the effects or paid as the wages of any deceased seamen or apprentices which have come to his hands; and shall render such accounts thereof as the district court requires. (R. S. § 4541; Mar. 3, 1897, ch. 389, § 4, 29 Stat. 689; Mar. 3, 1911, ch. 231, 36 Stat. 1167.)

DERIVATION

Act June 7, 1872, ch. 322, § 46, 17 Stat. 272.

CODIFICATION

Act Mar. 3, 1911, abolished circuit courts. See note under section 623 of this title.

Act Mar. 3, 1897, substituted references to the Circuit Court for references to the district judge.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 625. Effects of seaman dying within the United States.

Whenever any seaman or apprentice dies in the United States, and is, at the time of his death, entitled to claim from the master or owner of any vessel in which he has served, any unpaid wages or effects, such master or owner shall pay and deliver, or account for the same, to the Coast Guard official to whom the duties of shipping commissioner have been delegated at the port where the seaman or apprentice was discharged, or was to have been discharged or where he died. (R. S. § 4542; Mar. 3, 1897, ch. 389, § 6, 29 Stat. 689; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 47, 17 Stat. 272.

CODIFICATION

Act Mar. 3, 1897, added the words "or where he died" at end of R.S. § 4542.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 626. Payment to district court.

Every Coast Guard official to whom the duties of shipping commissioner have been delegated in the United States shall, within one week from the date of receiving any such money, wages, or effects of any deceased seaman or apprentice, pay, remit, or deliver to the district court of the district in which he resides, the money, wages, or effects, subject to such deductions as may be allowed by the district court for expenses incurred in respect to such money and effects; and should any such Coast Guard official fail to pay, remit, and deliver the same to the district court, within the time hereinbefore mentioned, he shall incur a penalty of not more than treble the value of such money and effects. (R. S. § 4543; Mar. 3, 1911, ch. 231, 36 Stat. 1167; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 48, 17 Stat. 272.

CODIFICATION

By act Mar. 3, 1911, references to the district court were substituted for references to the Circuit Court. See note under section 623 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 627. Distribution by district court.

If the money and effects of any seaman or apprentice paid, remitted, or delivered to the district court, including the moneys received for any part of his effects which have been sold, either before delivery to the district court, or by its directions, do not exceed in value the sum of $1500, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect to the seaman or apprentice, or of his money and effects, as the said court thinks fit to allow, the court may, after a period of not less than sixty days after such payment, remittance, or delivery has been made to the court, pay and deliver the said money and effects to any claimants who can prove themselves either to be his widow or children, or to be entitled to the effects of the deceased under his will, or under any statute, or at common law, or to be entitled to procure probate, or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or may, if it thinks fit so to do, require probate, or letters of administration or confirmation, to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and if such money and effects exceed in value the sum of $1500, then, subject to deduction for expenses, the court shall pay and deliver the same to the legal personal representatives of the deceased. (R. S. § 4544; Mar. 3, 1911, ch. 231, 36 Stat. 1167; Sept. 22, 1959, Pub. L. 86-364, §§ 1, 2, 73 Stat. 646.)

DERIVATION

Act June 7, 1872, ch. 322, § 49, 17 Stat. 272.

CODIFICATION

By act Mar. 3, 1911, references to the district court were substituted for references to the circuit court. See note under section 623 of this title.

AMENDMENTS

1959—Pub. L. 86-364 substituted "$1,500" for "$300" in two instances and inserted, "after a period of not less than sixty days after such payment, remittance, or delivery has been made to the court," following "the court may".

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 628. Unclaimed wages and effects.

A district court, in its discretion, may at any time direct the sale of the whole or any part of the effects of a deceased seaman or apprentice, which it has received, and shall hold the proceeds of such sale as the wages of deceased seamen are held. When no claim to the wages or effects or proceeds of the sale of the effects of a deceased seaman or apprentice, received by a district court, is substantiated within six years after the receipt thereof by the court, it shall be in the absolute discretion of the court, if any subsequent claim is made, either to allow or refuse the same. Such courts shall, from time to time, pay any moneys arising from the unclaimed wages and effects of deceased seamen, which in their opinion it is not necessary to retain for the purpose of satisfying claims, into the Treasury of the United States, and such moneys shall form a fund for, and be appropriated to, the relief of sick and disabled and destitute seamen belonging to the United States merchant marine service. (R. S. § 4545; Mar. 3, 1897, ch. 389, § 7, 29 Stat. 689; Mar. 3, 1911, ch. 231, 36 Stat. 1167.)

DERIVATION

Act June 7, 1872, ch. 322, § 50, 17 Stat. 273.

CODIFICATION

By act Mar. 3, 1911, references to the District Court were substituted for references to the Circuit Court. See note under section 623 of this title.

Act Mar. 3, 1897, inserted the first sentence of the section as set forth above, and the words "or proceeds of the sale of the effects," in the second sentence.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, 711 of this title.

DISCHARGE

§ 641. Mode.

All seamen discharged in the United States from merchant vessels engaged in voyages from a port in the United States to any foreign port, or, being of the burden of seventy-five tons or upward, from a port on the Atlantic to a port on the Pacific, or vice versa, shall be discharged and receive their wages in the presence of a duly authorized Coast Guard official to whom the duties of shipping commissioner under title 53 of the Revised Statutes have been delegated, except in cases where some competent court otherwise directs; and any master or owner of any such vessel who discharges any such seaman belonging thereto, or pays his wages within the United States in any other manner, shall be liable to a penalty of not more than $50. (R. S. § 4549; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 22, 17 Stat. 266.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to be discharged and receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 642. Accounting as to wages.

Every master shall, not less than forty-eight hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a Coast Guard official to whom the duties of shipping commissioner have been delegated, to such Coast Guard official, a full and true account of his wages, and all deductions to be made therefrom on any account whatsoever; and in default shall, for each offense, be liable to a penalty of not more than $50. No deduction from the wages of any seaman except in respect of some matter happening after such delivery shall be allowed, unless it is included in the account delivered; and the master shall, during the voyage, enter the various matters in respect to which such deductions are made, with the amounts of the respective deductions as they occur, in the official log book, and shall, if required, produce such book at the time of the payment of wages, and, also, upon the hearing, before any competent authority, of any complaint or question relating to such payment. (R. S. § 4550; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 23, 17 Stat. 267.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 643. Continuous discharge book and certificate of identification.

(a) Issuance; form and contents.

Every seaman upon a merchant vessel of the United States of the burden of one hundred gross tons or upward, except vessels employed exclusively in trade on the navigable rivers of the United States, shall be furnished, at the option of the seaman, with a book to be known as a continuous discharge book or with a certificate of identification, which book or certificate shall be retained by the seaman and shall contain the signature of the seamon to whom it is so furnished and a statement of his nationality, age, personal description, photograph, thumbprint, and home address. Such books or certificates shall be issued by the Coast Guard officials to whom the duties of shipping commissioners have been delegated, or, at ports where no such Coast Guard officials have been appointed, by collectors or deputy collectors of customs, in such manner and form as the Commandant of the Coast Guard shall determine. Any individual, firm, partnership, corporation, or association which shall issue any such book or certificate, or make any statement or endorsement therein, except as authorized by the provisions of this section, or issue any imitation of any such book or certificate, shall be deemed guilty of a misdemeanor and shall be imprisoned not less than one month nor more than three months, in the discretion of the court.

(b) Evidence of citizenship.

Any person applying for such book or certificate and claiming to be a citizen of the United States shall furnish satisfactory evidence of such citizenship.

(c) Exhibition of discharge book or certificate before employment.

No seaman shall be employed on any vessel to which this section applies until he has exhibited a certificate of identification or a continuous discharge book to the Coast Guard official to whom the duties

of shipping commissioner have been delegated, or in cases where seamen are not signed on before such Coast Guard official, to the master of the vessel: *Provided,* That the provisions of this subsection shall not apply to the employment of seamen at a foreign port or place, in which case seamen so employed shall be furnished a continuous discharge book or a certificate of identification, in accordance with the provisions of subsection (a) of this section, at the first port of entry in the United States or its territories at which the vessel arrives after such seamen are so employed.

(d) Entries.

Upon the discharge of any seaman and the payment of his wages, the Coast Guard official to whom the duties of shipping commissioner have been delegated shall enter in the continuous discharge book of such seaman, if the seaman carries such a book, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, the rating (capacity in which employed) then held by such seaman, and the signature of the person making such entries and nothing more.

(e) Certificate of discharge; issuance; form and contents.

For the purpose of furnishing evidence of sea service in the case of seamen preferring the certificate of identification instead of the continuous discharge book, the Coast Guard shall provide a certificate of discharge, printed on durable paper, in such form as to specify the name and citizenship of the seaman to whom it is issued, the serial number of his certificate of identification, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, and the rating (capacity in which employed) then held by such seaman. Records of service entered in either continuous discharge books or certificates of discharge shall contain no reference to the character or ability of the seaman. The Coast Guard official to whom the duties of shipping commissioner have been delegated shall issue such certificate of discharge and make the proper entries therein, which certificate shall be signed by the seaman to whom it is issued and the master of the vessel and shall be witnessed by such Coast Guard official.

(f) Records of discharge books and certificates.

There shall be maintained in the Coast Guard in Washington, District of Columbia, a record of every continuous discharge book, certificate of identification, certificate of discharge, and any other certificate issued by the Coast Guard, together with the name and address of the seaman to whom it is issued and of his next of kin, and certified copies of all entries made in continuous discharge books or certificates of discharge, which entries shall be forwarded to the Coast Guard by the Coast Guard official to whom the duties of shipping commissioner have been delegated or other person making such entries in accordance with the provisions of this section. Records so maintained shall not be open for general or public use or inspection.

(g) Election to carry discharge book or certificate; penalty for discrimination because of.

Any person, partnership, company, or corporation who shall require any seaman employed or applying for employment to possess, produce, or carry a continuous discharge book, if and when such seaman possesses or carries an identification certificate, or to carry an identification certificate, if and when such seaman possesses and carries a continuous discharge book, or who shall exchange or give to any other person, partnership, company, or corporation information to cause discrimination against a seaman for electing to carry either an identification certificate or a continuous discharge book, or to prevent a seaman from obtaining employment on that account, shall be deemed guilty of a misdemeanor; and, on conviction thereof, shall be punishable by a fine of not more than $1,000 or imprisonment for not more than one year, at the discretion of the court.

Seamen shall apply for certificates of identification or continuous discharge books hereunder; and if any application contains any statement known by the applicant to be false, he shall be deemed guilty of a misdemeanor and, on conviction thereof before any district court of the United States, shall be fined not more than $1,000 or imprisoned for not more than one year, in the discretion of the court.

(h) Loss of discharge book or certificate.

In case of the loss of a continuous discharge book, a certificate of identification, or of any certificate of discharge by shipwreck or other casualty, the seaman shall be supplied with a duplicate of such continuous discharge book, certificate of identification, or certificate of discharge in which shall be entered all data that may be available from the copies of records kept by the Coast Guard. In other cases of loss the seaman may obtain a duplicate of such continuous discharge book, certificate of identification, or certificates of discharge, containing the same entries, upon a payment of a sum equivalent to the cost thereof to the Government to be determined from time to time by the Commandant of the Coast Guard.

(i) Application to fishing or whaling vessels or yachts.

The provisions of this section shall not apply to fishing or whaling vessels or yachts.

(j) Enforcement by Commandant of the Coast Guard.

The Commandant of the Coast Guard shall enforce this section as to all vessels of the United States subject to the provisions hereof through collectors of customs and other Government officers acting under the direction of the Coast Guard, and shall make such rules and regulations as he may deem necessary to carry out the provisions of this section.

(k) Performance of duties by collector, deputies, or masters.

Where vessels are required to sign on and discharge the crew before a Coast Guard official to whom the duties of shipping commissioner have been delegated and no such Coast Guard official is appointed or is available the functions and duties

required by subsections (d) and (e) of this section to be performed by such Coast Guard official may be performed by a collector or deputy collector of customs; and where vessels are not required to sign on and discharge the crew before a Coast Guard official the duties and functions required by subsections (d) and (e) of this section to be performed by such Coast Guard official shall be performed by the master of such vessel. Any master who shall fail to perform such duties or functions shall be fined in the sum of $50 for each offense.

(*l*) Report by master of employment or discharge of seaman not shipped or discharged before Coast Guard official.

The master of every vessel subject to the provisions of this section shall submit, over his signature, reports to the Coast Guard of the employment, discharge, or termination of services of every seaman not shipped or discharged before a Coast Guard official to whom the duties of shipping commissioner have been delegated, which reports shall contain such of the following information as may be required by regulation of the Commandant of the Coast Guard: (1) name of vessel, official number, voyage number, port, date, description of voyage, name in full of each seaman, number of continuous discharge book or certificate of identification and of license, certificate of registry, or service, and efficiency for rating in which employed, age, citizenship, capacity in which engaged, date and place of engagement, date and place of discharge or separation from service of vessel, the percentage of citizens of the United States in the crew, and name in full of the master and the serial number of his license; (2) a statement showing (a) that the master has entered into an agreement with each seaman on board such vessel as required by law; (b) that at least 65 per centum of the deck crew (exclusive of licensed officers) are of a rating not less than able seamen; (c) that at least 75 per centum of the crew in each department are able to understand orders given by the officers; (d) that the vessel has in her service the number of lifeboatmen required by her certificate of inspection; (e) that each member of the crew possesses a license, certificate of registry, or certificate of service for the rating in which he is engaged, and (f) that each lifeboatman possesses a certificate of efficiency. The Commandant of the Coast Guard shall, by regulation, prescribe the form and content of such reports and time of submitting them. This subsection shall not apply to any ferry or any tug used in connection with a ferry operation, if such ferry or tug is employed exclusively in trade on the Great Lakes, lakes (other than the Great Lakes), bays, sounds, bayous, canals, and harbors, and is not engaged on an international voyage. Any master who shall violate any provision of this subsection or regulations established hereunder shall be subject to a penalty of $500. (R. S. § 4551; June 25, 1936, ch. 816, § 3, 49 Stat. 1934; Mar. 24. 1937, ch. 49, § 1, 50 Stat. 49; Oct. 17, 1940, ch. 896, § 1, 54 Stat. 1200; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 24, 17 Stat. 267.

AMENDMENTS

1940—Subsec. (*l*). Act Oct. 17, 1940, added subsec. (*l*).

1937—Act Mar. 24, 1937, amended subsecs. (a)—(d) to read as above set forth, and added subsecs. (e)—(k).

1936—Subsecs. (a)—(d). Act June 25, 1936, added subsecs. (a)—(d).

EFFECTIVE DATE OF 1937 AMENDMENT

Section 2 of act Mar. 24, 1937, provided: "This Act shall take effect as to vessels within the provisions of section 4551 of the Revised Statutes, as amended [this section], as follows: (a) Upon its enactment in the case of such vessels engaged in foreign or intercoastal voyages, and (b) on June 25, 1937, in the case of all other such vessels: *Provided*, That, until June 25, 1937, the Secretary of Commerce is hereby authorized, pending the issuance of permanent certificates of identification and permanent certificates of discharge under such section, to provide for temporary certificates of identification and temporary certificates of discharge, which shall have the same force and effect as the permanent certificates."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated, a reference to the United States local inspectors of steam vessels in subsec. (a) was omitted, "Commandant of the Coast Guard" was substituted for "Director of the Bureau of Marine Inspection and Navigation, subject to the approval of the Secretary of Commerce" in subsec. (a) and for "Secretary of Commerce" in subsecs. (h), (j), and (*l*), and "Coast Guard" was substituted for "Bureau of Marine Inspection and Navigation," on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Enforcement, application, separability and appropriation to carry out section, see sections 689—692 of this title.

Extension of subsection (*l*) to other vessels or waters in national interest, see section 643b of this title.

Fishing or whaling vessels or yachts, application of section, see section 690 of this title.

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 563, 643a, 643b, 689, 690, 691, 692 of this title.

§ 643a. Same; exception as to unrigged vessels.

Provisions of section 643 of this title shall not apply to unrigged vessels except seagoing barges. (June 16, 1938, ch. 467, § 3, 52 Stat. 754.)

CROSS REFERENCES

Definitions of "unrigged vessel," and "seagoing barge," see section 672c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672c of this title.

§ 643b. Same; extension of section 643 (*l*) to other vessels and waters in national interest.

The President is authorized, whenever in his judgment the national interest requires, to extend the provisions of subsection (*l*) of section 643 of this title, to such additional class or classes of vessels and to such waters as he may designate. (Oct. 17, 1940, ch. 896, § 2, 54 Stat. 1201.)

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see section 1 (q) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, set out as a note under section 301 of Title 3, The President.

§ 644. Rules for settlement.

The following rules shall be observed with respect to the settlement of wages:

First. Upon the completion before a Coast Guard official to whom the duties of shipping commissioner have been delegated, of any discharge and settlement, the master or owner and each seaman, respectively, in the presence of such Coast Guard official, shall sign a mutual release of all claims for wages in respect of the past voyage or engagement, and such Coast Guard official shall also sign and attest it, and shall retain it in a book to be kept for that purpose, provided both the master and seamen assent to such settlement, or the settlement has been adjusted by such Coast Guard official.

Second. Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands for wages between the parties thereto, on account of wages, in respect of the past voyage or engagement.

Third. A copy of such release, certified under the hand and seal of such Coast Guard official to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

Fourth. In cases in which discharge and settlement before a Coast Guard official to whom the duties of shipping commissioner have been delegated are required, no payment, receipt, settlement, or discharge otherwise made shall operate as evidence of the release or satisfaction of any claim.

Fifth. Upon payment being made by a master before a Coast Guard official to whom the duties of shipping commissioner have been delegated, such official shall, if required, sign and give to such master a statement of the whole amount so paid; and such statement shall, between the master and his employer, be received as evidence that he has made the payments therein mentioned. (R. S. § 4552; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 24, 17 Stat. 267.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Releases given under this section, setting aside, on good cause shown, by court of competent jurisdiction, see section 597 of this title.

Seamen on vessel in coastwise trade, etc., to receive their wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, 597, of this title.

§ 645. Certificate of character.

Upon every discharge effected before a Coast Guard official to whom the duties of shipping commissioner have been delegated, the master shall make and sign, in the form given in the table marked "B," in the schedule annexed to this chapter, a report of the conduct, character, and qualifications of the persons discharged; or may state in such form, that he declines to give any opinion upon such particulars, or upon any of them; and such Coast Guard official shall keep a register of the same, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him. (R. S. § 4553; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 28, 17 Stat. 268.

REFERENCES IN TEXT

For table marked "B" in schedule, referred to in the text, see section 713 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

CROSS REFERENCES

Coastwise trade—

Application of section to sail or steam vessels, see section 544 of this title.

Seamen on vessel to receive wages as provided in this and enumerated sections, see section 563 of this title.

Records of service entered in continuous discharge books or certificates of discharge to contain no reference to character or ability of seaman, see section 643 (e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563, of this title.

§ 646. Discharge of crews in coastwise trade.

Coast Guard officials to whom the duties of shipping commissioners have been delegated may ship and discharge crews from any vessel engaged in the coastwise trade, or the trade between the United States and the Dominion of Canada, or Newfoundland, or the West Indies, or the Republic of Mexico, at the request of the master or owner of such vessel. (June 19, 1886, ch. 421, § 2, 24 Stat. 80; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

This section is from Shipping Act, act June 19, 1886.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the appendix to title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 331 of this title.

PROTECTION AND RELIEF

§ 651. Coast Guard official as arbiter.

Every Coast Guard official to whom the duties of shipping commissioner have been delegated shall hear and decide any question whatsoever between a master, consignee, agent, or owner, and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceedings which may be taken in the matter, before any court of justice, be deemed to be conclusive as to the rights of parties. And any document under the hand and official seal of such Coast Guard official purporting to be such submission or award, shall be prima-facie evidence thereof. (R. S. § 4554; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 25, 17 Stat. 267.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to title 5.

CROSS REFERENCES

Application of section to—

Sail or steam vessels engaged in coastwise trade, see section 544 of this title.

Seamen on vessels engaged in the coastwise trade, or the trade between the United States and Canada, Newfoundland, the West Indies, or Mexico, see section 563 of this title.

Seamen on vessel in coastwise trade, etc., to receive wages as provided in this and enumerated sections, see section 563 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 563 of this title.

§ 652. Examination of witnesses.

In any proceeding relating to the wages, claims, or discharge of a seaman, carried on before any Coast Guard official to whom the duties of shipping commissioner have been delegated, under the provisions of title 53 of the Revised Statutes, such Coast Guard official may call upon the owner, or his agent, or upon the master, or any mate, or any other member of the crew, to produce any log books, papers, or other documents in their possession or power, respectively, relating to any matter in question in such proceedings, and may call before him and examine any of such persons, being then at or near the place, on any such matter; and every owner, agent, master, mate, or other member of the crew, who, when called upon by such Coast Guard official, does not produce any such books, papers, or documents, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable cause for such default, be liable to a penalty of not more than $100 for each offense; and, on application made by such Coast Guard official, shall be further punished, in the discretion of the court, as in other cases of contempt of the process of the court. (R. S. § 4555; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872. ch. 322, § 26, 17 Stat. 267.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Contempts—

Contempts constituting crimes, see section 402 of Title 18, Crimes and Criminal Procedure.

Power of court, see section 401 of said Title 18.

Log books, see section 201 et seq. of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Subpoena, see rule 17, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 653. Complaint that vessel is unseaworthy.

If the first and second officers under the master or a majority of the crew of any vessel bound on any voyage shall, before the vessel shall have left the harbor, discover that the vessel is too leaky or is otherwise unfit in her crew, body, tackle, apparel, furniture, provisions, or stores to proceed on the intended voyage, and shall require such unfitness to be inquired into, the master shall, upon the request of the first and second officers under the master or such majority of the crew, forthwith apply to the judge of the district court of that judicial district, if he shall there reside, or if not, to some justice of the peace of the city, town, or place for the appointment of surveyors, as provided in section 654 of this title, taking with him two or more of the crew who shall have made such request; and any master refusing or neglecting to comply with these provisions shall be liable to a penalty of $500. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4556; Dec. 21, 1898, ch. 28, §§ 7. 26, 30 Stat. 757, 764.)

DERIVATION

Act July 20, 1790, ch. 29, § 3, 1 Stat. 132.

CODIFICATION

Upon incorporation into the Code, R.S. § 4556, as amended by act Dec. 21, 1898, read as above set forth.

R.S. § 4556, as enacted originally read: "If the mate or first officer under the master, and a majority of the crew of any vessel, bound on a voyage to any foreign port, shall, after the voyage is begun, and before the vessel shall have left the land, discover that the vessel is too leaky, or is otherwise unfit in her crew, body, tackle, apparel, furniture, provisions, or stores, to proceed on the intended voyage, and shall require such unfitness to be inquired into, the master shall, upon the request of the mate or other officer and such majority, forthwith proceed to or stop at the nearest or most convenient port or place where such inquiry can be made, and shall there apply to the judge of the district court of that judicial district, if he shall there reside, or if not, to some justice of the peace of the city, town, or place, taking with him two or more of the crew who shall have made such request."

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Mutiny or revolt on shipboard, see sections 2192 and 2193 of Title 18, Crimes and Criminal Procedure.

§ 654. Proceedings on examination of vessel.

The judge, or justice, in a domestic port, shall, upon such application of the master or commander, issue his precept, directed to three persons in the neighborhood, the most experienced and skillful in maritime affairs that can be procured; and whenever such complaint is about the provisions one of such surveyors shall be a physician or a surgeon of the Public Health Service, if such service is established at the place where the complaint is made. It shall be the duty of such surveyors to repair on board such vessel and to examine the same in respect to the defects and insufficiencies complained of, and make reports to the judge, or justice, as the case may be, in writing, under their hands or the hands of two of them whether in any or in what respect the vessel is unfit to proceed on the intended voyage, and

what addition of men, provisions, or stores, or what repairs or alterations in the body, tackle, or apparel will be necessary; and upon such report the judge or justice shall adjudge and shall indorse on his report his judgment whether the vessel is fit to proceed on the intended voyage, and, if not, whether such repairs can be made or deficiencies supplied where the vessel then lies, or whether it is necessary for her to proceed to the nearest or most convenient place where such supplies can be made or deficiencies supplied; and the master and the crew shall, in all things, conform to the judgment. The master or commander shall, in the first instance, pay all the costs of such review, report, or judgment, to be taxed and allowed on a fair copy thereof, certified by the judge or justice. But if the complaint of the crew shall appear upon the report and judgment to have been without foundation, the master or commander, or the owner or consignee of such vessel, shall deduct the amount thereof, and of reasonable damages for the detention, to be ascertained by the judge or justice, out of the wages of the complaining seamen. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4557; Dec. 21, 1898, ch. 28, §§ 8, 26, 30 Stat. 757, 764; July 1, 1902, ch. 1370, 32 Stat. 712.)

DERIVATION

Act July 20, 1790, ch. 29, § 3, 1 Stat. 132.

CODIFICATION

Upon incorporation into the Code, R.S. § 4557, as amended by act Dec. 21, 1898, read as above set forth.

R.S. § 4457, as enacted originally read: "The judge or justice shall, upon such application of the master or commander, issue his precept directed to three persons in the neighborhood, the most skillful in maritime affairs that can be procured, requiring them to repair on board such vessel, and to examine the same in respect to the defects and insufficiencies complained of, and to make report to him, the judge or justice, as the case may be, in writing under their hands, or the hands of two of them, whether in any or in what respect the vessel is unfit to proceed on the intended voyage, and what addition of men, provisions, or stores, or what repairs or alterations in the body, tackle, or apparel will be necessary; and upon such report the judge or justice shall adjudge, and shall indorse on the report his judgment, whether the vessel is fit to proceed on the intended voyage; and if not, whether such repairs can be made or deficiencies supplied where the vessel then lies, or whether it is necessary for her to return to the port from whence she first sailed, to be there refitted; and the master and crew shall in all things conform to the judgment. The master or commander shall, in the first instance, pay all the costs of such view, report, and judgment, to be taxed and allowed on a fair copy thereof, certified by the judge or justice. But if the complaint of the crew shall appear, upon the report and judgment, to have been without foundation, the master or commander, or the owner or consignee of such vessel, shall deduct the amount thereof, and of reasonable damages for the detention, to be ascertained by the judge or justice, out of the wages growing due to the complaining seamen."

CHANGE OF NAME

By act July 1, 1902, the Marine Hospital Service was designated the Public Health and Marine Hospital Service. Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VIII, § 813, 58 Stat. 714, renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; and July 30, 1956, ch. 779, § 3(b), 70 Stat. 720. Act July 1, 1944, retained the name Public Health Service.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 653, 656 of this title.

§ 655. Refusal to proceed when vessel found seaworthy.

If, after judgment that such vessel is fit to proceed on her intended voyage, or after procuring such men, provisions, stores, repairs, or alterations as may be directed, the seamen, or either of them, shall refuse to proceed on the voyage, he shall forfeit any wages that may be due him. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4558; Dec. 21, 1898, ch. 28, §§ 9, 26, 30 Stat. 757, 764.)

DERIVATION

Act July 20, 1790, ch. 29, § 3, 1 Stat. 132.

CODIFICATION

Upon incorporation into the Code, R.S. § 4558, as amended by act Dec. 21, 1898, read as set forth above.

R.S. § 4558, as enacted originally read: "If after judgment that such vessel is fit to proceed on her intended voyage, or after procuring such men, provisions, stores, repairs, or alterations as may be directed, the seamen, or either of them, shall refuse to proceed on the voyage, it shall be lawful for any justice of the peace to commit, by warrant under his hand and seal, every such seaman who refuses to the common jail of the county, there to remain without bail or mainprise until he has paid double the sum advanced to him at the time of subscribing the contract for the voyage, together with such reasonable costs as are allowed by the justice, and inserted in the warrant; and the sureties of such seaman, in case he has given any, shall remain liable for such payment; nor shall any such seaman be discharged upon any writ of habeas corpus or otherwise, for want of any form of commitment, or other previous proceedings, until such sum is paid by him or his surety, if sufficient matter be made to appear, upon the return of such habeas corpus, and an examination then had, to detain him for the causes hereinbefore assigned."

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

§ 656. Appointment of inspectors by consul in foreign port.

Upon a complaint in writing, signed by the first and second officers or a majority of the crew of any vessel, while in a foreign port, that such vessel is in an unsuitable condition to go to sea because she is leaky or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not or have not been during the voyage sufficient or wholesome, thereupon, in any of these or like cases the consul shall cause to be appointed three persons of like qualifications with those described in section 654 of this title, who shall proceed to examine into the cause of complaint and who shall proceed and be governed in all their proceedings as provided by said section. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4559; Dec. 21, 1898, ch. 28, §§ 10, 26, 30 Stat. 757, 764; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100; Mar. 4, 1915, ch. 153, § 5, 38 Stat. 1165.)

DERIVATION

Acts July 20, 1840, ch. 48, 5 Stat. 396; July 29, 1850, ch. 27, § 6, 9 Stat. 441.

CODIFICATION

R.S. § 4559 read: "A complaint in writing, signed by the first, or the second and third officers and a majority of the crew," and concluded as follows: "Shall appoint two disinterested, competent, practical men, acquainted with maritime affairs, to examine into the causes of complaint, who shall, in their report, state what defects and deficiencies, if any, they find to be well founded, as well as what, in their judgment, ought to be done to put the vessel in order for the continuance of her voyage."

Act Dec. 21, 1898, eliminated the reference to the third officer, and changed the concluding portion of the section to read substantially as above set forth.

The word "consul" was followed originally by the words "or a commercial agent who may discharge any of the duties of a consul." The grade of commercial agent was abolished by act Apr. 5, 1906.

Act Mar. 4, 1915, changed the words "the first or second officer and a majority of the crew" to read as in the present text, substituted "or" for "and" between "sufficient" and "wholesome," and made some changes of phraseology.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Consular powers in relation to U.S. mariners of senior officer present afloat, see section 5948 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 657 of this title.

§ 657. Report of inspectors.

The inspectors appointed by any consul, in pursuance of section 656 of this title, shall have full power to examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consul is satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval; or if he dissents, he shall certify his reasons for dissenting. (R. S. § 4560; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act July 20, 1840, ch. 48, 5 Stat. 396.

CODIFICATION

The words "or commercial agent" following "by any consul" and "or other commercial agent" following "the consul" were omitted from the code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

§ 658. Discharge of crew on account of unseaworthiness; penalty for sending unseaworthy vessel to sea.

The inspectors in their report shall also state whether in their opinion the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident; and in case it was by neglect or design, and the consular officer approves of such finding, he shall discharge such of the crew as request it, and shall require the payment by the master of one month's wages for each seaman over and above the wages then due, or sufficient money for the return of such of the crew as desire to be discharged to the nearest and most convenient port of the United States, or by furnishing the seamen who so desire to be discharged with employment on a ship agreed to by them. But if in the opinion of the inspectors the defects or deficiencies found to exist have been the result of mistake or accident, and could not, in the exercise of ordinary care, have been known and provided against before the sailing of the vessel, and the master shall in a reasonable time remove or remedy the causes of complaint, then the crew shall remain and discharge their duty. If any person knowingly sends or attempts to send or is party to the sending or attempting to send an American ship to sea, in the foreign or coastwise trade, in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall, in respect of each offense, be guilty of a misdemeanor, and shall be punished by a fine not to exceed $1,000 or by imprisonment not to exceed five years, or both, at the discretion of the court, unless he proves that either he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purposes of giving that proof he may give evidence in the same manner as any other witness. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4561; June 26, 1884, ch. 121, § 4, 23 Stat. 54; Dec. 21, 1898, ch. 28, §§ 11, 26, 30 Stat. 758, 764.)

DERIVATION

Act July 20, 1840, ch. 48, 5 Stat. 396.

CODIFICATION

R.S. § 4561 read "The inspectors in their report shall also state whether, in their opinion, the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident, and in case it was by neglect or design, and the consul or other commercial agent approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay in addition to his wages to the time of discharge; but if, in the opinion of the inspectors, the defects or deficiencies found to exist have been the result of mistake or accident, and could not, in the exercise of ordinary care, have been known and provided against before the sailing of the vessel, and the master shall, in a reasonable time, remove or remedy the causes of complaint, then the crew shall remain and discharge their duty; otherwise they shall, upon their request, be discharged, and receive each one month's wages in addition to their pay up to the time of discharge."

Act June 26, 1884, amended section generally.

Act Dec. 21, 1898, added the provisions at the end of the first sentence beginning with the words "or sufficient money" and last two sentences pertaining to punishment and applicability of section.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

Profits from dealing with discharged seamen, prohibition, see section 1187 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 682 of this title.

§ 659. Payment of charges for inspection.

The master shall pay all such reasonable charges for inspection under such complaint as shall be officially certified to him under the hand of the consul; but in case the inspectors report that the complaint is without any good and sufficient cause, the master may retain from the wages of the complainants, in

proportion to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consul directing the inquiry may officially certify. (R. S. § 4562; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act July 20, 1840, ch. 48, 5 Stat. 396.

CODIFICATION

The word "consul" was followed originally by the words "or commercial agent". The grade of commercial agent was abolished by act Apr. 5, 1906.

§ 660. Refusal to pay wages and charges.

Every master who refuses to pay such wages and charges shall be liable to each person injured thereby in damages, to be recovered in any court of the United States in the district where such delinquent may reside or be found, and in addition thereto, be punishable by a fine of $100 for each offense. (R. S. § 4563.)

DERIVATION

Act July 20, 1840, ch. 48, 5 Stat. 397.

CROSS REFERENCES

Wages of seamen, see section 591 et seq. of this title.

§ 660–1. Space and accommodations for crew; hospital compartments.

On all merchant vessels of the United States the construction of which shall be begun after March 4, 1915, except yachts, pilot boats, or vessels of less than one hundred tons register, every place appropriated to the crew of the vessel shall have a space of not less than one hundred and twenty cubic feet and not less than sixteen square feet, measured on the floor or deck of that place, for each seaman or apprentice lodged therein, and each seaman shall have a separate berth and not more than one berth shall be placed one above another; such place or lodging shall be securely constructed, properly lighted, drained, heated, and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from the effluvium of cargo or bilge water. And every such crew space shall be kept free from goods or stores not being the personal property of the crew occupying said place in use during the voyage.

In addition to the space allotment for lodgings provided in this section, on all merchants vessels of the United States which in the ordinary course of their trade make voyages of more than three days' duration between ports, and which carry a crew of twelve or more seamen, there shall be constructed a compartment, suitably separated from other spaces, for hospital purposes, and such compartment shall have at least one bunk for every twelve seamen, constituting her crew, provided that not more than six bunks shall be required in any case.

Every steamboat of the United States plying upon the Mississippi River or its tributaries shall furnish an appropriate place for the crew, which shall conform to the requirements of this section, so far as they are applicable thereto, by providing sleeping room in the engine room of such steamboat, properly protected from the cold, wind, and rain by means of suitable awnings or screens on either side of the guards or sides and forward, reaching from the boiler deck to the lower or main deck, under the direction and approval of the Commandant of the Coast Guard, and shall be properly heated.

All merchant vessels of the United States, the construction of which shall be begun after March 4, 1915, having more than ten men on deck must have at least one light, clean, and properly ventilated washing place. There shall be provided at least one washing outfit for every two men of the watch. The washing place shall be properly heated. A separate washing place shall be provided for the fire-room and engine-room men, if their number exceed ten, which shall be large enough to accommodate at least one-sixth of them at the same time, and have hot and cold water supply and a sufficient number of washbasins, sinks, and shower baths.

Any failure to comply with this section shall subject the owner or owners of such vessel to a penalty of not less than $50 nor more than $500: *Provided*, That forecastles shall be fumigated at such intervals as may be provided by regulations to be issued by the Surgeon General of the Public Health Service, with the approval of the Coast Guard, and shall have at least two exits, one of which may be used in emergencies. (Mar. 3, 1897, ch. 389, § 2, 29 Stat. 688; Mar. 4, 1915, ch. 153, § 6, 38 Stat. 1165; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

CODIFICATION

As originally enacted act Mar. 3, 1897, read as follows.

"On and after June thirtieth, eighteen hundred and ninety-eight, every place appropriated to the crew of a seagoing vessel of the United States, except a fishing vessel, a yacht, a pilot boat, and all vessels under two hundred tons register, shall have a space of not less than seventy-two cubic feet and not less than twelve square feet measured on the deck or floor of that place for each seaman or apprentice lodged therein: Provided, That any such seagoing sailing vessel, built or rebuilt after June thirtieth, eighteen hundred and ninety-eight, shall have a space of not less than one hundred cubic feet and not less than sixteen square feet measured on the deck or floor of that space for each seaman or apprentice lodged therein. Such place shall be securely constructed, properly lighted, drained, heated and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from the effluvium of cargo or bilge water.

"Fishing vessels, yachts, and pilot boats are hereby exempted from the provisions of section one of chapter one hundred and seventy-three of the laws of eighteen hundred and ninety-five, entitled 'An Act to amend section one of chapter three hundred and ninety-eight of the laws of eighteen hundred and eighty-two, entitled "An act to provide for deductions from the gross tonnage of vessels of the United States,"' so far as said section prescribes the amount of space which shall be appropriated to the crew and provides that said space shall be kept free from goods or stores not being the personal property of the crew in use during the voyage.

"And on and after June thirtieth, eighteen hundred and ninety-eight, every steamboat of the United States plying upon the Mississippi river or its tributaries shall furnish an appropriate place for the crew, which shall conform to the requirements of this section so far as they shall be applicable thereto by providing sleeping room in the engine room of the steamboats properly protected from the cold, winds, and rain by means of suitable awnings or screens on either side of the guards or sides and forward, reaching from the boiler deck to the lower or main deck, under the direction and approval of the Supervising Inspector-General of Steam Vessels, and shall be properly heated. Any failure to comply with this section shall subject the owner or owners to a penalty of five hundred dollars."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Words "Supervising Inspector General of Steam Vessels" were changed to "Director of Bureau of Navigation and Steamboat Inspection" and then to "Director of the Bureau of Marine Inspection and Navigation" by acts June 30, 1932, and May 27, 1936. The designation was changed to "Commandant of the Coast Guard" and "Coast Guard" was substituted for "Department of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

CROSS REFERENCES

Inspection of crew quarters, see section 660a of this title.

Space and accommodations for crew of certain vessels, see section 77, par. (a), of this title.

§ 660a. Inspection of crew quarters.

(a) Time and extent.

The Coast Guard shall inspect the crew quarters of every American vessel, at least once in each month, or at such times as such vessel shall enter an American port, and shall satisfy itself that such quarters are of the size required by law or regulations issued thereunder, are properly ventilated and in a clean and sanitary condition, and are equipped with the proper plumbing and mechanical appliances required by law or regulations issued thereunder, and that such plumbing and mechanical appliances are in good working order and condition.

(b) Withdrawal of certificate of inspection; penalty.

Whenever it shall be found that the crew quarters of any such vessel are not of the size required by law or regulations issued thereunder or are not properly ventilated or are not in a clean and sanitary condition or are not equipped with the proper plumbing and mechanical appliances required by law or regulations issued thereunder, or that such plumbing and mechanical appliances are not in good working order and condition, the appropriate Coast Guard official shall withdraw the certificate of inspection of such vessel and refuse to reissue the same until such improper conditions have been corrected; and the master or other licensed officer of such vessel who shall have willfully or negligently permitted such vessel to be in such improper condition shall be subject to a penalty of not more than $500. (June 25, 1936, ch. 816, § 4, 49 Stat. 1935; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Coast Guard" was substituted for "local inspectors of the Bureau of Marine Inspection and Navigation" in subsec. (a) and "Coast Guard official" for "board of local inspectors" in subsec. (b) on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

CROSS REFERENCES

Enforcement, application, separability and appropriation to carry out section, see sections 689—692 of this title.

Space and accommodations for crew, see sections 77 (a) and 660–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 660b, 689, 690, 691, 692 of this title.

§ 660b. Same; exception as to unrigged vessels.

The provisions of section 660a of this title shall not apply to unrigged vessels except seagoing barges. (June 16, 1938, ch. 467, § 2, 52 Stat. 754.)

CROSS REFERENCES

Definitions of "unrigged vessel", and "seagoing barge", see section 672c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672c of this title.

§ 661. Neglect to provide sufficient stores.

Should any master or owner of any merchant vessel of the United States neglect to provide a sufficient quantity of stores to last for a voyage of ordinary duration to the port of destination, and in consequence of such neglect the crew are compelled to accept a reduced scale, such master or owner shall be liable to a penalty as provided in section 665 of this title. (R. S. § 4564; Dec. 21, 1898, ch. 28, § 12, 30 Stat. 758.)

DERIVATION

Act July 20, 1790, ch. 29, § 9, 1 Stat. 135.

CODIFICATION

R.S. § 4564, read: "Every vessel belonging to a citizen of the United States, bound on a voyage across the Atlantic Ocean, shall, at the time of leaving the last port from whence she sails, have on board, well secured under deck, at least sixty gallons of water, one hundred pounds of salted flesh meat, and one hundred pounds of wholesome ship-bread, for every person on board such vessel, besides such other provisions, stores, and live-stock as shall by the master or passengers be put on board, and in like proportion for shorter or longer voyages."

Act Dec. 21, 1898, amended R.S. § 4564 to read as above set forth. Section 26 of act Dec. 21, 1898, provided that it should apply to all vessels not specifically exempted by it.

§ 662. Complaint as to provisions or water; examination.

Any three or more of the crew of any merchant vessel of the United States bound from a port in the United States to any foreign port, or being of the burden of seventy-five tons or upward, and bound from a port on the Atlantic to a port on the Pacific, or vice versa, may complain to any officer in command of any of the vessels of the United States Navy, or consular officer of the United States, or Coast Guard official to whom the duties of shipping commissioner have been delegated, or chief officer of the customs, that the provisions or water for the use of the crew are, at any time, of bad quality, unfit for use, or deficient in quantity. Such officer shall thereupon examine the provisions or water, or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall certify the same in writing to the master of the ship. If such master does not thereupon provide other proper provisions or water, where the same can be had, in lieu of any so certified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so certified to be insufficient in quantity, or uses any provisions or water which have been so certified as aforesaid to be of bad quality and unfit for use, he shall, in every such case, be liable to a penalty of not more than $100; and upon every such examination the officers making or directing the same shall enter a statement of the result of the examination in the log book, and shall send a report thereof to the district judge for the judicial district embracing the port to which such vessel is bound; and such report shall be received in evidence in any legal proceedings. (R. S. § 4565; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 36, 17 Stat. 269.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reference to shipping commissioner was changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Withholding food and nourishment from crew, penalty, see section 2191 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 664 of this title.

§ 663. Forfeiture for false complaint as to provisions or water.

If the officer to whom any such complaint in regard to the provisions or the water is made certifies in such statement that there was no reasonable ground for such complaint, each of the parties so complaining shall forfeit to the master or owner his share of the expense, if any, of the survey. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4566; Dec. 21, 1898, ch. 28, §§ 13, 26, 30 Stat. 758, 764.)

DERIVATION

Act June 7, 1872, ch. 322, § 37, 17 Stat. 269.

CODIFICATION

R.S. § 4566 provided for a forfeiture of a sum not exceeding one week's wages.

Act Dec. 21, 1898, amended this section to read as above set forth.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 664 of this title.

§ 664. Permission from master to enter complaint as to provisions or water.

If any seamen, while on board any vessel, shall state to the master that they desire to make complaint, in accordance with sections 662 and 663 of this title in regard to the provisions or the water, to a competent officer, against the master, the master shall, if the vessel is then at a place where there is any such officer, so soon as the service of the vessel will permit, and if the vessel is not then at such a place, so soon after her first arrival at such place as the service of the vessel will permit, allow such seamen, or any of them, to go ashore, or shall send them ashore, in proper custody, so that they may be enabled to make such complaint; and shall, in default, be liable to a penalty of not more than $100. (R. S. § 4567.)

DERIVATION

Act June 7, 1872, ch. 322, § 38, 17 Stat. 269.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 665. Allowance for reduction of provisions.

If, during a voyage, the allowance of any of the provisions which any seaman is entitled to under section 713 of this title is reduced except for any time during which such seaman willfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore; or if it shall be shown that any of such provisions are, or have been during the voyage, bad in quality or unfit for use,

the seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages:

First. If his allowance is reduced by any quantity not exceeding one-third of the quantity specified by law, a sum not exceeding 50 cents a day.

Second. If his allowance is reduced by more than one-third of such quantity, a sum not exceeding $1 a day.

Third. In respect of bad quality, a sum not exceeding $1 a day.

But if it is shown to the satisfaction of the court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in sufficient quantities, or were unavoidably injured or lost, or if by reason of its innate qualities any article becomes unfit for use and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration and shall modify or refuse compensation, as the justice of the case may require. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4568; Dec. 21, 1898, ch. 28, §§ 14, 26, 30 Stat. 758, 764.)

DERIVATION

Act June 7, 1872, ch. 322, § 39, 17 Stat. 270.

CODIFICATION

Prior to the amendment, the first part of R.S. § 4568 read as follows: "If, during a voyage, the allowance of any of the provisions which any seaman has, by his agreement, stipulated for, is reduced, except in accordance with any regulations for reduction by way of punishment, contained in the agreement, and also for any time during which such seaman willfully, and without sufficient cause, etc."

Act Dec. 21, 1898, amended this section generally and among other changes substituted "or" for "and" after "bad in quality" in the introductory paragraph, and "by law" for "in the agreement" in the paragraph numbered "first," inserted the words "or if by reason of its innate qualities any article becomes unfit for use" in the last paragraph, and omitted the words "in a reasonable time" after "in lieu thereof" in the same paragraph.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Withholding food and nourishment from crew, penalty, see section 2191 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 661 of this title.

§ 666. Medicines.

Every vessel belonging to a citizen of the United States, bound from a port in the United States to any foreign port, or being of the burden of seventy-five tons or upward, and bound from a port on the Atlantic to a port on the Pacific, or vice versa, shall be provided with a chest of medicines; and every sailing vessel bound on a voyage across the Atlantic or Pacific Ocean, or around Cape Horn, or the Cape of Good Hope, or engaged in the whale or other fisheries, or in sealing, shall also be provided with, and cause to be kept, a sufficient quantity of lime or lemon juice, and also sugar and vinegar, or other antiscorbutics, to be served out to every seaman as follows: The master of every such vessel shall serve the lime or lemon juice, and sugar and vinegar, to the crew, within ten days after salt provisions mainly have been served out to the crew, and so long afterward as such consumption of salt provisions continues; the lime or lemon juice and sugar daily at the rate of half an ounce each per day; and the vinegar weekly, at the rate of half a pint per week for each member of the crew. (R. S. § 4569.)

DERIVATION

Act June 7, 1872, ch. 322, § 40, 17 Stat. 270.

SHIPOWNERS' LIABILITY (SICK AND INJURED SEAMEN) CONVENTION, 1936

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 duty of shipowners, see 54 Stat. Pt. 2, 1693.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Hospital compartments, see section 660–1 of this title.

Slop chests, see section 670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 667, 670 of this title.

§ 667. Penalty for failure to keep medicines.

If, on any such vessel, such medicines, medical stores, lime or lemon juice, or other articles, sugar, and vinegar, as are required by section 666 of this title, are not provided and kept on board, as required, the master or owner shall be liable to a penalty of not more than $500; and if the master of any such vessel neglects to serve out the lime or lemon juice, and sugar and vinegar in the case and manner directed, he shall for each such offense be liable to a penalty of not more than $100; and if any master is convicted in either of the offenses mentioned in this section, and it appears that the offense is owing to the act or default of the owner, such master may recover the amount of such penalty, and the costs incurred by him, from the owner. (R. S. § 4570.)

DERIVATION

Act June 7, 1872, ch. 322, § 41, 17 Stat. 270.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 668. Weights and measures.

Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall, for every offense, be liable to a penalty of not more than $50. (R. S. § 4571.)

DERIVATION

Act June 7, 1872, ch. 322, § 42, 17 Stat. 270.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 669. Clothing and heat.

Every vessel bound on any foreign voyage exceeding in length fourteen days shall also be provided with at least one suit of woolen clothing for each seaman, and every vessel in the foreign or domestic trade shall provide a safe and warm room for the use of seamen in cold weather. Failure to make such provisions shall subject the owner or master to a penalty of not less than $100. This section shall not apply to fishing or whaling vessels or yachts. (R. S. § 4572; Dec. 21, 1898, ch. 28, §§ 15, 26, 30 Stat. 759, 764.)

DERIVATION

Act June 7, 1872, ch. 322, § 42, 17 Stat. 270.

CODIFICATION

As enacted originally, R.S. § 4572 read: "Every vessel bound on any foreign voyage shall also be provided with at least one suit of woolen clothing for each seaman, for use during the winter months; and every such vessel shall be provided with fuel and a safe and suitable room in which a fire can be kept for the use of seamen."

Act Dec. 21, 1898, amended R.S. § 4572 to read as above set forth.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 670. Slop chests.

Every vessel mentioned in section 666 of this title shall also be provided with a slop chest, which shall contain a complement of clothing for the intended voyage for each seaman employed, including boots or shoes, hats or caps, underclothing and outer clothing, oiled clothing, and everything necessary for the wear of a seaman; also a full supply of tobacco and blankets. Any of the contents of the slop chest shall be sold, from time to time, to any or every seaman applying therefor, for his own use, at a profit not exceeding 10 per centum of the reasonable wholesale value of the same at the port at which the voyage commenced. And if any such vessel is not provided before sailing, as herein required, the owner shall be liable to a penalty of not more than $500. The provisions of this section shall not apply to vessels plying between the United States and the Dominion of Canada, Newfoundland, the Bermuda Islands, the Bahama Islands, the West Indies, Mexico and Central America. (June 26, 1884, ch. 121, § 11, 23 Stat. 56.)

CROSS REFERENCES

Whaling and fishing vessels not subject to provisions of this section, see section 671 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 671 of this title.

§ 671. Same; vessels engaged in whaling or fishing business.

Section 670 of this title shall not be construed to apply to vessels engaged in the whaling or fishing business. (June 19, 1886, ch. 421, § 13, 24 Stat. 82.)

§ 672. Requirements, qualifications, and regulations as to crews.

(a) Qualifications.

No vessel of one hundred tons gross and upward, except those navigating rivers exclusively and the smaller inland lakes and except as provided in section 569 of this title, shall be permitted to depart from any port of the United States unless she has on board a crew not less than 75 per centum of which, in each department thereof, are able to understand any order given by the officers of such vessel, nor unless 65 per centum of her deck crew, exclusive of licensed officers and apprentices, are of a rating not less than able seamen. Every person shall be rated an able seaman, and qualified for service as such on the seas, who is nineteen years of age or upward, and has had at least three years' service on deck at sea or on the Great Lakes, on a vessel or vessels to which this section applies, including decked fishing vessels, and vessels in United States Government service; and every person shall be rated an able seaman, and qualified to serve as such on the Great Lakes and on the smaller lakes, bays, or sounds who is nineteen years of age or upward and has had at least eighteen months' service on deck at sea or on the Great Lakes or on the smaller lakes, bays, or sounds, on a vessel or vessels to which this section applies, including decked fishing vessels and vessels in the United States Government service; and graduates of school ships approved by and conducted under rules prescribed by the Commandant of the Coast Guard may be rated able seamen upon graduation in good standing from said school ships: *Provided,* That no boy shall be shipped on any vessel to which this section applies unless he meets the physical qualifications contained in regulations to be prescribed by the Commandant of the Coast Guard and that no boy shall be placed on the lookout or at the wheel except for the purpose of learning, and that in narrow and crowded waters or in low visibility none below the rating of able seaman shall be permitted at the wheel: *Provided further,* That no deck boy shall be held qualified to fill the place of ordinary seaman until he has had at least six months' service as deck boy: *Provided further,* That upon examination, under rules prescribed by the Coast Guard as to eyesight, hearing, and physical condition, such persons or graduates are found to be competent: *Provided further,* That upon examination, under rules prescribed by the Coast Guard as to eyesight, hearing, physical condition, and knowledge of the duties of seamanship, a person found competent may be rated as able seaman after having served on deck twelve months at sea or on the Great Lakes, but seamen examined and rated able seamen under this proviso shall not in any case compose more than one-fourth of the number of able seamen required by this section to be shipped or employed upon any vessel.

(b) Certificate of service as able seaman.

Application may be made to the Coast Guard for a certificate of service as able seaman, and upon proof being made to the Coast Guard by affidavit and examination, under rules approved by the Commandant of the Coast Guard, showing the nationality and age of the applicant, the vessel or vessels on which he has had service, that he is skilled in the

work usually performed by able seamen, and that he is entitled to such certificate under the provisions of this section, the Coast Guard shall issue to said applicant a certificate of service as able seaman, which shall be retained by him and be accepted as prima-facie evidence of his rating as an able seaman.

(c) Record of certificates of service.

Each Coast Guard official shall keep a complete record of all certificates of service issued by him and to whom issued and shall keep on file the affidavits and records of examinations upon which said certificates are issued.

(d) Muster of the crew on motion or information; rules and regulations; examination of applicant for certificate of service as able seamen; new certificates.

The collector of customs may, upon his own motion, and shall, upon the sworn information of any reputable citizen of the United States setting forth that this section is not being complied with, cause a muster of the crew of any vessel to be made to determine the fact, at which muster said reputable citizen must be present; and no clearance shall be given to any vessel failing to comply with the provisions of this section: *Provided,* That the collector of customs shall not be required to cause such muster of the crew to be made unless said sworn information has been filed with him for at least six hours before the vessel departs, or is scheduled to depart: *Provided further,* That any person that shall knowingly make a false affidavit for such purpose shall be deemed guilty of perjury and upon conviction thereof shall be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, within the discretion of the court. Any violation of any provision of this section by the owner, master, or officer in charge of the vessel shall subject the owner of such vessel to a penalty of not less than $100 and not more than $500: *Provided further,* That the Commandant of the Coast Guard shall make such rules and regulations as may be necessary to carry out the provisions of this section, and nothing herein shall be held or construed to prevent the Commandant of the Coast Guard from making rules and regulations authorized by law as to vessels excluded from the operation of this section: *And provided further,* That no certificate of service as able seaman shall be issued by the Coast Guard until after examination of the applicant therefor, under rules and regulations prescribed by the Commandant of the Coast Guard, as to his efficiency, and upon proof, as a result of such examination, that he has been trained in and is acquainted with the duties entitling him to such rating. No seaman shall be considered an "able seaman" within the meaning of the laws of the United States relating to the manning of vessels unless he is in possession of such certificate issued by the board of local inspectors or the Coast Guard. New certificates shall be stamped with the seal of the board of local inspectors or the Coast Guard, placed partially over the signature of the applicant for such certificate; and there shall be attached thereto a photograph of the applicant. Any other safeguard which, in the judgment of the Commandant of the Coast Guard, may be necessary and advisable to establish the authenticity of the certificate, are authorized.

(e) Members of engine department.

No vessel to which this section applies may be navigated unless all of the complement in her engine department above the rating of coal passer or wiper and below the rating of licensed officer shall be holders of a certificate of service as a qualified member of the engine department. The Coast Guard shall, upon application and examination as to competence and physical condition, as prescribed by the Commandant of the Coast Guard, issue such a certificate of service. An applicant for such rating shall produce to the Coast Guard definite proof of at least six months' service at sea in a rating at least equal to that of coal passer or wiper in the engine department of vessels required by this section to have such certificated men or proof that he is a graduate of a school ship approved by and conducted under rules prescribed by the Commandant of the Coast Guard.

(f) Rules as to certificates of service or efficiency.

As to the certificates of service or efficiency, the Commandant of the Coast Guard shall promulgate rules covering the form, contents, and manner of issuance, which shall include a provision that copies of these and all documents pertaining thereto be filed in the local offices and in the central office in Washington.

(g) Certificates of service for other ratings.

The Coast Guard shall, without examination (except food handlers who must be free from communicable disease), issue to all members of the crews of merchant vessels of the United States (except licensed officers), certificates of service for ratings other than as able seaman or a qualified member of the engine department, which certificates shall authorize them to serve in the capacities specified in such certificates: *Provided,* That such certificates shall not issue before oath has been taken before a Coast Guard official that the applicant therefor will faithfully and honestly perform all the duties required of him by law, and carry out the lawful orders of his superior officers on shipboard and, in the case of a radio operator, shall produce to the Coast Guard his unexpired license issued by the Federal Communications Commission to act in that capacity: *And provided further,* That when a certificate has been revoked or suspended under the provisions of subsection (h) of this section, a new certificate shall not be issued until the Coast Guard shall determine that the issue of such new certificate is compatible with the requirements of good discipline and safety at sea.

(h) Suspension or revocation of certificates of service or efficiency.

All certificates of service or efficiency issued by the Bureau of Marine Inspection and Navigation or the Coast Guard shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title.

(i) Penalty for serving without certificate of service.

It shall be unlawful to employ any person, or for any person to serve aboard any merchant vessel of

the United States, below the rating of licensed officer, who has not a certificate of service issued by a board of local inspectors or the Coast Guard, and anyone violating this section shall be liable to a penalty of $100 for each offense.

(j) Effect of section on other laws.

This section is not to amend or repeal any of the provisions of chapter 3 of Title 47.

(k) Freedom of seamen unimpaired.

Nothing in this section shall be construed to impose, sanction, or permit any condition of involuntary servitude nor to prevent any seaman from leaving the service of any vessel when in a safe harbor to the same extent and with like effect as under the provisions of existing law.

(*l*) Effective date of section.

This section shall take effect six months after June 25, 1936. (Mar. 4, 1915, ch. 153, § 13, 38 Stat. 1169; June 25, 1936, ch. 816, § 1, 49 Stat. 1930; May 22, 1937, ch. 237, §§ 1, 2, 50 Stat. 199; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

Chapter 3 of Title 47, referred to in subsec. (j), was repealed by act Feb. 23, 1927, ch. 169, § 39, 44 Stat. 1174.

CODIFICATION

Provisions in subsecs. (d) and (*l*) for the issuance of new certificates as "able seaman" and "lifeboatman" to all those who held certificates of "able seaman" and "lifeboatman" issued prior to June 25, 1936, and surrendered them to the issuing boards for cancellation within six months after June 25, 1936, with authority to extend the time for surrender for a period not to exceed three months if the exchange could not be carried out within the time originally allotted, have been omitted as executed. Under such omitted provisions the Department of Commerce was the issuing authority since such exchange was accomplished prior to the issuance of Reorg. Plan No. 3 of 1946 which substituted the Coast Guard for the Department of Commerce in this regard.

AMENDMENTS

1937—Subsec. (a). Act May 22, 1937, § 1, substituted "upon graduation in good standing from said school ships" for "after twelve months' service at sea after graduation".

Subsec. (e). Act May 22, 1937, § 2, inserted the clause "or proof that he is a graduate of a school ship approved by and conducted under rules prescribed by the Secretary of Commerce".

1936—Act June 25, 1936 designated existing provisions as subsec. (a)—(d) and adding subsecs. (e)—(*l*).

Subsec. (a) omitted as executed requirement pertaining to percentage of deck crew that shall have a rating not less than able seaman (forty, forty-five, fifty and fifty-five per centa, the first, second, third and fourth year after Mar. 14, 1915); substituted "and vessels in United States Government service" and "and vessels in the United States Government service" for "naval vessels or coast guard vessels" and "naval vessels, or coast guard vessels"; inserted the words "after graduation" after "twelve months' service at sea"; and added the provisos relating to boys and deck boys.

Subsec. (b) substituted "Application may be made" for "Any person may make application" and to require proof that applicant is skilled in the work usually performed by able seamen.

Subsec. (c) inserted the words "and records of examinations" following "affidavit".

Subsec. (d) inserted the phrase "at which muster said reputable citizen must be present" and added provisos pertaining to examination of applicant for certificate of service as able seaman, surrender of certificates and new certificates.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Following changes were made on the authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5:

Subsec. (a). "Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and "Coast Guard" for "Department of Commerce."

Subsec. (b). "Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and references to board of local inspectors were changed to the Coast Guard.

Subsec. (c). "Coast Guard official" was substituted for "board of local inspectors" and "them" changed to "him."

Subsec. (d). "Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and for "Board of Supervising Inspectors, with the approval of the Secretary of Commerce", "the Coast Guard" was substituted for "any board of local inspectors" in fourth proviso, and "or the Coast Guard" was inserted after "board of local inspectors" in third and fifth sentences.

Subsec. (e). "Coast Guard" was substituted for "local inspectors of the Bureau of Marine Inspection and Navigation", "Commandant of the Coast Guard" for "Secretary of Commerce", and "the Coast Guard" for "such inspectors".

Subsec. (f). "Commandant of the Coast Guard" was substituted for "Secretary."

Subsec. (g). References to boards of local inspectors of the Bureau of Marine Inspection and Navigation were changed to Coast Guard and Coast Guard officials.

Subsecs. (h) and (i). Phrase "or the Coast Guard" was inserted.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

CROSS REFERENCES

Denial or revocation of seaman's document, narcotics violations, see sections 239a and 239b of this title.

Enforcement, application, separability and appropriation to carry out this section, see sections 689—692 of this title.

Exceptions as to tugs, towboats, and unrigged vessels, see section 672b of this title.

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

Officers of United States vessels to be American citizens, see section 221 of this title.

Perjury and subornation of perjury, penalties, see sections 1621 and 1622 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 672-1, 672-2, 672b, 672b-1, 689, 690, 691, 692 of this title.

§ 672-1. Exception to section 672; certain sail vessels.

The provisions of section 672 of this title, relating to the manning of certain vessels, shall not apply to any sail vessel of less than five hundred tons registered tonnage, while not carrying passengers for hire, and while not operating outside the line dividing inland waters from the high seas, as defined in section 151 of Title 33. (July 8, 1941, ch. 280, 55 Stat. 579.)

§ 672-2. Same; certain persons as able seamen.

Notwithstanding any provision of section 672 of this title, every person may be rated as an able seaman for the purpose of serving on vessels of not more than five hundred gross tons, on bays and sounds, when such vessels are not carrying passengers, who is nineteen years of age and upward and who has had at least twelve months of service on deck at sea or on the Great Lakes or on the bays and sounds connected directly with the seas. (July 8, 1941, ch. 279, 55 Stat. 579.)

§ 672a. Nationality of crews.

(a) Officers and pilots.

From and after June 25, 1936, all licensed officers and pilots of vessels of the United States shall be citizens of the United States, native-born, or completely naturalized.

(b) Seamen.

From and after six months after June 25, 1936, upon each departure of any such vessel from a port of the United States, 75 per centum of the crew, excluding licensed officers, shall be citizens of the United States, native-born, or completely naturalized, unless the Commandant of the Coast Guard shall, upon investigation, ascertain that qualified citizen seamen are not available, when, under such conditions, he may reduce the above percentages.

(c) Vacancies on foreign voyage.

If any vessel while on a foreign voyage is for any reason deprived of the services of any member of the crew, such position or vacancy caused by the promotion of another to such position may be supplied by a person other than defined in subsection (a) and (b) of this section until the first call of such vessel at a port in the United States where such replacements can be obtained.

(d) Penalty for violating section.

The owner, agent, or officer of any such vessel, who shall employ any person in violation of the provisions of this section, shall be subject to a penalty of $500 for each offense. (June 25, 1936, ch. 816, § 5, 49 Stat. 1935; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

CROSS REFERENCES

Citizenship of officers and crew on vessels documented under laws of the United States, see sections 221 and 1132 of this title.

Enforcement, application, separability and appropriation to carry out section, see sections 689—692 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 689, 690, 691, 692 of this title.

§ 672b. Exceptions to section 672; unrigged vessels, tugs, and towboats.

The provisions of section 672 of this title, requiring the manning of certain merchant vessels by persons holding certificates of service or efficiency issued by the Bureau of Marine Inspection and Navigation or the Coast Guard shall not apply as to unrigged vessels, except seagoing barges, and, insofar as said provisions apply to tugs and towboats, the said provisions are modified as follows:

(a) Able seamen; rating.

Able seamen shall not be required in the deck crew of tugs and towboats on the bays and sounds connected directly with the seas, and every person may be rated an able seaman for the purpose of serving on tugs and towboats on the seas who is nineteen years of age and upwards and who has had at least eighteen months of service on deck at sea or on the Great Lakes or on the bays and sounds connected directly with the seas; and

(b) Service and rating equal to coal passer or wiper.

Service and rating at least equal to that of coal passer or wiper in the engine department of tugs and towboats operating on the seas or Great Lakes or on the bays and sounds connected directly with the seas shall be considered as meeting the requirement of subsection (e) of section 672 of this title which requires that an applicant for rating under that subsection shall produce to the Coast Guard definite proof of at least six months' service at sea in a rating at least equal to that of coal passer or wiper in the engine department of vessels required by said section to have such certificated men.

Nothing in this section shall restrict or modify any of the other provisions of section 672 of this title which must be complied with before the certificates therein authorized can be granted. (June 16, 1938, ch. 467, § 1, 52 Stat. 753; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Phrase "or the Coast Guard" was inserted in opening paragraph and "Coast Guard" was substituted for "inspector of the Bureau of Marine Inspection and Navigation" in subsec. (b) on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672c of this title.

§ 672b-1. Exception to section 672; seagoing barges.

Notwithstanding any provision of section 672 of this title, every person may be rated as an able seaman for the purpose of serving on seagoing barges who is nineteen years of age and upward, and who has had at least twelve months of service on deck at sea or on the Great Lakes or on the bays and sounds connected directly with the seas. (Sept. 25, 1941, ch. 422, 55 Stat. 732.)

§ 672c. Definitions.

When used in sections 643a, 660b, and 672b of this title—

(1) The term "unrigged vessel" means any vessel that is not self-propelled;

(2) The term "seagoing barge" means any barge which from its design and construction may be reasonably expected to encounter and ride out the ordinary perils of the seas and which in fact in the usual course of its operations passes outside the line dividing inland waters from the high seas, as defined in section 151 of Title 33.

(June 16, 1938, ch. 467, § 4, 52 Stat. 754.)

§ 673. Requirements as to watches; duties of seamen, hours of work; penalty; right of seamen to discharge; effective date.

In all merchant vessels of the United States of more than one hundred tons gross, excepting those navigating rivers, harbors, lakes (other than Great Lakes, bays, sounds, bayous, and canals, exclusively, the licensed officers and sailors, coal passers, firemen, oilers, and water tenders shall, while at sea, be divided into at least three watches, which shall be kept on duty successively for the performance of ordinary work incident to the sailing and management of the vessel: *Provided,* That in the case of radiotelegraph operators this requirement shall be applicable only when three or more radio officers are employed. No licensed officer or seaman in the deck or engine department of any tug documented under the laws of the United States (except boats or vessels used exclusively for fishing purposes) navigating the Great Lakes, harbors of the Great Lakes, and connecting and tributary waters between Gary, Indiana; Duluth, Minnesota; Niagara Falls, New York; and Ogdensburg, New York, shall be required or permitted to work more than eight hours in one day except in case of extraordinary emergency affecting the safety of the vessel and/or life or property. The seamen shall not be shipped to work alternately in the fireroom and on deck, nor shall those shipped for deck duty be required to work in the fireroom, or vice versa; nor shall any licensed officer or seaman in the deck or engine department be required to work more than eight hours in one day; but these provisions shall not limit either the authority of the master or other officer or the obedience of the seamen when in the judgment of the master or other officer the whole or any part of the crew are needed for maneuvering, shifting berth, mooring, or unmooring, the vessel or the performance of work necessary for the safety of the vessel, her passengers, crew, and cargo, or for the saving of life aboard other vessels in jeopardy, or when in port or at sea, from requiring the whole or any part of the crew to participate in the performance of fire, lifeboat, or other drills. While such vessel is in a safe harbor no seaman shall be required to do any unnecessary work on Sundays or the following-named days: New Year's Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage. And at all times while such vessel is in a safe harbor, eight hours, inclusive of the anchor watch, shall constitute a day's work. Whenever the master of any vessel shall fail to comply with this section and the regulation issued thereunder, the owner shall be liable to a penalty not to exceed $500, and the seamen shall be entitled to discharge from such vessel and to receive the wages earned. But this section shall not apply to vessels engaged in salvage operations: *Provided,* That in all tugs and barges subject to this section when engaged on a voyage of less than six hundred miles, the licensed officers and members of crews other than coal passers, firemen, oilers, and water tenders may, while at sea, be divided into not less than two watches, but nothing in this proviso shall be construed as repealing any part of section 222 of this title. This section shall take effect six months after June 25, 1936. (Mar. 4, 1915, ch. 153, § 2, 38 Stat. 1164; June 25, 1936, ch. 816, § 2, 49 Stat. 1933; June 23, 1938, ch. 597, 52 Stat. 944; May 12, 1948, ch. 286, § 4 (a), 62 Stat. 233.)

AMENDMENTS

1948—Act May 12, 1948, struck out period after "management" in the first sentence and added the proviso limiting the effect of the section on radiotelegraph operators.

1938—Act June 23, 1938, inserted the second sentence limiting the hours of labor of certain officers and seamen on certain vessels navigating the Great Lakes and adjacent waters.

1936—Act June 25, 1936, amended section generally, and among other changes, inserted references to "lakes (other than Great Lakes)", bayous, canals; shifting berth, mooring or unmooring the vessel; inserted the clause "nor shall any licensed officer or seaman in the deck or engine department be required to work more than eight hours in one day;" substituted the words "the licensed officers and sailors, coal passers, firemen, oilers,

and water tenders shall, while at sea, be divided into at least three watches" for "the sailors shall, while at sea, be divided into at least two, and the firemen, oilers, and water tenders into at least three watches"; decreased from nine to eight hours the day's work when vessel is in safe harbor; prescribed penalty for failure to comply with this section and regulations thereunder; permitted minimum of two watches for licensed officers and members of crews other than coal passers, firemen, oilers and water tenders of tugs and barges on voyages of less than 600 miles; and provided for effective date of section.

EFFECTIVE DATE OF 1948 AMENDMENT

The amendment of this section by act May 12, 1948, became effective Apr. 1, 1949, by the provisions of section 9 of act May 12, 1948.

CROSS REFERENCES

Enforcement, application, separability and appropriation to carry out section, see sections 689—692 of this title.

Watch duty of deck officers, see section 235 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 224a, 229e, 229g, 229h, 689, 690, 691, 692 of this title.

§ 674. List of crew to be delivered to collector.

Before a clearance is granted to any vessel bound on a foreign voyage or engaged in the whale fishery, the master thereof shall deliver to the collector of the customs a list containing the names, places of birth and residence, and description of the persons who compose his ship's company; to which list the oath of the captain shall be annexed, that the list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them; and the collector shall deliver him a certified copy thereof. (R. S. § 4573.)

DERIVATION

Acts Feb. 28, 1803, ch. 9, § 1, 2 Stat. 203; Apr. 4, 1840, ch. 6, § 2, 5 Stat. 370.

CODIFICATION

The words "for which the collector shall be entitled to receive the sum of twenty-five cents" in text as enacted originally were omitted as superseded by section 331 of this title, and the reorganization of the customs service authorized by act Aug. 24, 1912, ch. 355, § 1, 37 Stat. 434.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 676 of this title.

§ 675. Certificate to list of crew; record.

In all cases of private vessels of the United States sailing from a port in the United States to a foreign port, the list of the crew shall be examined by the collector for the district from which the vessel shall clear, and, if approved of by him, shall be certified accordingly. No person shall be admitted or employed on board of any such vessel unless his name shall have been entered in the list of the crew, approved and certified by the collector for the district from which the vessel shall clear. The collector, before he delivers the list of the crew, approved and certified, to the master or proper officer of the vessel to which the same belongs, shall cause the same to be recorded in a book by him for that purpose to be provided, and the record shall be open for the inspection of all persons, and a certified copy thereof shall be admitted in evidence in any court in which any question may arise under any of the provisions of title 53 of the Revised Statutes. (R. S. § 4574.)

DERIVATION

Act Mar. 3, 1813, ch. 42, § 3, 2 Stat. 809.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 676. Rules as to list of crew.

The following rules shall be observed with reference to vessels bound on any foreign voyage:

First. The duplicate list of the ship's company required to be made out by the master and delivered to the collector of the customs, under section 674 of this title, shall be a fair copy in one uniform handwriting without erasure or interlineation.

Second. It shall be the duty of the owners of every such vessel to obtain from the collector of the customs of the district from which the clearance is made, a true and certified copy of the shipping articles containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Third. These documents, which shall be deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, shall be produced by the master, and laid before any consul of the United States, whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.

Fourth. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, shall be deemed fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.

Fifth. If any master of a vessel shall proceed on a foreign voyage without the documents required, or refuse to produce them when required, or to perform the duties imposed by this section, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, to be recovered in any court of the United States in the

district where such delinquent may reside or be found, and in addition thereto be punishable by a fine of $100 for each offense.

Sixth. It shall be the duty of the boarding officer to report all violations of this section to the collector of the port where any vessel may arrive, and the collector shall report the same to the Commandant of the Coast Guard and to the United States attorney in his district. (R. S. § 4575; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act July 20, 1840, ch. 48, 5 Stat. 394, 395, 397.

CODIFICATION

Act Feb. 27, 1877, substituted "collector of customs of" for "shipping commissioner or officer acting as such in" in the Second Rule.

The words "or other commercial agent" following "consul" in the Third Rule were omitted from the code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

Upon incorporation into the Code the words "Secretary of Commerce" were substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 564 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

§ 677. Production of copy of list on return of vessel: production of persons named.

The master of every vessel bound on a foreign voyage or engaged in the whale fishery shall exhibit the certified copy of the list of the crew to the first boarding officer at the first port in the United States at which he shall arrive on his return, and also produce the persons named therein to the boarding officer, whose duty it shall be to examine the men with such list and to report the same to the collector; and it shall be the duty of the collector at the port of arrival, where the same is different from the port from which the vessel originally sailed, to transmit a copy of the list so reported to him to the collector of the port from which such vessel originally sailed. For each failure to produce any person on the certified copy of the list of the crew the master and owner shall be severally liable to a penalty of $400, to be sued for, prosecuted, and disposed of in such manner as penalties and forfeitures which may be incurred for offenses against the laws relating to the collection of duties; but such penalties shall not be incurred on account of the master not producing to the first boarding officer any of the persons contained in the list who may have been discharged in a foreign country with the consent of the consul or vice consul there residing, certified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew, nor on account of any such person dying or absconding or being forcibly impressed into other service of which satisfactory proof shall also be exhibited to the collector. (R. S. § 4576; Mar. 3, 1897, ch. 389, § 3, 29 Stat. 688; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 1, 2 Stat. 203.

CODIFICATION

The words "commercial agent, or vice commercial agent" following "vice-consul" were omitted from the code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

Act Mar. 3, 1897, amended this section by material changes which consisted of the omission of the words "shall enter into bond, with sufficient security, in the sum of four hundred dollars, that he" preceding the words "shall exhibit," the insertion of the provisions of the second sentence preceding the semi-colon; and the substitution of the words "but such penalties shall not be incurred" for the words "but such bond shall not be forfeited."

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 678. Subsistence to destitute seamen; return to United States.

It shall be the duty of the consuls and vice consuls, from time to time, to provide for the seamen of the United States, who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give. The seamen shall, if able, be bound to do duty on board the vessels in which they may be transported, according to their

several abilities. (R. S. § 4577; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 4, 2 Stat. 204.

CODIFICATION

The words "commercial agents and vice-commercial agents" following "vice-consuls", were omitted from the Code upon the abolition of the grade of commercial agent by act Apr. 5, 1906.

CROSS REFERENCES

Abandonment of officer or mariner in foreign port, penalty, see section 2195 of Title 18, Crimes and Criminal Procedure.

Neglect, by any consul, of the duties imposed upon him by the laws regulating the shipment and discharge of seamen, etc., see section 1199 of Title 22, Foreign Relations and Intercourse.

Profits from dealings with discharged seamen prohibited, see section 1187 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 593 of this title.

§ 679. Transportation of destitute seamen to United States.

All masters of vessels of the United States and bound to some port of the same, are required to take such destitute seamen on board their vessels, at the request of consular officers, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding $10 for each person for voyages of not more than thirty days, and not exceeding $20 for each person for longer voyages, as may be agreed between the master and the consular officer, when transportation is by a sailing vessel; and the amount agreed upon between the consular officer and the master of the vessel in each individual case not in excess of the lowest passenger rate of such vessel and not in excess of 2 cents per mile shall in each case constitute the lawful rate for transportation on steam vessels; and said consular officer shall issue certificates for such transportation, which certificates shall be assignable for collection. Every such master who refuses to receive and transport such seamen on the request or order of such consular officer shall be liable to the United States in a penalty of $100 for each seaman so refused. The certificate of any such consular officer, given under his hand and official seal, shall be presumptive evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than one man to every one hundred tons burden of the vessel on any one voyage or to take any seaman having a contagious disease.

Reasonable compensation, in addition to the allowances provided herein, or any allowance now fixed by law, or by regulations now or hereafter established in accordance with section 1752 of the Revised Statutes of the United States, may be paid from general appropriations for the relief and protection of American seamen, when authorized by the Secretary of State, in the following cases:

First. If any such destitute seaman is so disabled or ill as to be unable to perform duty, the consular officer shall so certify in the certificate of transportation, and such additional compensation shall be paid as the Secretary of State shall deem equitable and proper.

Second. Whenever distressed or destitute seamen of the United States are transported from foreign ports where there is no consular officer of the United States, or from points on the high seas, to ports of the United States, or from such foreign ports or points on the high seas to a port accessible to a consular officer of the United States who is authorized to assume responsibility on behalf of the Government of the United States for the further relief and repatriation of such seamen, there shall be allowed to the master or owner of each vessel in which they are transported such reasonable compensation as shall be deemed equitable by the Secretary of State. (R. S. § 4578; June 26, 1884, ch. 121, § 9, 23 Stat. 55; June 19, 1886, ch. 421, § 18, 24 Stat. 83; July 31, 1894, ch. 174, § 4, 28 Stat. 205; June 10, 1921, ch. 18, § 304, 42 Stat. 24; May 7, 1930, ch. 227, 46 Stat. 261.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 4, 2 Stat. 204.

REFERENCES IN TEXT

R. S. § 1752, referred to in the text, was repealed by act Aug. 13, 1946, ch. 957, title XI, § 1131 (18), 60 Stat. 1036.

CODIFICATION

This section as enacted originally read: "All masters of vessels belonging to citizens of the United States, and bound to some port of the same, are required to take such destitute seamen on board of their vessels, at the request of the consuls, vice-consuls, commercial agents, or vice-commercial agents, respectively, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed between the master and the consul or officer. Every such master who refuses the same on the request or order of such consul or officer shall be liable to the United States in a penalty of one hundred dollars for each seaman so refused. The certificate of any such consul or officer, given under his hand and official seal, shall be presumptive evidence of such refusal, in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than two men to every one hundred tons burden of the vessel, on any one voyage."

Act June 26, 1884, amended section to read substantially as above set forth.

Act June 19, 1886, added, after the words, "as may be agreed between the master and the consular officer," the words, "when the transportation is by a sailing vessel; and the regular steerage-passenger rate, not to exceed two cents per mile, when the transportation is by steamer," and at the end of the section the words "or to take any seaman having a contagious disease."

Act July 31, 1894, substituted the words "Comptroller General of the United States" for "First Comptroller of the Treasury".

Act June 10, 1921, transferred duties of the First Comptroller of the Treasury to the General Accounting Office, created by said Act under the control and direction of the Comptroller General.

A provision concerning the rate for transportation by steam vessels was omitted as superseded by section 680 of this title.

AMENDMENTS

1930—Act May 7, 1930, amended section to read as above set forth.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 593 of this title.

§ 680. Rate for transportation of destitute seamen to United States on steam vessels.

CODIFICATION

Section, acts June 1, 1922, ch. 204, title I, 42 Stat. 603; Jan. 3, 1923, ch. 21, title I, 42 Stat. 1072, is now covered by section 679 of this title.

§ 681. Repealed. May 7, 1930, ch. 227, 46 Stat. 261.

Section, R. S. § 4579; acts July 31, 1894, ch. 174, § 4, 28 Stat. 205; June 10, 1921, ch. 18, § 304, 42 Stat. 24, provided for additional compensation for transporting distressed seamen.

§ 682. Wages on discharge.

Upon the application of the master of any vessel to a consular officer to discharge a seaman, or upon the application of any seaman for his own discharge, if it appears to such officer that said seaman has completed his shipping agreement, or is entitled to his discharge under any Act of Congress or according to the general principles or usages of maritime law as recognized in the United States, such officer shall discharge said seaman, and require from the master of said vessel, before such discharge shall be made, payment of the wages which may then be due said seaman; but no payment of extra wages shall be required by any consular officer upon such discharge of any seaman except as provided in sections 658, 683, 684, and 685 of this title. (R. S. § 4580; June 26, 1884, ch. 121, § 2, 23 Stat. 54.)

DERIVATION

Acts Aug. 18, 1856, ch. 127, § 26, 11 Stat. 62; Mar. 3, 1873, ch. 243, 17 Stat. 580.

CODIFICATION

Prior to amendment by act June 26, 1884, this section read: "Upon the application of any seaman to a consular officer for a discharge, if it appears to such officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law, as recognized in the United States, the officer shall discharge such seaman; and shall require from the master of the vessel from which such discharge shall be made, the payment of three months' extra wages, over and above the wages which may then be due to such seaman. When, however, after a full hearing of both parties, the cause of discharge is found to be the misconduct of the seaman, the consular officer may remit so much of the extra wages as would be, by section forty-five hundred and eighty-four, payable to the seaman."

In the original text the exception at the end of the section read "except as provided in this act." Provisions concerning extra wages were contained in sections 3—6 of act June 26, 1884, set forth in sections 658, 683, 684, and 685 of this title.

Act June 26, 1884, amended section to read as above set forth.

CROSS REFERENCES

Consular powers, senior officer present afloat, see section 5948 of Title 10, Armed Forces.

Consul's neglect of duty as punishable, see section 1199 of Title 22, Foreign Relations and Intercourse.

Profits from dealings with discharged seamen prohibited, see section 1187 of Title 22, Foreign Relations and Intercourse.

Various offenses, forfeiture of wages, see section 701 of this title.

§ 683. Penalty for neglect of consular officer to collect wages; incapacitated seaman.

If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the arrears of wages and extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the United States for the full amount thereof. The master shall provide any seaman so discharged with employment on a vessel agreed to by the seaman, or shall provide him with one month's extra wages, if it shall be shown to the satisfaction of the consul that such seaman was not discharged for neglect of duty, incompetency, or injury incurred on the vessel. If the seaman is discharged by voluntary consent before the consul, he shall be entitled to his wages up to the time of his discharge, but not for any further period. If the seaman is discharged on account of injury or illness, incapacitating him for service, the expenses of his maintenance and return to the United States shall be paid from the fund for the maintenance and transportation of destitute American seamen.

Provided, That at the discretion of the Commandant of the Coast Guard, and under such regulations as he may prescribe, if any seaman incapacitated from service by injury or illness is on board a vessel so situated that a prompt discharge requiring the personal appearance of the master of the vessel before an American consul or consular agent is impracticable, such seaman may be sent to a consul or consular agent, who shall care for him and defray the cost of his maintenance and transportation, as provided in this paragraph. (R. S. § 4581; June 26, 1884, ch. 121, § 7, 23 Stat. 55; Dec. 21, 1898, ch. 28, §§ 16, 25, 30 Stat. 759, 764; Mar. 4, 1915, ch. 153, § 19, 38 Stat. 1185; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act Aug. 18, 1856, ch. 127, § 26, 11 Stat. 62.

CODIFICATION

As enacted originally, this section read: "If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the United States for the full amount of their share of such wages, and to such seaman to the full amount of his share thereof; and if any seaman shall, after his discharge, have incurred any expense for board or other necessaries at the place of his discharge, before shipping again, such expense shall be paid out of the share of three months' wages to which he shall be entitled, which shall be retained for that purpose, and the balance only paid over to him."

Act June 26, 1884, amended section to read: "If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the arrears of wages and extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the United States to the full amount thereof. If any seaman, after his discharge, shall have incurred any expense for board or other necessaries at the place of his discharge, before shipping again, or for transportation to the United States, such expense shall be paid out of the arrears of wages and extra wages received by the consular officer, which shall be retained for that purpose and the balance only paid over to such seaman."

Act Dec. 21, 1898, § 16, amended section to read as above set forth except as to the last paragraph which was added by act Mar. 4, 1915.

Section 26 of act Dec. 21, 1898, provided that the act should take effect sixty days after its approval, and should apply to all vessels not specifically exempted by the act.

REPEALS

Act Apr. 4, 1888, ch. 61, § 3, 25 Stat. 80, formerly credited to this section, was repealed by section 25 of act Dec. 21, 1898. Act Apr. 4, 1888, struck out from the section as amended by act June 26, 1884, all after the first sentence ending with the word "thereof," and inserting in lieu thereof the following: "If any seaman, after his discharge shall have incurred any expense for board or other necessaries, or for reasonable charges for medical care and nursing, at the place of his discharge, before shipping again, or for transportation to the United States, such expense shall be paid out of the arrears of wages and extra wages received by the consular officer, which shall be retained for that purpose,

and the balance only paid over to such seaman; and if such arrears and extra wages are not sufficient to defray such expense, the deficiency shall be paid from the fund in the Treasury for the maintenance and transportation of destitute American seamen."

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26 §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 682 of this title.

§ 684. Wages on discharge in case of sale.

Whenever a vessel of the United States is sold in a foreign country and her company discharged, it shall be the duty of the master to produce to the consular officer a certified list of the ship's company, and also the shipping articles, and besides paying to each seaman or apprentice the wages due him, he shall either provide him with adequate employment on board some other vessel bound to the port at which he was originally shipped, or to such other port as may be agreed upon by him, or furnish the means of sending him to such port, or provide him with a passage home, or deposit with the consular officer such a sum of money as is by the officer deemed sufficient to defray the expenses of his maintenance and passage home; and the consular officer shall indorse upon the agreement with the crew of the ship which the seaman or apprentice is leaving the particulars of any payment, provision, or deposit made under this section. A failure to comply with the provisions of this section shall render the owner liable to a fine of not exceeding $50. (R. S. § 4582; June 26, 1884, ch. 121, § 5, 23 Stat. 54; Dec. 21, 1898, ch. 28, § 17, 30 Stat. 759.)

DERIVATION

Act Feb. 28, 1803, ch. 9, § 3, 2 Stat. 203.

CODIFICATION

As enacted originally, section read: "Whenever a vessel belonging to a citizen of the United States is sold in a foreign country, and her company discharged, or when a seaman, a citizen of the United States, is, with his own consent, discharged in a foreign country, it shall be the duty of the master to produce to the consular officer, the certified list of his ship's company, and to pay such consul or officer, for every seaman so discharged, designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such seaman."

Act June 26, 1884, amended section to read: "Whenever a vessel of the United States is sold in a foreign country, and her company discharged, it shall be the duty of the master to produce to the consular officer the certified list of his ship's company, and also the shipping articles, and to pay to said consular officer for every seaman so discharged one month's wages over and above the wages which may then be due to such seaman; but in case the master of the vessel so sold shall, with the assent of said seaman, provide him with adequate employment on board some other vessel bound to the port at which he was originally shipped, or to such other port as may be agreed upon by him, then no payment of extra wages shall be required."

Act Dec. 21, 1898, amended section to read as above set forth.

Section 26 of act Dec. 21, 1898, provided that the act should take effect sixty days after its approval, and should apply to all vessels not specifically exempted by the act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 682 of this title.

§ 685. Wages on justifiable complaint of seaman.

Whenever on the discharge of a seaman in a foreign country by a consular officer on his complaint that the voyage is continued contrary to agreement, or that the vessel is badly provisioned or unseaworthy, or against the officers for cruel treatment, it shall be the duty of the consul or consular agent to institute a proper inquiry into the matter, and, upon his being satisfied of the truth and justice of such complaint, he shall require the master to pay to such seaman one month's wages over and above the wages due at the time of discharge, and to provide him with adequate employment on board some other vessel, or provide him with a passage on board some other vessel bound to the port from which he was originally shipped, or to the most convenient port of entry in the United States, or to a port agreed to by the seaman. (R. S. § 4583; June 26, 1884, ch. 121, § 3, 23 Stat. 54; Dec. 21, 1898, ch. 28, § 18, 30 Stat. 760.)

DERIVATION

Acts July 20, 1840, ch. 48, 5 Stat. 395; Aug. 18, 1856, ch. 127, § 26, 11 Stat. 62.

CODIFICATION

As enacted originally, section read: "No payment of extra wages shall be required upon the discharge of any seaman in cases where vessels are wrecked, or stranded, or condemned as unfit for service. If any consular officer, upon the complaint of any seaman that he has fulfilled his contract, or that the voyage is continued contrary to his agreement, is satisfied that the contract has expired, or that the voyage has been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay. No payment of such extra wages, or any part thereof, shall be remitted in any case, except as allowed in this section."

Act June 26, 1884, amended section to read: "Whenever on the discharge of a seaman in a foreign country, on his complaint that the voyage is continued contrary to agreement, the consular officer shall be satisfied that such voyage has been designedly and unnecessarily prolonged in violation of the articles of shipment, or whenever a seaman is discharged by a consular officer in consequence of any hurt or injury received in the service of the vessel, such consular officer shall require the payment by the master of one month's wages for such seaman over and above the wages due at the time of discharge."

Act Dec. 21, 1898, amended section to read as above set forth.

Section 26 of act Dec. 21, 1898, provided that the act should take effect sixty days after its approval, and should apply to all vessels not specifically exempted by the act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 682, 703 of this title.

§§ 686, 687. Repealed. Oct. 9, 1940, ch. 784, § 1, 54 Stat. 1058.

Sections, R. S. §§ 4588, 4591, related to certificates of citizenship for seamen.

VALIDITY OF CERTIFICATES OF CITIZENSHIP ISSUED PRIOR TO REPEAL

Section 2 of act Oct. 9, 1940, repealing these sections, provided as follows: "All certificates heretofore issued to seamen under the authority of section 4588 of the Revised Statutes of the United States (section 686 of Title 46) are hereby declared void."

§ 688. Recovery for injury to or death of seaman.

Any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman as a result of any such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located. (Mar. 4, 1915, ch. 153, § 20, 38 Stat. 1185; June 5, 1920, ch. 250, § 33, 41 Stat. 1007.)

REFERENCES IN TEXT

"Statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury, to railway employees" and "statutes of the United States conferring or regulating the right of action for death in the case of railway employees" refer to the Federal Employers' Liability Act, which is classified to chapter 2 of Title 45, Railroads.

CODIFICATION

Seamen's Welfare Act, Mar. 4, 1915, § 20, provided that: "In any suit to recover damages for any injury sustained on board vessel or in its service seamen having command shall not be held to be fellow-servants with those under their authority."

AMOUNT IN CONTROVERSY

Jurisdictional amount increased from $3,000 to $10,000 in diversity of citizenship cases and in cases arising under the Constitution, laws, or treaties of the United States, see sections 1331 and 1332 of Title 28, Judiciary and Judicial Procedure.

§ 689. Enforcement of sections 643, 660a, 672, 672a, 673, and 710a; rules and regulations.

The Commandant of the Coast Guard shall enforce sections 643, 660a, 672, 672a, 673, and 710a of this title as to all vessels of the United States subject to the provisions of said sections through collectors of customs and other Government officers acting under the direction of the Coast Guard, and shall make such rules and regulations as he may deem necessary to carry out the provisions of said sections. (June 25, 1936, ch. 816, § 7, 49 Stat. 1936; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

REFERENCES IN TEXT

Section 710a of this title, referred to in the text, was repealed by act of June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and it is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" and "Coast Guard" for "Bureau of Marine Inspection and Navigation" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see not under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 690, 691, 692 of this title.

§ 690. Application of sections 643, 660a, 672, 672a, 673, 689, and 710a to fishing or whaling vessels or yachts.

No provision of sections 660a, 672a, 689 and 710a of this title and no amendment to sections 643, 672 and 673 of this title made by Act June 25, 1936, ch. 816, 49 Statutes 1930, shall apply to fishing or whaling vessels or yachts: *Provided, however,* That the provisions of sections 643, 672 and 673 of this title as they existed prior to June 25, 1936, shall continue in effect insofar as they are applicable to said vessels or yachts with like force and effect as if sections 660a, 672a, 689 and 710a of this title had not been passed. (June 25, 1936, ch. 816, § 8, 49 Stat. 1936.)

REFERENCES IN TEXT

Section 710a of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and it is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

§ 691. Separability of sections 643, 660a, 672, 672a, 673, 689, and 710a.

If any provision of sections 643, 660a, 672, 672a, 673, 689 and 710a of this title, or the application

thereof to any person or circumstance, is held invalid, the remainder of said sections, and the application of the provisions thereof, shall not be affected thereby. (June 25, 1936, ch. 816, § 9, 49 Stat. 1936.)

REFERENCES IN TEXT

Section 710a of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

§ 692. Appropriation to carry out provisions of sections 643, 660a, 672, 672a, 673, 689, and 710a.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 643, 660a, 672, 672a, 673, 689 and 710a of this title. (June 25, 1936, ch. 816, § 10, 49 Stat. 1936.)

REFERENCES IN TEXT

Section 710a of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and it is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

OFFENSES AND PUNISHMENTS

§ 701. Various offenses; penalties.

Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offenses, he shall be punished as follows:

First. For desertion, by forfeiture of all or any part of the clothes or effects he leaves on board and of all or any part of the wages or emoluments which he has then earned.

Second. For neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two days' pay or sufficient to defray any expenses which shall have been properly incurred in hiring a substitute.

Third. For quitting the vessel without leave, after her arrival at the port of her delivery and before she is placed in security, by forfeiture from his wages of not more than one month's pay.

Fourth. For willful disobedience to any lawful command at sea, by being, at the option of the master, placed in irons until such disobedience shall cease, and upon arrival in port by forfeiture from his wages of not more than four days' pay, or, at the discretion of the court, by imprisonment for not more than one month.

Fifth. For continued willful disobedience to lawful command or continued willful neglect of duty at sea, by being, at the option of the master, placed in irons, on bread and water, with full rations every fifth day, until such disobedience shall cease, and upon arrival in port by forfeiture, for every twenty-four hours' continuance of such disobedience or neglect, of a sum of not more than twelve days' pay, or by imprisonment for not more than three months, at the discretion of the court.

Sixth. For assaulting any master, mate, pilot, engineer, or staff officer, by imprisonment for not more than two years.

Seventh. For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, by imprisonment for not more than twelve months.

Eighth. For any act of smuggling for which he is convicted and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability, and he shall be liable to imprisonment for a period of not more than twelve months. (R. S. § 4596; Dec. 21, 1898, ch. 28, § 19, 30 Stat. 760; Mar. 4, 1915, ch. 153, § 7, 38 Stat. 1166; Aug. 1, 1939, ch. 409, § 6, 53 Stat. 1147.)

DERIVATION

Act June 7, 1872, ch. 322, § 51, 17 Stat. 273.

CODIFICATION

As enacted originally, R.S. § 4596 contained an additional paragraph numbered "Seventh" and the present seventh and eighth paragraphs were numbered "Eighth" and "Ninth." Aside from the fourth, fifth and seventh paragraphs, the section was much like the present text, except that the first paragraph provided for imprisonment as well as forfeiture, and the second paragraph referred to "neglecting and refusing" and to absence "from his vessel or from his duty." The fourth, fifth, and seventh paragraphs read:

"Fourth. For willful disobedience to any lawful command, by imprisonment for not more than two months, and also, at the discretion of the court, by forfeiture out of his wages of not more than four days' pay.

"Fifth. For continued willful disobedience to lawful commands, or continued willful neglect of duty, by imprisonment for not more than six months, and also, at the discretion of the court, by forfeiture, for every twenty-four hours' continuance of such disobedience or neglect of either a sum not more than twelve days' pay, or sufficient to defray any expenses which have been properly incurred in hiring a substitute.

"Seventh. For combining with any others of the crew to disobey lawful commands, or to neglect duty, or to impede navigation of the vessel, or the progress of the voyage, by imprisonment for not more than twelve months."

Act Dec. 21, 1898, amended R.S. § 4596 to read:

"The words 'domestic trade' in this section shall include trade between ports of the United States and trade between ports of the United States and the Dominion of Canada, Newfoundland, the West Indies, and Mexico. The words 'foreign trade' shall include trade between ports of the Untied States and foreign ports, except as above specified, and trade between Atlantic and Pacific ports of the United States.

"Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offenses he shall be punishable as follows:

"First. For desertion, if the offense occur at a port of the United States or a foreign port in the domestic trade, by forfeiture of all or any part of the clothes or effects he leaves on board and of all or any part of the wages or emoluments which he has then earned. If the offense occur at a foreign port in the foreign trade, by forfeiture of all or any part of the clothes or effects he leaves on board and of all or any part of the wages or emoluments which he has then earned; and also, at the discretion of the court, by imprisonment for not more than one month.

"Second. For neglecting or refusing, without reasonable cause, to join his vessel to proceed to sea in his vessel,

or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his vessel or from his duty, not amounting to desertion or not treated as such by the master, if the offense occur at a port of the United States or a foreign port in the domestic trade, by a forfeiture from his wages of not more than two days' pay, or sufficient to defray any expenses which have been properly incurred in hiring a substitute; or if the offense occur at a foreign port, in the foreign trade, by a forfeiture from his wages of not more than two days' pay, or at the discretion of the court, by imprisonment for not more than one month.

"Third. For quitting the vessel, in whatever trade engaged, at a foreign or domestic port, without leave after her arrival at her port of delivery and before she is placed in security, by forfeiture from his wages of not more than one month's pay.

"Fourth. For willful disobedience to any lawful command at sea, by being, at the option of the master, placed in irons until such disobedience shall cease, and upon arrival in port, if of the United States, by forfeiture from his wages of not more than four days' pay, or upon arrival in a foreign port by forfeiture from his wages of not more than four days' pay, or, at the discretion of the court, by imprisonment for not more than one month.

"Fifth. For continued willful disobedience to lawful command or continued willful neglect of duty at sea by being, at the option of the master, placed in irons, on bread and water, with full rations every fifth day, until such disobedience shall cease, and upon arrival in port, if of the United States, by forfeiture, for every twenty-four hours' continuance of such disobedience or neglect, of either a sum of not more than twelve days' pay or sufficient to defray any expenses which have been properly incurred in hiring a substitute, or upon arrival in a foreign port, in addition to the above penalty, by imprisonment for not more than three months, at the discretion of the court.

"Sixth. For assaulting any master or mate, in whatever trade engaged, by imprisonment for not more than two years.

"Seventh. For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, in whatever trade engaged, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, by imprisonment for not more than twelve months.

"Eighth. For any act of smuggling for which he is convicted, and whereby loss or damage is occasioned to the master or owner, in whatever trade engaged, he shall be liable to pay such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or any part of his wages may be retained in satisfaction or on account of such liability; and he shall be liable to imprisonment for a period of not more than twelve months."

Section 26 of act Dec. 21, 1898, provided that the act should take effect sixty days after its approval, and should apply to all vessels not specifically exempted by it.

Act Mar. 4, 1915, further amended it to read as set forth above except as to the sixth paragraph.

AMENDMENTS

1939—Act Aug. 1, 1939, in the sixth paragraph inserted "pilot, engineer, or staff officer," and struck out "or" before "mate" and inserted the comma in lieu thereof.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702 of this title.

§ 702. Entry of offense in log book.

Upon the commission of any of the offenses enumerated in section 701 of this title an entry thereof shall be made in the official log book on the day on which the offense was committed, and shall be signed by the master and by the mate or one of the crew; and the offender, if still in the vessel, shall, before her next arrival at any port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of such entry, and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished, or the same has been so read over, together with his reply, if any, made by the offender, shall likewise be entered and signed in the same manner. In any subsequent legal proceedings the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offense. (R. S. § 4597; Dec. 21, 1898, ch. 28, § 20, 30 Stat. 761.)

DERIVATION

Act June 7, 1872, ch. 322, § 52, 17 Stat. 274.

CODIFICATION

Prior to incorporation in the Code, act Dec. 21, 1898, amended R.S. § 4597 by requiring the offense to be entered in the log book on the day that it was committed.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 201 of this title.

§ 703. Duty of consular officers as to insubordination.

It shall be the duty of all consular officers to discountenance insubordination by every means in their power and, where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner. In all cases where seamen or officers are accused, the consular officer shall inquire into the facts and proceed as provided in section 685 of this title; and the officer discharging such seaman shall enter upon the crew list and shipping articles and official log the cause of such discharge and the particulars in which the cruel or unusual treatment consisted and subscribe his name thereto officially. He shall read the entry made in the official log to the master, and his reply thereto, if any, shall likewise be entered and subscribed in the same manner. (R. S. § 4600; June 26, 1884, ch. 121, § 6, 23 Stat. 55; Dec. 21, 1898, ch. 28, § 21, 30 Stat. 761; Mar. 4, 1915, ch. 153, § 8, 38 Stat. 1167.)

DERIVATION

Act June 7, 1872, ch. 322, § 56, 17 Stat. 275.

CODIFICATION

R.S. § 4600, as enacted originally, read: "It shall be the duty of consular officers to reclaim deserters and discountenance insubordination by every means within their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and

use their exertions to that end, in the most effectual manner. In all cases where deserters are apprehended, the consular officer shall inquire into the facts; and if he is satisfied that the desertion was caused by unusual or cruel treatment, the seaman shall be discharged, and receive, in addition to his wages to the time of the discharge, three months' pay; and the officer discharging him shall enter upon the crew-list and shipping-articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and subscribe his name thereto, officially."

Act June 26, 1884, amended it by striking out, after the words "was caused by unusual or cruel treatment," the provisions beginning with the words "the seaman shall be discharged," etc., to the end of the section, and substituting therefor the following: "He shall discharge the seaman, and require the master of the vessel from which such seaman is discharged to pay one month's wages over and above the wages then due; and the officer discharging such seaman shall enter upon the crew-list and shipping articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and the facts as to his discharge or re-engagement, as the case may be, and subscribe his name thereto officially."

It was again amended by act Dec. 21, 1898, to read substantially as above set forth, except that the words "reclaim deserters," preceded the words "discountenance insubordination."

Act Mar. 4, 1915, amended it to read as above set forth.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results of a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 704. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, R. S. § 4602, which related to drunkenness of masters or seamen or their neglect of duty, is now covered by section 2196 of Title 18, Crimes and Criminal Procedure.

§ 705. Enforcement of forfeitures.

Any question concerning the forfeiture of, or deductions from, the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding the offense in respect of which such question arises, though made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding. (R. S. § 4603.)

DERIVATION

Act June 7, 1872, ch. 322, § 56, 17 Stat. 275.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 706. Disposal of forfeitures.

All clothes, effects, and wages which, under the provisions of title 53 of the Revised Statutes, are forfeited for desertion, shall be applied, in the first instance, in payment of the expenses occasioned by such desertion, to the master or owner of the vessel from which the desertion has taken place, and the balance, if any, shall be paid by the master or owner to any Coast Guard official to whom the duties of shipping commissioner have been delegated resident at the port at which the voyage of such vessel terminates; and such Coast Guard official shall account for and pay over such balance to the judge of the district court within one month after such Coast Guard official receives the same, to be disposed of by him in the same manner as is prescribed for the disposal of the money, effects, and wages of deceased seamen. Whenever any master or owner neglects or refuses to pay over to such Coast Guard official such balance, he shall be liable to a penalty of double the amount thereof, recoverable by such Coast Guard official in the same manner that seamen's wages are recovered. In all other cases of forfeiture of wages, the forfeiture shall be for the benefit of the master or owner by whom the wages are payable. (R. S. § 4604; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 55, 17 Stat. 274.

REFERENCES IN TEXT

For distribution of Title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

CODIFICATION

Act Mar. 3, 1911, abolished circuit courts and transferred their powers and duties to the district courts.

TRANSFER OF FUNCTIONS

The Coast Guard was tranferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official to whom the duties of shipping commissioner have been delegated on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to title 5.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 707. Appropriation of wages to costs of conviction.

Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offense by any competent tribunal, and rightfully punished therefor, by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding $15, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment. (R. S. § 4605; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252.)

DERIVATION

Act June 7, 1872, ch. 322, § 57, 17 Stat. 275.

CODIFICATION

Prior to incorporation in the Code, R.S. § 4605 was amended by act Feb. 27, 1877, which substituted "seaman" for "seamen".

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 708. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, R. S. § 4606, which related to boarding vessels before arrival, is now covered by section 2279 of Title 18, Crimes and Criminal Procedure.

§ 709. Soliciting seamen as lodgers.

If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than $50, or by imprisonment for not more than three months. This section shall apply to vessels of the United States engaged in the foreign trade and to foreign vessels. (R. S. § 4607; Apr. 13, 1904, ch. 1252, § 1, 33 Stat. 174.)

DERIVATION

Act June 7, 1872, ch. 322, § 63, 17 Stat. 276.

CODIFICATION

Prior to incorporation in the Code, R.S. § 4607 was amended by act Apr. 13, 1904, which added the last sentence.

CROSS REFERENCES

Section inapplicable to vessels engaged in coastwise trade, except between Atlantic and Pacific coasts, or in lake-going trade touching at foreign ports or otherwise, or in trade between United States and British North American possessions, or in any case where seamen are by custom or agreement entitled to participate in the profits or results or a cruise, or voyage, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 710. Carrying sheath knives.

No seaman in the merchant service shall wear any sheath knife on shipboard. It shall be the duty of the master of any vessel registered, enrolled, or licensed under the laws of the United States, and of the person entering into contract for the employment of a seaman upon any such vessel, to inform every person offering to ship himself of the provisions of this section, and to require his compliance therewith, under a penalty of $50 for each omission, to be sued for and recovered in the name of the United States, under the direction of the Commandant of the Coast Guard; one half for the benefit of the informer, and the other half for the benefit of the fund for the relief of sick and disabled seamen. (R. S. § 4608; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act July 27, 1866, ch. 286, §§ 1, 2, 14 Stat. 304.

CODIFICATION

Upon incorporation into the Code, "Secretary of Commerce" was substituted for "Secretary of the Treasury" to conform to acts Feb. 14, 1903, and Mar. 4, 1913. See note under section 564 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was tranferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the appendix to title 5.

§ 710a. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, act June 25, 1936, ch. 816, § 6, 49 Stat. 1936, which related to unlawful use of certificate, license, or document, is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

§§ 710b, 710c. Transferred.

Sections, act July 15, 1954, ch. 512, §§ 1, 2, 68 Stat. 484, have been transferred to sections 239a and 239b of this title.

§ 711. Recovery of penalties and forfeitures.

All penalties and forfeitures imposed by title 53 of the Revised Statutes, for the recovery whereof no specific mode is provided, may be recovered, with costs, in any district court of the United States, at the suit of any United States attorney, or at the suit of any person by information to any United States attorney, in any port of the United States, where or near to where the offense is committed or the offender is found; and if a conviction is had, and the sum imposed as a penalty by the court is not paid either immediately after the conviction, or within such period as the court at the time of the conviction appoints, it shall be lawful for the court to commit the offender to prison, there to be imprisoned for the term provided in case of such offense, the commitment to be terminable upon payment of the amount and costs; and all penalties and forfeitures mentioned in such title for which no special application is provided, shall, when recovered, be paid and applied in manner following: So much as the court shall determine, and the residue shall be paid to the court and be remitted from time to time by order of the judge, to the Treasury of the United States, and appropriated as provided for in section 628 of this title: *Provided always,* That it shall be lawful for the court before which any proceeding shall be instituted for the recovery of any pecuniary penalty imposed by this act, to mitigate or reduce such penalty as to such court shall appear just and reasonable; but no such penalty shall be reduced to less

than one-third of its original amount: *Provided also*, That all proceedings so to be instituted shall be commenced within two years next after the commission of the offense, if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn, or within one year if committed elsewhere, or within two months after the return of the offender and the complaining party to the United States; and there shall be no appeal from any decision of any of the district courts, unless the amount sued for exceeds the sum of $500. (R. S. § 4610; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

DERIVATION

Act June 7, 1872, ch. 322, § 64, 17 Stat. 276.

REFERENCES IN TEXT

For distribution of title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

Words "this act" in first proviso are so in R. S. § 4610, and apparently refer to act June 7, 1872, ch. 322, 17 Stat. 262—280, from which that section was derived. Revised Statute sections derived from that act are contained in sections 201—203, 542a, 543, 545, 546, 561, 562, 564—571, 574, 577, 578, 591—596, 600, 602, 621—628, 641—643, 644, 645, 651, 652, 662—669, 701, 703, 705—707, 709, 711 and 713 of this title.

CODIFICATION

Act Mar. 3, 1911, abolished circuit courts and transferred their powers and duties to the district courts.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States" and "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 544 of this title.

§ 712. Surrendering officer inflicting corporal punishment; liability of master.

Whenever any officer of a vessel of the United States, other than the master thereof, violates section 2191 of Title 18, the master shall, if he has actual knowledge of the offense or if complaint be made within three days after reaching port, surrender such officer to the proper authorities. Any failure on the part of such master to use due diligence to comply herewith, which failure shall result in the escape of such officer, shall render the master or vessel or the owner of the vessel liable in damages for such flogging or corporal punishment to the person illegally punished by such officer. (R. S. § 4611; Dec. 21, 1898, ch. 28, § 22, 30 Stat. 761; Mar. 4, 1915, ch. 153, § 9, 38 Stat. 1167; June 25, 1948, ch. 645, § 2, 62 Stat. 859.)

DERIVATION

Act Sept. 28, 1850, ch. 80, § 1, 9 Stat. 515.

CODIFICATION

R.S. § 4611, as enacted originally, read: "Flogging on board vessels of commerce is hereby abolished."

Act Dec. 21, 1898, amended it to read except as provided by the 1915 amendment.

Act Mar. 4, 1915, amended it by inserting the words "provided he has actual knowledge of the misdemeanor, or complaint thereof is made within three days after reaching port" in the second sentence; and the words "or vessel or the owner of the vessel" and "for such flogging or corporal punishment" in the last sentence.

AMENDMENTS

1948—Act June 25, 1948, eliminated provisions relating to prohibition on flogging or inflicting corporal punishment as the provisions are now covered by section 2191 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment of this section shall be effective as of Sept. 1, 1948.

§ 713. Definitions, schedule, and tables.

In the construction of title 53 of the Revised Statutes, every person having the command of any vessel belonging to any citizen of the United States shall be deemed to be the "master" thereof; and every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall be deemed and taken to be a "seaman"; and the term "vessel" shall be understood to comprehend every description of vessel navigating on any sea or channel, lake or river, to which the provisions of such title may be applicable, and the term "owner" shall be taken and understood to comprehend all the several persons, if more than one, to whom the vessel shall belong.

SCHEDULE

TABLE A

FORM OF ARTICLES OF AGREEMENT

United States of America.

(Date and place of first signature of agreement, including name of shipping office):

It is agreed between the master and seamen or mariners of the ———, of which ——— ——— is at present master, or whoever shall go for master, now bound from the port of ———, ———, to ———, ———, (here the voyage is to be described, and the places named at which the vessel is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated.)

And the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said master, or of any person who shall lawfully succeed him, and of their superior officers in everything relating to the vessel, and the stores and cargo thereof, whether on board, in boats, or on shore; and in consideration of which service, to be duly performed, the said master hereby agrees to pay the said crew, as wages, the sums against their names respectively expressed, and to supply them with provisions according to the annexed scale. And it is hereby agreed that any embezzlement, or willful or negligent destruction of any part of the vessel's cargo or stores, shall be made good to the owner out of the wages of the person guilty of the same; and if any person enters himself as qualified for a duty which he proves himself incompetent to perform, his wages shall be reduced in proportion to his incompetency. And it is also agreed that if any member of the crew considers himself to be aggrieved by any breach of the agreement or otherwise, he shall represent the same to the master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such steps as the case may require. And it is also agreed that (here any other stipulations may be inserted to

which the parties agree, and which are not contrary to law).

In witness whereof the said parties have subscribed their names hereto, on the days against their respective signatures mentioned.

Signed by ——— ———, master, on the ——— day of ———, nineteen hundred and ———.

Signature of crew	Birthplace	Age	Height		Description		Wages per month	Wages per run	Advance wages	Amount of monthly allotment	Time of service		Hospital money	Whole wages	Wages due	Place and time of entry	Time at which he is to be on board	In what capacity	Coast Guard official's signature or initials	Allotment payable to—	Conduct qualifications
			Feet	Inches	Complexion	Hair					Months	Days									

NOTE.—In the place for signatures and descriptions of men engaged after the first departure of the ship, the entries are to be made as above, except that the signatures of the consul or vice consul, officer of customs, or witness before whom the man is engaged, is to be substituted for that of the shipping master.

ACCOUNT OF APPRENTICES ON BOARD

Christian and surname of apprentice in full	Date of registry of indenture	Port at which indenture was registered	Date of register of assignment	Port at which assignment was registered

SCALE OF PROVISIONS TO BE ALLOWED AND SERVED OUT TO THE CREW DURING THE VOYAGE

		Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Water	quarts	5	5	5	5	5	5	5
Biscuit	pound	½	½	½	½	½	½	½
Beef, salt	pounds			1¼		1¼		1¼
Pork, salt	pound		1		1		1	
Flour	pound	½		½		½		
Canned meat	pound	1			1			
Fresh bread	pounds	1½ pounds daily						
Fish, dry, preserved, or fresh	pound						1	
Potatoes or yams	pound	1	1	1	1	1	1	1
Canned tomatoes	pound	½					½	
Peas	pint			⅓			⅓	
Beans	pint		⅓		⅓			
Rice	pint		⅓					⅓
Coffee (green berry)	ounce	¾	¾	¾	¾	¾	¾	¾
Tea	ounce	⅛	⅛	⅛	⅛	⅛	⅛	⅛
Sugar	ounces	3	3	3	3	3	3	3
Molasses	pint	½		½		½		
Dried fruit	ounces	3		3		3		
Pickles	pint		¼		¼		¼	
Vinegar	pint			½				½
Corn meal	ounces	4				4		
Onions	ounces	4				4		4
Lard	ounce	1	1	1	1	1	1	1
Butter	ounce	2	2	2	2	2	2	2
Mustard, pepper, and salt sufficient for seasoning.								

SUBSTITUTES

One pound of flour daily may be substituted for the daily ration of biscuit or fresh bread; two ounces of desiccated vegetables for one pound of potatoes or yams; six ounces of hominy, oatmeal, or cracked wheat, or two ounces of tapioca, for six ounces of rice; six ounces of canned vegetables for one-half pound of canned tomatoes; one-eighth of an ounce of tea for three-fourths of an ounce of coffee; three-fourths of an ounce of coffee for one-eighth of an ounce of tea; six ounces of canned fruit for three ounces of dried fruit; one-half ounce of lime juice for the daily ration of vinegar; four ounces of oatmeal or cracked wheat for one-half pint of corn meal; two ounces of pickled onions for four ounces of fresh onions.

When the vessel is in port and it is possible to obtain the same, one and one-half pounds of fresh meat shall be substituted for the daily rations of salt and canned meat; one-half pound of green cabbage for one ration of canned tomatoes; one-half pound of fresh fruit for one ration of dried fruit. Fresh fruit and vegetables shall be served while in port if obtainable. The seamen shall have the option of accepting the fare the master may provide, but the right at any time to demand the foregoing scale of provisions.

The foregoing scale of provisions shall be inserted in every article of agreement, and shall not be reduced by any contract, except as above, and a copy of the same shall be posted in a conspicuous place in the galley and in the forecastle of each vessel.

The three preceding paragraphs and the scale of provisions shall not apply to fishing or whaling vessels or yachts.

TABLE B

CERTIFICATE OF DISCHARGE

Name and official number of ship	Port of registry	Tonnage	Description of voyage or employment	Name of seaman	Place of birth	Date of birth	Character	Declines to give statement of character	Capacity	Date of entry	Date of discharge	Place of discharge

I certify that the above particulars are correct, and that the above-named seaman was discharged accordingly.

Dated ——— day of ———, nineteen hundred and ———.

(Signed) ——— ———, Master.

(Countersigned) ——— ———, Seaman.

Given to the above-named seaman in my presence this —— day of ———, nineteen hundred and ——.

(Signed) ——— ———,

Coast Guard official.

(R.S. § 4612; Dec. 21, 1898, ch. 28, §§ 23, 26, 30 Stat. 762, 764; Mar. 4, 1915, ch. 153, § 10, 38 Stat. 1168; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097.)

DERIVATION

Act June 7, 1872, ch. 322, § 65, 17 Stat. 277.

REFERENCES IN TEXT

For distribution of Title 53, sections 4501—4612, of the Revised Statutes, referred to in the text, of which this section is a part, see note under section 543 of this title.

CODIFICATION

In Table A of the schedule, as enacted originally, the scale of provisions and the substitutes to be allowed and served out to the crew during the voyage were as follows:

"SCALE OF PROVISIONS TO BE ALLOWED AND SERVED OUT TO THE CREW DURING THE VOYAGE

	Bread	Beef	Pork	Flour	Pease	Rice	Barley	Tea	Coffee	Sugar	Water
	Lbs.	*Lbs.*	*Lbs.*	*Lbs.*	*Pts.*	*Pts.*	*Pts.*	*Ozs.*	*Ozs.*	*Ozs.*	*Qts.*
Sunday	1	1½	-----	½	----	----	----	⅛	½	2	3
Monday	1	-----	1¼	-----	⅓	----	----	⅛	½	2	3
Tuesday	1	1½	-----	½	----	----	----	⅛	½	2	3
Wednesday	1	-----	1¼	-----	⅓	----	----	⅛	½	2	3
Thursday	1	1½	-----	½	----	----	----	⅛	½	2	3
Friday	1	-----	1¼	-----	⅓	----	----	⅛	½	2	3
Saturday	1	1½	-----	-----	----	----	----	⅛	½	2	3

"(Here any stipulation for changes, or substitution of one article for another, may be inserted.)

"Substitutes. One ounce of coffee, or cocoa, or chocolate, may be substituted for one-quarter ounce of tea; molasses for sugar, the quantity to be one-half more; one pound of potatoes or yams, one-half pound flour or rice; one-third pint of pease or one-quarter pint of barley may be substituted for each other. When fresh meat is issued, the proportion to be two pounds per man per day, in lieu of salt meat. Flour, rice, and pease, beef and pork, may be substituted for each other, and, for potatoes, onions may be substituted."

The following three additional tables in the schedule were omitted as superseded by section 331 of this title:

"Table C

"FEES, (SEAMEN)

"Fee payable on engaging crew, for each member of the crew (except apprentices) ---------- $2.00

"Fee payable on discharging crew, for each member of crew discharged ---------- .50

"Table D

"FEES, (APPRENTICES)

"For each boy apprenticed to the merchant service, including the indenture ---------- $5.00

"Table E

"REDUCTION FROM WAGES OF SEAMEN

"In partial repayment of the fees payable in Table C, in respect of engagements, from the wages of each member of the crew, twenty-five cents.

"In respect of discharges, from the wages of each member of the crew, twenty-five cents."

Act Dec. 21, 1898, amended R.S. § 4612 by striking out the original scale of provisions and substitutes, and inserting in lieu thereof the scale and substitutes contained in the section as above set forth, except as to water and butter.

Act Mar. 4, 1915, amended the section by increasing the daily requirement of water from four to five quarts, and the daily requirement of butter from one to two ounces.

TRANSFER OF FUNCTIONS

The Coast Guard was tranferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to shipping commissioner were changed to Coast Guard official on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5.

EXCEPTION

Application of and exceptions to act Dec. 21, 1898, see note under section 569 of this title.

CROSS REFERENCES

Allowance for reduction of provisions, see section 665 of this title.

Application of this section to sail or steam vessels engaged in the coastwise trade, see section 544 of this title.

Form of certificate of discharge, see section 643 (e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 544, 665 of this title.

Chapter 19.—WRECKS AND SALVAGE

GENERALLY

Sec.
721. Vessels stranded on foreign coasts.
722. Property wrecked on Florida coast.
723. Forfeitures for taking wrecked property to foreign ports.
724. License to wreckers on Florida coast.
725. Canadian vessels aiding vessels wrecked or disabled in United States waters.
726. International agreement as to derelicts.
727. Right to salvage not affected by ownership of vessel.
728. Duty of master to assist persons in danger.
729. Salvors of life to share in remuneration.
730. Time limit for salvage suits.
731. Applicability to ships of war.
732 to 735. Repealed.

ICE AND DERELICTS

738. International agreements as to ice patrol and derelict destruction; allocation of expenses.
738a. Patrol services; maintenance of ice patrol; warning vessels; aid to vessels in distress; destruction of derelicts; reports on ships in dangerous regions; administration by Coast Guard; annual report.
738b. Operator of vessel to give notice of routes; avoidance of ice regions; penalty.
738c. Speed of vessel in ice region; penalty.
738d. Publication of rules and regulations in Federal Register.

CROSS REFERENCES

Owners of vessels sunk in navigable channels to mark them until removed or abandoned, see section 409 of Title 33, Navigation and Navigable Waters.

Removal by Secretary of Army of vessels sunk in navigable waters or harbors, etc., see sections 414 and 415 of Title 33.

Special navigation rules for steam vessels by Secretary of Department in which Coast Guard is operating, see section 157 of Title 33.

GENERALLY

§ 721. Vessels stranded on foreign coasts.

Consuls and vice consuls, in cases where vessels of the United States are stranded on the coasts of their consulates respectively, shall, as far as the laws of

the country will permit, take proper measures, as well for the purpose of saving the vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking inventories thereof; and the merchandise and effects saved, with the inventories thereof so taken, shall, after deducting therefrom the expenses, be delivered to the owners. No consul or vice consul shall have authority to take possession of any such merchandise, or other property, when the master, owner, or consignee thereof is present or capable of taking possession of the same. (R. S. § 4238.)

DERIVATION

Act Apr. 14, 1792, ch. 24, § 3, 1 Stat. 255.

§ 722. Property wrecked on Florida coast.

All property, of any description whatsoever, which shall be taken from any wreck, from the sea, or from any of the keys and shoals, within the jurisdiction of the United States, on the coast of Florida, shall be brought to some port of entry within the jurisdiction of the United States. (R. S. § 4239.)

DERIVATION

Act Mar. 3, 1825, ch. 107, § 2, 4 Stat. 133.

CROSS REFERENCES

Free importation of merchandise recovered from sunken and abandoned vessels, see section 1310 of Title 19, Customs Duties.

§ 723. Forfeitures for taking wrecked property to foreign ports.

Every vessel which shall be engaged or employed in carrying or transporting any property whatsoever, taken from any wreck, from the sea, or from any of the keys or shoals, within the jurisdiction of the United States, on the coast of Florida, to any foreign port, shall, together with her tackle, apparel, and furniture, be forfeited, and all forfeitures incurred by virtue of this section shall accrue, one moiety to the informer and the other to the United States. (R. S. § 4240.)

DERIVATION

Act Mar. 3, 1825, ch. 107, § 1, 4 Stat. 132.

§ 724. License to wreckers on Florida coast.

No vessel, or master thereof, shall be regularly employed in the business of wrecking on the coast of Florida without the license of the judge of the district court for the district of Florida; and, before licensing any vessel or master, the judge shall be satisfied that the vessel is seaworthy, and properly and sufficiently fitted and equipped for the business or saving property shipwrecked and in distress; and that the master thereof is trustworthy, and innocent of any fraud or misconduct in relation to any property shipwrecked or saved on the coast. (R. S. § 4241.)

DERIVATION

Act Feb. 23, 1847, ch. 20, § 3, 9 Stat. 131.

DIVISION OF FLORIDA INTO THREE JUDICIAL DISTRICTS

Florida divided into three judicial districts, see section 89 of Title 28, Judiciary and Judicial Procedure.

§ 725. Canadian vessels aiding vessels wrecked or disabled in United States waters.

Canadian vessels and wrecking appurtenance may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and canal: *And provided further,* That this section shall cease to be in force from and after the date of the proclamation of the President of the United States to the effect that said reciprocal privilege has been withdrawn, revoked, or rendered inoperative by the said Government of the Dominion of Canada. (June 19, 1878, ch. 324, 20 Stat. 175; May 24, 1890, ch. 292, 26 Stat. 120; Mar. 3, 1893, ch. 211, § 1, 27 Stat. 683.)

CODIFICATION

Act June 19, 1878, was entitled "An act to aid vessels wrecked or disabled in the waters coterminous to the United States and the Dominion of Canada.

As originally enacted, it read: "That Canadian vessels of all descriptions may render aid or assistance to Canadian or other vessels wrecked or disabled in the waters of the United States contiguous to the Dominion of Canada: Provided, That this act shall not take effect until proclamation by the President declaring that the privilege of aiding American or other vessels wrecked or disabled in Canadian waters contiguous to the United States has been extended by the Government of the Dominion of Canada and declaring this act to be in force: And provided further, That this act shall cease to be in force from and after the date of proclamation by the President to the effect that said reciprocal privilege has been withdrawn or revoked by said Government of the Dominion of Canada."

Act May 24, 1890, amended act June 19, 1878, to read as above set forth, except that, besides making the act applicable to the canal and improvement of the waters between Lake Erie and Lake Huron, etc., it was also made applicable to the Welland Canal, and the first paragraph contained a proviso concerning the taking effect of the act.

Act Mar. 3, 1893, struck out the provision relating to the Welland Canal.

CROSS REFERENCES

Use of foreign tugboats in United States prohibited, see section 316 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 316 of this title.

§ 726. International agreement as to derelicts.

The President of the United States is authorized to make with the several Governments interested in the navigation of the North Atlantic Ocean, an international agreement providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation in the North Atlantic Ocean outside the coast waters of the respective countries bordering thereon. (Oct. 31, 1893, No. 13, 28 Stat. 13.)

CROSS REFERENCES

International agreements as to ice patrol and derelict destruction, see section 738 of this title.

§ 727. Right to salvage not affected by ownership of vessel.

The right to remuneration for assistance or salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services. (Aug. 1, 1912, ch. 268, § 1, 37 Stat. 242.)

EFFECTIVE DATE

Act Aug. 1, 1912, provided that it shall take effect on and after July 1, 1912.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 731 of this title.

§ 728. Duty of master to assist persons in danger.

The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, crew, or passengers, render assistance to every person who is found at sea in danger of being lost; and if he fails to do so, he shall, upon conviction, be liable to a penalty of not exceeding $1,000 or imprisonment for a term not exceeding two years, or both. (Aug. 1, 1912, ch. 268, § 2, 37 Stat. 242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 731 of this title.

§ 729. Salvors of life to share in remuneration.

Salvors of human life, who have taken part in the services rendered on the occasion of the accident giving rise to salvage, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories. (Aug. 1, 1912, ch. 268, § 3, 37 Stat. 242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 731 of this title.

§ 730. Time limit for salvage suits.

A suit for the recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than two years from the date when such assistance or salvage was rendered, unless the court in which the suit is brought shall be satisfied that during such period there had not been any reasonable opportunity of arresting the assisted or salved vessel within the jurisdiction of the court or within the territorial waters of the country in which the libelant resides or has his principal place of business. (Aug. 1, 1912, ch. 268, § 4, 37 Stat. 242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 731 of this title.

§ 731. Applicability to ships of war.

Nothing in sections 727 to 730 of this title shall be construed as applying to ships of war or to Government ships appropriated exclusively to a public service. (Aug. 1, 1912, ch. 268, § 5, 37 Stat. 242.)

§ 732. Repealed. May 4, 1948, ch. 256, § 5 (a), 62 Stat. 210.

Section, act Oct. 24, 1941, ch. 458, § 1, 55 Stat. 745, which related to the furnishing, by the Secretary of the Navy, of salvage facilities during war or emergency, is now covered by sections 7361—7367 of Title 10, Armed Forces.

§§ 733 to 735. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section 733, act May 4, 1948, ch. 256, § 1, 62 Stat. 209, authorized the Secretary of the Navy to furnish salvage facilities for both public and private vessels, to acquire or to transfer for operation by private salvage companies vessels and equipment, to advance funds to private salvage companies, and is now covered by sections 7361, 7362, and 7364 of Title 10, Armed Forces.

Section 734, act May 4, 1948, ch. 256, § 2, 62 Stat. 209, related to term contracts for the provision of salvage facilities and to the sale or transfer of salvage vessels or salvage gear and is now covered by sections 7361 and 7363 of Title 10, Armed Forces.

Section 735, act May 4, 1948, ch. 256, § 3, 62 Stat. 210, provided for adjustment and settlement of claims for salvage services, and for disposition of moneys, and is now covered by sections 7365 and 7367 of Title 10, Armed Forces.

ICE AND DERELICTS

§ 738. International agreements as to ice patrol and derelict destruction; allocation of expenses.

The President is authorized to conclude agreements with interested maritime nations (a) to maintain in the north Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring aid within the limits of the patrol; (b) to maintain a service of study and observation of ice and current conditions in such waters as may affect the set and drift of ice in the north Atlantic Ocean; and (c) to undertake all practicable steps to insure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude thirty-four degrees north, longitude seventy degrees west, if this destruction or removal is necessary. The President is further authorized to include in such agreements a provision for payment to the United States by the countries concerned, of their proportionate share of the expense for maintenance of the services named, or for the United States to contribute its proportionate share should it be agreed that another country was to maintain the patrol. (June 25, 1936, ch. 807, § 1, 49 Stat. 1922.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 738d of this title.

§ 738a. Patrol services; maintenance of ice patrol; warning vessels; aid to vessels in distress; destruction of derelicts; reports on ships in dangerous regions; administration by Coast Guard; annual report.

(a) Unless the agreements made in accordance with section 738 of this title provide otherwise, an ice patrol shall be maintained during the whole of the ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland, and the patrol shall inform trans-Atlantic and other passing vessels by radio and such other means as are available of the ice conditions and the extent of the dangerous region. A service of study of ice and current conditions, a service of affording assistance to vessels and crews requiring aid, and a service of removing and destroying derelicts shall be maintained during the ice season and any or all such services may be maintained during the remainder of the year as may be advisable.

(b) The ice patrol vessels shall warn vessels known to be approaching a dangerous area and recommend safe routes.

(c) The ice patrol vessels shall record the name, together with all the facts in the case, of any ship which is observed or known to be on other than a regular recognized or advertised ship route crossing the North Atlantic Ocean, or to have crossed the fishing banks of Newfoundland north of latitude forty-three degrees north during the fishing season, or, when proceeding to and from ports of North

America to have passed through regions known or believed to be endangered by ice. The name of any such ship and all pertinent information relating to the incident shall be reported to the government of the country to which the ship belongs, if the government of that country so requests.

(d) The Commandant of the Coast Guard, under the direction of the Secretary of Transportation, shall administer the services provided for in this section and shall assign thereto such vessels, material, and personnel of the Coast Guard as may be necessary. Any executive department or agency may upon the request of the Secretary of Transportation detail personnel, loan or contribute material or equipment, or otherwise assist in the carrying out of the services named.

(e) The Commandant of the Coast Guard shall publish each year a report of the activities of the services provided for in this section, a copy of which shall be furnished to each interested foreign government and to each agency assisting in the work. (June 25, 1936, ch. 807, § 2, 49 Stat. 1922.)

TRANSFER OF FUNCTIONS

The Secretary of Transportation has been substituted for Secretary of the Treasury pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation. Section 1655(b)(2) of Title 49, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in this section.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Such Plan excepted from the transfer the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 738d of this title.

§ 738b. Operator of vessel to give notice of routes; avoidance of ice regions; penalty.

(a) The owner, or operating agent, of any passenger vessel of the United States crossing the North Atlantic Ocean shall give public notice, in such manner as may be prescribed by the Secretary of Transportation, of the regular routes which he proposes such vessel will follow and of any changes made in a route, and shall require the vessel to follow the published route as far as circumstances will permit. Any passenger vessel of the United States crossing the North Atlantic Ocean shall follow, as far as circumstances will permit, the recognized ship routes; it shall avoid, as far as practicable, the fishing banks of Newfoundland, north of latitude forty-three degrees north during the fishing season; and shall, as far as circumstances will permit, pass outside of the regions reported or known to be endangered by ice.

(b) If the owner, or operating agent, of any such passenger vessel fails to comply with this section, he shall for each offense be liable to a fine not exceeding $100. (June 25, 1936, ch. 807, § 3, 49 Stat. 1923.)

TRANSFER OF FUNCTIONS

Secretary of Transportation has been substituted for Secretary of the Treasury pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation. Section 1655(b)(2) of Title 49, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 738d of this title.

§ 738c. Speed of vessel in ice region; penalty.

(a) The master of every vessel of the United States, when ice is reported on or near his course, shall proceed at a moderate speed or alter his course so as to go well clear of the danger zone.

(b) If the master of any such ship fails to comply with this section, he shall for each offense be liable to a fine not exceeding $500. (June 25, 1936, ch. 807, § 4, 49 Stat. 1923.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 738d of this title.

§ 738d. Publication of rules and regulations in Federal Register.

All rules and regulations, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof, issued, prescribed, or promulgated pursuant to authority contained in sections 738 to 738d of this title, shall be forwarded forthwith to the Division of the Federal Register in The National Archives for filing and publishing in the Federal Register. (June 25, 1936, ch. 807, § 5, 49 Stat. 1924.)

Chapter 19A.—ADMIRALTY AND MARITIME JURISDICTION

Sec.
740. Extension of admiralty and maritime jurisdiction; libel in rem or in personam; exclusive remedy; waiting period.

§ 740. Extension of admiralty and maritime jurisdiction; libel in rem or in personam; exclusive remedy; waiting period.

The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable water, notwithstanding that such damage or injury be done or consummated on land.

In any such case suit may be brought in rem or in personam according to the principles of law and the rules of practice obtaining in cases where the injury or damage has been done and consummated on navigable water: *Provided,* That as to any suit against the United States for damage or injury done or consummated on land by a vessel on navigable waters, the Public Vessels Act or Suits in Admiralty Act, as appropriate, shall constitute the exclusive remedy for all causes of action arising after June 19, 1948, and for all causes of action where suit has not been hitherto filed under the Federal Tort Claims

Act: *Provided further,* That no suit shall be filed against the United States until there shall have expired a period of six months after the claim has been presented in writing to the Federal agency owning or operating the vessel causing the injury or damage. (June 19, 1948, ch. 526, 62 Stat. 496.)

REFERENCES IN TEXT

The Public Vessels Act, referred to in the text, is classified to chapter 22 of this title.

The Suits in Admiralty Act, referred to in the text, is classified to chapter 20 of this title.

The Federal Tort Claims Act, referred to in the text, was title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was repealed as part of the review of Title 28 by act June 25, 1948, ch. 646, § 39, 62 Stat. 962. Provisions covering Federal tort claims will be found in sections 1346 and 2671 to 2680 of Title 28, Judiciary and Judicial Procedure.

Chapter 20.—SUITS IN ADMIRALTY BY OR AGAINST VESSELS OR CARGOES OF UNITED STATES

Sec.
741. Exemption of United States vessels and cargoes from arrest or seizure.
742. Libel in personam.
743. Procedure in cases of libel in personam.
743a. Same; interest.
744. Release of privately owned vessel after seizure.
745. Causes of action for which suits may be brought; limitations; exceptions; actions which may not be revived; interest on claims.
746. Exemptions and limitations of liability.
747. Seizures in foreign jurisdictions.
748. Payment of judgment, award, or settlement.
749. Arbitration, compromise, or settlement of claims.
750. Recovery for salvage services by vessel or crew.
751. Disposition of moneys recovered by United States.
752. Reports as to awards and settlements.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 740, 782, 1292 of this title; title 28 section 2680; title 50 App. section 1291.

§ 741. Exemption of United States vessels and cargoes from arrest or seizure.

No vessel owned by the United States or by any corporation in which the United States or its representatives shall own the entire outstanding capital stock or in the possession of the United States or of such corporation or operated by or for the United States or such corporation, and no cargo owned or possessed by the United States or by such corporation, shall, in view of the provision herein made for a libel in personam, be subject to arrest or seizure by judicial process in the United States or its possessions: *Provided,* That this chapter shall not apply to the Panama Railroad Company. (Mar. 9, 1920, ch. 95, § 1, 41 Stat. 525.)

CROSS REFERENCES

Disposition of moneys recovered by United States, see section 751 of this title.

Exemptions and limitations of liability extended to corporations described in this section, see section 746 of this title.

Recovery for salvage services by vessel or crew, see section 750 of this title.

Release of privately owned vessel after seizure, see section 744 of this title.

Reports as to awards and settlements, see section 752 of this title.

Seizures in foreign jurisdictions, see section 747 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 742, 744, 746, 747, 749, 750, 751, 752 of this title.

§ 742. Libel in personam.

In cases where if such vessel were privately owned or operated, or if such cargo were privately owned or possessed, or if a private person or property were involved, a proceeding in admiralty could be maintained, any appropriate nonjury proceeding in personam may be brought against the United States or against any corporation mentioned in section 741 of this title. Such suits shall be brought in the district court of the United States for the district in which the parties so suing, or any of them, reside or have their principal place of business in the United States, or in which the vessel or cargo charged with liability is found. The libelant shall forthwith serve a copy of his libel on the United States attorney for such district and mail a copy thereof by registered mail to the Attorney General of the United States, and shall file a sworn return of such service and mailing. Such service and mailing shall constitute valid service on the United States and such corporation. In case the United States or such corporation shall file a libel in rem or in personam in any district, a cross libel in personam may be filed or a set-off claimed against the United States or such corporation with the same force and effect as if the libel had been filed by a private party. Upon application of either party the cause may, in the discretion of the court, be transferred to any other district court of the United States. (Mar. 9, 1920, ch. 95, § 2, 41 Stat. 525; Sept. 13, 1960, Pub. L. 86–770, § 3, 74 Stat. 912.)

AMENDMENTS

1960—Pub. L. 86–770 amended the first sentence by substituting "owned or possessed" for "owned and possedded" and ", any appropriate nonjury proceeding" for "at the time of the commencement of the action herein provided for, a libel", inserting "or if a private person or property were involved" and deleting following "section 741 of this title" the words "as the case may be, provided that such vessel is employed as a merchant vessel or is a tugboat operated by such corporation."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4 of Pub. L. 86–770 provided in part that: "The amendment made by section 3 [to this section] shall apply to any case or proceeding brought after the date of enactment of this Act [Sept. 13, 1960]."

CROSS REFERENCES

Actions on war risk insurance claims, see section 1292 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 745, 1242 of this title.

§ 743. Procedure in cases of libel in personam.

Such suits shall proceed and shall be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties. A decree against the United States or a corporation mentioned in section 741 of this title may include costs of suit, and when the decree is for a money judgment, interest at the rate of 4 per centum per annum until satisfied, or at any higher rate which shall be stipulated in any contract upon which such decree shall be based. Interest shall run as ordered by the court. Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. If the libelant so elects in his libel, the suit

may proceed in accordance with the principles of libels in rem wherever it shall appear that had the vessel or cargo been privately owned and possessed a libel in rem might have been maintained. Election so to proceed shall not preclude the libelant in any proper case from seeking relief in personam in the same suit. Neither the United States nor such corporation shall be required to give any bond or admiralty stipulation on any proceeding brought hereunder. (Mar. 9, 1920, ch. 95, § 3, 41 Stat. 526.)

CODIFICATION

Final sentence declaring any bond or stipulation, given prior to March 9, 1920 in admiralty causes, by the United States or the Shipping Board, or the United States Shipping Board Emergency Fleet Corporation, to be void and providing for the surrender thereof has been omitted as absolete as there are no longer any bonds outstanding or stipulations current which were entered into in admiralty litigation.

CROSS REFERENCES

Interest not allowed on any claim prior to time when suit is brought, see section 745 of this title.

§ 743a. Same; interest.

CODIFICATION

Section, act June 30, 1932, ch. 315, 47 Stat. 420, is now covered by section 745 of this title.

§ 744. Release of privately owned vessel after seizure.

If a privately owned vessel not in the possession of the United States or of a corporation described in section 741 of this title is arrested or attached upon any cause of action arising or alleged to have arisen from previous possession, ownership, or operation of such vessel by the United States or by such corporation, such vessel shall be released without bond or stipulation therefor upon the suggestion by the United States, through its Attorney General or other duly authorized law officer, that it is interested in such cause, desires such release, and assumes the liability for the satisfaction of any decree obtained by the libelant in such cause, and thereafter such cause shall proceed against the United States in accordance with the provisions of this chapter. (Mar. 9, 1920, ch. 95, § 4, 41 Stat. 526.)

CROSS REFERENCES

Payment of judgment, award, or settlement, see section 748 of this title.

Seizures in foreign jurisdictions, see section 747 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 747, 748 of this title.

§ 745. Causes of action for which suits may be brought; limitations; exceptions; actions which may not be revived; interest on claims.

Suits as authorized by this chapter may be brought only within two years after the cause of action arises: *Provided,* That where a remedy is provided by this chapter it shall hereafter be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States or of any incorporated or unincorporated agency thereof whose act or omission gave rise to the claim: *Provided further,* That the limitations contained in this section for the commencement of suits shall not bar any suit against the United States brought hereunder within one year after December 13, 1950, if such suit is based upon a cause of action whereon a prior suit in admiralty or an action at law was timely commenced and was or may hereafter be dismissed solely because improperly brought against any person, partnership, association, or corporation engaged by the United States to manage and conduct the business of a vessel owned or bareboat chartered by the United States or against the master of any such vessel: *And provided further,* That after June 30, 1932, no interest shall be allowed on any claim prior to the time when suit on such claim is brought as authorized by section 742 of this title unless upon a contract expressly stipulating for the payment of interest. (Mar. 9, 1920, ch. 95, § 5, 41 Stat. 526; June 30, 1932, ch. 315, 47 Stat. 420; Dec. 13, 1950, ch. 1136, 64 Stat. 1112.)

CODIFICATION

Section 5 of act Mar. 9, 1920, as enacted originally, read: "Suits as herein authorized may be brought only on causes of action arising since April 6, 1917, provided that suits based on causes of action arising prior to the taking effect of this Act shall be brought within one year after this Act goes into effect; and all other suits hereunder shall be brought within two years after the cause of action arises."

AMENDMENTS

1950—Act Dec. 13, 1950, extended the time limit within which certain suits in admiralty may be brought against the United States.

1932—Act June 30, 1932, added provisions that limitations in section should not bar any suit against the United States or the United States Shipping Board Merchant Fleet Corporation brought on or before Dec. 31, 1932, if such suit was based upon a cause of action whereon a prior suit in admiralty or action at law or action under the Tucker Act of March 3, 1887 was commenced prior to Jan. 6, 1930 and was or might be dismissed because not commenced within time or manner of this chapter, and further provided that such prior suit must have been commenced within the statutory period of limitations for common law actions against the United States cognizable in the Court of Claims, and that there should be no revival of such suits dismissed for lack of prosecution after filing of suit, and that no interest should be allowed on any claim prior to the time when suit on such claim was brought as authorized.

SAVING CLAUSE

Section 5 of act Mar. 9, 1920, as amended by act June 30, 1932, also contained a saving clause in connection with certain suits instituted prior to Dec. 31, 1932.

CROSS REFERENCES

Actions on war risk insurance claims, see section 1292 of this title.

§ 746. Exemptions and limitations of liability.

The United States or a corporation described in section 741 of this title shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators, or agents of vessels. (Mar. 9, 1920, ch. 95, § 6, 41 Stat. 527.)

§ 747. Seizures in foreign jurisdictions.

If any vessel or cargo within the purview of sections 741 and 744 of this title is arrested, attached, or otherwise seized by process of any court in any country other than the United States, or if any suit is brought therein against the master of any such vessel for any cause of action arising from, or in connection with, the possession, operation, or ownership of any such vessel, or the possession, carriage, or ownership of any such cargo, the Secretary of

State of the United States in his discretion, upon the request of the Attorney General of the United States, or any other officer duly authorized by him, may direct the United States consul residing at or nearest the place at which such action may have been commenced to claim such vessel or cargo as immune from such arrest, attachment, or other seizure, and to execute an agreement, undertaking, bond, or stipulation for and on behalf of the United States, or the Secretary of Commerce, or a corporation described in section 741 of this title as by said court required, for the release of such vessel or cargo, and for the prosecution of any appeal; or may, in the event of such suits against the master of any such vessel, direct said United States consul to enter the appearance of the United States, or of the Secretary of Commerce, or of such corporation, and to pledge the credit thereof to the payment of any judgment and cost that may be entered in such suit. The Attorney General is vested with power and authority to arrange with any bank, surety company, person, firm, or corporation in the United States, its Territories and possessions, or in any foreign country, to execute any such aforesaid bond or stipulation as surety or stipulator thereon, and to pledge the credit of the United States to the indemnification of such surety or stipulator as may be required to secure the execution of such bond or stipulation. The presentation of a copy of the judgment roll in any such suit, certified by the clerk of the court and authenticated by the certificate and seal of the United States consul claiming such vessel or cargo, or his successor, and by the certificate of the Secretary of State as to the official capacity of such consul, shall be sufficient evidence to the proper accounting officers of the United States, or of the Secretary of Commerce, or of such corporation, for the allowance and payment of such judgments: *Provided, however,* That nothing in this section shall be held to prejudice or preclude a claim of the immunity of such vessel or cargo from foreign jurisdiction in a proper case. (Mar. 9, 1920, ch. 95, § 7, 41 Stat. 527; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", as formerly used in this section, originally read "United States Shipping Board". For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

Payment of judgment, award, or settlement, see section 748 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 748 of this title.

§ 748. Payment of judgment, award, or settlement.

Any final judgment rendered in any suit herein authorized, and any final judgment within the purview of sections 744 and 747 of this title, and any arbitration award or settlement had and agreed to under the provisions of section 749 of this title, shall, upon the presentation of a duly authenticated copy thereof, be paid by the proper accounting officers of the United States out of any appropriation or insurance fund or other fund especially available therefor; otherwise there is appropriated out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to pay any such judgment or award or settlement. (Mar. 9, 1920, ch. 95, § 8, 41 Stat. 527.)

APPROPRIATIONS

Effective July 1, 1935, the appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 3, 46 Stat. 1226. See section 725b (b) of Title 31, Money and Finance.

§ 749. Arbitration, compromise, or settlement of claims.

The Secretary of any department of the Government of the United States, or the board of trustees of corporations mentioned in section 741 of this title, having control of the possession or operation of any merchant vessel are, and each is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 742, 744, and 750 of this title. (Mar. 9, 1920, ch. 95, § 9, 41 Stat. 527; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Words "or the United States Maritime Commission" following "The Secretary of any department of the Government of the United States" were omitted as the Secretary of Commerce, successor to the United States Maritime Commission under 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, is included within the phrase, "The Secretary of any department of the Government of the United States".

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission, formerly referred to in this section, were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", as formerly used in this section, originally read "United States Shipping Board". For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

Payment of judgment, award, or settlement, see section 748 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 748 of this title.

§ 750. Recovery for salvage services by vessel or crew.

The United States, and the crew of any merchant vessel owned or operated by the United States, or a corporation mentioned in section 741 of this title, shall have the right to collect and sue for salvage services rendered by such vessel and crew, and

any moneys recovered therefrom by the United States for its own benefit, and not for the benefit of the crew, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of such corporation, having control of the possession or operation of such vessel. (Mar. 9, 1920, ch. 95, § 10, 41 Stat. 528; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Words "or of the United States Maritime Commission" following "to the credit of the department of the Government of the United States" were omitted as the Department of Commerce, successor to the United States Maritime Commission under 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, is included within the phrase "to the credit of the department of the Government of the United States".

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission, formerly referred to in this section, were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", as formerly used in this section, originally read "United States Shipping Board". For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 749 of this title.

§ 751. Disposition of moneys recovered by United States.

All moneys recovered in any suit brought by the United States on any cause of action arising from, or in connection with, the possession, operation, or ownership of any merchant vessel, or the possession, carriage, or ownership of any cargo, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the corporations mentioned in section 741 of this title, having control of the vessel or cargo with respect to which such cause of action arises, for reimbursement of the appropriation, or insurance fund, or other funds, from which the loss, damage, or compensation for which said judgment was recovered has been or will be paid. (Mar. 9, 1920, ch. 95, § 11, 41 Stat. 528; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Words "or the United States Maritime Commission" following "to the credit of the department of the Government of the United States" were omitted as the Department of Commerce, successor to the United States Maritime Commission under 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, is included within the phrase "to the credit of the department of the Government of the United States".

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission, formerly referred to in this section, were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", as formerly used in this section, originally read "United States Shipping Board". For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 752. Reports as to awards and settlements.

The Secretary of any department of the Government of the United States, and the board of trustees of any corporation mentioned in section 741 of this title, shall report to the Congress at each session thereof the arbitration awards or settlements of claims which shall have been agreed to under this chapter since the previous session, and in which the time to appeal shall have expired or have been waived. (Mar. 9, 1920, ch. 95, § 12, 41 Stat. 528; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Aug. 30, 1954, ch. 1076, § 1(26), 68 Stat. 968.)

CODIFICATION

Words "and the United States Maritime Commission" following "the Secretary of any department of the Government of the United States" were omitted as the Secretary of Commerce, successor to the United States Maritime Commission under 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, is included within the phrase, "The Secretary of any department of the Government of the United States".

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the provisions requiring the Attorney General to make an annual report to Congress of all suits under this chapter in which final judgment was rendered for or against the United States and the corporations mentioned in section 741 of this title.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission, formerly referred to in this section, were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", as formerly used in this section, originally read "United States Shipping Board". For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

Chapter 21.—DEATH ON THE HIGH SEAS BY WRONGFUL ACT

Sec.
761. Right of action; where and by whom brought.
762. Amount and apportionment of recovery.
763. Limitations.
764. Rights of action given by laws of foreign countries.
765. Death of plaintiff pending action.
766. Contributory negligence.
767. Exceptions from operation of chapter.
768. Pending suits.

§ 761. Right of action; where and by whom brought.

Whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, the personal representative of the decedent may maintain a suit for damages in the district courts of the United States, in admiralty, for the exclusive benefit of the decedent's wife, husband, parent, child, or dependent

relative against the vessel, person, or corporation which would have been liable if death had not ensued. (Mar. 30, 1920, ch. 111, § 1, 41 Stat. 537.)

CROSS REFERENCES

Death of plaintiff pending action, see section 765 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765 of this title.

§ 762. Amount and apportionment of recovery.

The recovery in such suit shall be a fair and just compensation for the pecuniary loss sustained by the persons for whose benefit the suit is brought and shall be apportioned among them by the court in proportion to the loss they may severally have suffered by reason of the death of the person by whose representative the suit is brought. (Mar. 30, 1920, ch. 111, § 2, 41 Stat. 537.)

CROSS REFERENCES

Death of plaintiff pending action, see section 765 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765 of this title.

§ 763. Limitations.

Suit shall be begun within 2 years from the date of such wrongful act, neglect, or default, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person, or corporation sought to be charged; but after the expiration of such period of two years the right of action hereby given shall not be deemed to have lapsed until ninety days after a reasonable opportunity to secure jurisdiction has offered. (Mar. 30, 1920, ch. 111, § 3, 41 Stat. 537.)

§ 764. Rights of action given by laws of foreign countries.

Whenever a right of action is granted by the law of any foreign State on account of death by wrongful act, neglect, or default occurring upon the high seas, such right may be maintained in an appropriate action in admiralty in the courts of the United States without abatement in respect to the amount for which recovery is authorized, any statute of the United States to the contrary notwithstanding. (Mar. 30, 1920, ch. 111, § 4, 41 Stat. 537.)

§ 765. Death of plaintiff pending action.

If a person die as the result of such wrongful act, neglect, or default as is mentioned in section 761 of this title during the pendency in a court of admiralty of the United States of a suit to recover damages for personal injuries in respect of such act, neglect, or default, the personal representative of the decedent may be substituted as a party and the suit may proceed as a suit under this chapter for the recovery of the compensation provided in section 762 of this title. (Mar. 30, 1920, ch. 111, § 5, 41 Stat. 537.)

§ 766. Contributory negligence.

In suits under this chapter the fact that the decedent has been guilty of contributory negligence shall not bar recovery, but the court shall take into consideration the degree of negligence attributable to the decedent and reduce the recovery accordingly. (Mar. 30, 1920, ch. 111, § 6, 41 Stat. 537.)

§ 767. Exceptions from operation of chapter.

The provisions of any State statute giving or regulating rights of action or remedies for death shall not be affected by this chapter. Nor shall this chapter apply to the Great Lakes or to any waters within the territorial limits of any State, or to any navigable waters in the Panama Canal Zone. (Mar. 30, 1920, ch. 111, § 7, 41 Stat. 538.)

§ 768. Pending suits.

CODIFICATION

Section, act Mar. 30, 1920, ch. 111, § 8, 41 Stat. 538, provided that this chapter should not affect suits pending on March 30, 1920.

Chapter 22.—SUITS IN ADMIRALTY AGAINST UNITED STATES FOR DAMAGES CAUSED BY PUBLIC VESSELS OR FOR TOWAGE OR SALVAGE SERVICES

Sec.
781. Libel in admiralty against or impleader of United States.
782. Venue of suit; application of provisions of chapter 20.
783. Cross libel, set-off, or counterclaim.
784. Subpœnas to officers or members of crews.
785. Suits by nationals of foreign governments.
786. Arbitration, compromise, or settlement.
787. Payment of judgments or settlements.
788. Lien not created against public vessels.
789. Exemptions and limitations of liability.
790. Reports by Attorney General.
791 to 799. Repealed.

CROSS REFERENCES

Stay of judicial proceedings, see chapter 657 of Title 10, Armed Forces.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 740, 783, 784, 785, 786, 788, 790 of this title; title 10 section 7721; title 28 section 2680.

§ 781. Libel in admiralty against or impleader of United States.

A libel in personam in admiralty may be brought against the United States, or a petition impleading the United States, for damages caused by a public vessel of the United States, and for compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States: *Provided,* That the cause of action arose after the 6th day of April, 1920. (Mar. 3, 1925, ch. 428, § 1, 43 Stat. 1112.)

§ 782. Venue of suit; application of provisions of chapter 20.

Such suit shall be brought in the district court of the United States for the district in which the vessel or cargo charged with creating the liability is found within the United States, or if such vessel or cargo be outside the territorial waters of the United States, then in the district court of the United States for the district in which the parties so suing, or any of them, reside or have an office for the transaction of business in the United States; or in case none of such parties reside or have an office for the transaction of business in the United States,

and such vessel or cargo be outside the territorial waters of the United States, then in any district court of the United States. Such suits shall be subject to and proceed in accordance with the provisions of chapter 20 of this title or any amendment thereof, insofar as the same are not inconsistent herewith, except that no interest shall be allowed on any claim up to the time of the rendition of judgment unless upon a contract expressly stipulating for the payment of interest. (Mar. 3, 1925, ch. 428, § 2, 43 Stat. 1112.)

§ 783. Cross libel, set-off, or counterclaim.

In the event of the United States filing a libel in rem or in personam in admiralty for damages caused by a privately owned vessel, the owner of such vessel, or his successors in interest, may file a cross libel in personam or claim a set-off or counterclaim against the United States in such suit for and on account of any damages arising out of the same subject matter or cause of action: *Provided,* That whenever a cross libel is filed for any cause of action for which the original libel is filed by authority of sections 781 to 790 of this title, the respondent in the cross libel shall give security in the usual amount and form to respond to the claim set forth in said cross libel unless the court, for cause shown, shall otherwise direct; and all proceedings on the original libel shall be stayed until such security shall be given. (Mar. 3, 1925, ch. 428, § 3, 43 Stat. 1112.)

§ 784. Subpœnas to officers or members of crews.

No officer or member of the crew of any public vessel of the United States may be subpœnaed in connection with any suit authorized under sections 781 to 790 of this title without the consent of the Secretary of the department or the head of any independent establishment of the Government having control of the vessel at the time the cause of action arose, or of the master or commanding officer of such vessel at the time of the issuance of such subpoena. (Mar. 3, 1925, ch. 428, § 4, 43 Stat. 1112.)

§ 785. Suits by nationals of foreign governments.

No suit may be brought under sections 781 to 790 of this title by a national of any foreign government unless it shall appear to the satisfaction of the court in which suit is brought that said government, under similar circumstances, allows nationals of the United States to sue in its courts. (Mar. 3, 1925, ch. 428, § 5, 43 Stat. 1113.)

§ 786. Arbitration, compromise, or settlement.

The Attorney General of the United States is authorized to arbitrate, compromise, or settle any claim on which a libel or cross libel would lie under the provisions of sections 781 to 790 of this title, and for which a libel or cross libel has actually been filed. (Mar. 3, 1925, ch. 428, § 6, 43 Stat. 1113.)

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in section 787 of this title.

§ 787. Payment of judgments or settlements.

Any final judgment rendered on any libel or cross libel herein authorized, and any settlement had and agreed to under the provisions of section 786 of this title, shall, upon presentation of a duly authenticated copy thereof, be paid by the proper accounting officer of the United States out of any moneys in the Treasury of the United States appropriated therefor by Congress. (Mar. 3, 1925, ch. 428, § 7, 43 Stat. 1113.)

§ 788. Lien not created against public vessels.

Nothing contained in sections 781 to 790 of this title shall be construed to recognize the existence of or as creating a lien against any public vessel of the United States. (Mar. 3, 1925, ch. 428, § 8, 43 Stat. 1113.)

§ 789. Exemptions and limitations of liability.

The United States shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators or agents of vessels. (Mar. 3, 1925, ch. 428, § 9, 43 Stat. 1113.)

§ 790. Reports by Attorney General.

The Attorney General of the United States shall report to the Congress at each session thereof all claims which shall have been settled under sections 781 to 790 of this title. (Mar. 3, 1925, ch. 428, § 10, 43 Stat. 1113; Aug. 30, 1954, ch. 1076, § 1 (26), 68 Stat. 968.)

AMENDMENTS

1954—Act Aug. 30, 1954, repealed the provisions requiring the Attorney General also to make annual reports to Congress of all suits in which final judgment was rendered under this chapter.

§§ 791 to 799. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section 791, act July 3, 1944, ch. 399, § 1, 58 Stat. 723, related to stay of proceedings during time of war, issuance of process to preserve evidence and is now covered by sections 7721—7723, and 7727 of Title 10, Armed Forces.

Section 792, act July 3, 1944, ch. 399, § 2, 58 Stat. 724, related to stay of proceedings to take testimony, and is now covered by sections 7724 and 7727 of Title 10, Armed Forces.

Section 793, act July 3, 1944, ch. 399, § 3, 58 Stat. 724, defined the term "vessels of the Navy or in the naval service", and is now covered by sections 7621 and 7721 of Title 10, Armed Forces.

Section 794, act July 3, 1944, ch. 399, § 4, 58 Stat. 724, authorized the filing of a certificate to extend or shorten the stay, provided for a notice to reconsider, secret hearings, and investigations, and is now covered by sections 7725—7729 of Title 10, Armed Forces.

Section 795, act July 3, 1944, ch. 399, § 5, 58 Stat. 725, provided for affidavits, statements or testimony in lieu of direct evidence and is now covered by section 7730 of Title 10, Armed Forces.

Section 796, act July 3, 1944, ch. 399, § 6, 58 Stat. 726, provided for excluding the time during which a stay is in effect from the time during which a claimant may file suit, and is now covered by section 7724 of Title 10, Armed Forces.

Section 797, act July 3, 1944, ch. 399, § 7, 58 Stat. 726, authorized the Secretary of the Navy to consider, ascertain, adjust, determine, compromise, or settle claims for damages, and for compensation for towage and salvage services, and is now covered by section 7622 of Title 10, Armed Forces.

Section 798, act July 3, 1944, ch. 399, § 8, 58 Stat. 726, required reports by the Secretary of the Navy.

Section 799, act July 3, 1944, ch. 399, § 9, as added Aug. 2, 1946, ch. 739, 60 Stat. 803, authorized the Secretary of the Navy to delegate his authority to settle claims under $1,000, and is now covered by section 7622 of Title 10, Armed Forces.

Chapter 23.—SHIPPING ACT

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REPEALS

Sections 901—923 of Title 49, Transportation, constituting part III of the Interstate Commerce Act, as added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929, provide for the regulation of rates and services of water carriers by the Interstate Commerce Commission, thereby substantially superseding certain sections of this and the following chapters. In this connection section 920 (a)—(d) of Title 49 provides as follows:

"(a) The Shipping Act of 1916, as amended [this chapter], and the Intercoastal Shipping Act, 1933, as amended [chapter 23A of this title], are repealed insofar as they are inconsistent with any provision of this chapter [chapter 12 of Title 49] and insofar as they provide for the regulation of, or the making of agreements relating to, transportation of persons or property by water in commerce which is within the jurisdiction of the Commission under the provisions of this chapter; and any other provisions of law are hereby repealed insofar as they are inconsistent with any provision of this chapter.

"(b) Nothing in subsection (a) of this section shall be construed to repeal—

"(1) section 1115 of Title 46, or any provision of law providing penalties for violations of said section;

"(2) the third sentence of section 844 of Title 46, as extended by section 845b of Title 46, or any provision of law providing penalties for violations of section 844 of Title 46;

"(3) the provisions of the Shipping Act of 1916, as amended [this chapter], insofar as such Act provides for the regulation of persons included within the term 'other person subject to this Act', as defined in such Act;

"(4) sections 883 and 884 of Title 46.

"(c) Nothing in subsection (a) of this section shall be construed to affect the provisions of section 814 of Title 46 so as to prevent any water carrier subject to the provisions of this chapter from entering into any agreement under the provisions of said section with respect to transportation not subject to the provisions of this chapter in which such carrier may be engaged.

"(d) Nothing in this chapter shall be construed to affect any law of navigation, the admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other maritime law, regulation, or custom not in conflict with the provisions of this chapter."

CROSS REFERENCES

Inland Waterways Corporation, operation of facilities as subject to this chapter, see section 153(f) of Title 49, Transportation.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 28 section 2342.

§ 801. Definitions.

When used in this chapter:

The term "common carrier by water in foreign commerce" means a common carrier, except ferryboats running on regular routes, engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade: *Provided*, That a cargo boat commonly called an ocean tramp shall not be deemed such "common carrier by water in foreign commerce."

The term "common carrier by water in interstate commerce" means a common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one State, Territory, District, or possession of the United States and any other State, Territory, District, or possession of the United States, or between places in the same Territory, District, or possession.

The term "common carrier by water" means a common carrier by water in foreign commerce or a common carrier by water in interstate commerce on the high seas or the Great Lakes on regular routes from port to port.

The term "other person subject to this chapter" means any person not included in the term "common carrier by water," carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.

The term "person" includes corporations, partnerships, and associations, existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being or are intended to be used as a means of transportation on water.

The term "documented under the laws of the United States," means "registered, enrolled, or licensed under the laws of the United States."

The term "carrying on the business of forwarding" means the dispatching of shipments by any person on behalf of others, by oceangoing common carriers in commerce from the United States, its Territories, or possessions to foreign countries, or between the United States and its Territories or possessions, or between such Territories and possessions, and handling the formalities incident to such shipments.

An "independent ocean freight forwarder" is a person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to foreign countries, nor has any beneficial interest therein, nor directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest. (Sept. 7, 1916, ch. 451, § 1, 39 Stat. 728; July 15, 1918, ch. 152, § 1, 40 Stat. 900; Sept. 19, 1961, Pub. L. 87-254, § 1, 75 Stat. 522.)

CODIFICATION

Prior to incorporation in the Code, act Sept. 7, 1916, was amended by act July 15, 1918, which added the two pars. defining "vessel" and "documented under the laws of the United States."

AMENDMENTS

1961—Pub. L. 87-254 added the definitions of "carrying on the business of forwarding" and "independent ocean freight forwarder."

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 802. Corporation, partnership, or association as citizen.

(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president or other chief executive officer and the chairman of its board of directors are citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or, (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control

of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States. (Sept. 7, 1916, ch. 451, § 2, 39 Stat. 729; July 15, 1918, ch. 152, § 2, 40 Stat. 900; June 5, 1920, ch. 250, § 38, 41 Stat. 1008; Sept. 21, 1959, Pub. L. 86–327, § 3, 73 Stat. 597.)

CODIFICATION

Section comprises subsecs. (a)—(c) of act Sept. 7, 1916, as amended. Subsec. (d) of the act is classified to section 803 of this title.

Act Sept. 7, 1916, was amended by act July 15, 1918, which added par. relating to requirements for determining controlling interest.

The act was further amended by act June 5, 1920, which added par. relating to percentage of corporate interest required to be owned by United States citizens and provisions of first par. concerning vessels in coastwise trade, and designated existing paragraphs as subsec. (a)—(d).

AMENDMENTS

1959—Subsec. (a). Pub. L. 86–327 redefined citizenship qualification for corporations by substituting requirement that the president or other chief executive officer and the chairman of the board of directors be United States citizens and that no more of the directors than a minority of the number necessary to constitute a quorum be noncitizens for requirement that the president and managing directors be United States citizens.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1244, 1411 of this title; title 15 section 144; title 16 section 742c; title 50 App. section 1736.

§ 803. Applicability of chapter to receivers and trustees.

The provisions of this chapter shall apply to receivers and trustees of all persons to whom the chapter applies, and to the successors or assignees of such persons. (Sept. 7, 1916, ch. 451, § 2, 39 Stat. 729; July 15, 1918, ch. 152, § 2, 40 Stat. 900; June 5, 1920, ch. 250, § 38, 41 Stat. 1008.)

CODIFICATION

Section comprises subsec. (d) of act Sept. 7, 1916, as amended. Subsecs. (a)—(c) of the act are classified to section 802 of this title.

Acts July 15, 1918, and June 5, 1920, made no change in this provision of the act Sept. 7, 1916, except that it was designated subsec. (d) by the act of 1920. See codification note under section 802 of this title.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 1736.

§ 804. Repealed. June 29, 1936, ch. 858, title IX, § 903 (a), 49 Stat. 2016.

Section, acts Sept. 7, 1916, ch. 451, § 3, 39 Stat. 729; June 5, 1920, ch. 250, § 3, 41 Stat. 989, established the United States Shipping Board and enumerated its duties. By Ex. Ord. No. 6166, § 12, June 10, 1933, set out in note under section 132 of Title 5, Executive Departments and Government Officers and Employees, the Board was abolished and its functions, including those over and in respect to the United States Shipping Board Merchant Fleet Corporation, were transferred to the Department of Commerce. Subsequently, by act June 29, 1936, ch. 858, §§ 201, 204, 49 Stat. 1987, the United States Maritime Commission was created and the functions of the former United States Shipping Board, including those vested in the Department of Commerce by Ex. Ord. No. 6166, referred to above, were transferred thereto. Section 904 of act June 29, 1936, provided that wherever the words United States Shipping Board appeared in prior acts the acts were amended so that the words would be applicable to the United States Maritime Commission. For abolishment of the United States Maritime Commission and transfer of its function and the functions of its chairman, the creation and subsequent abolishment of the Federal Maritime Board, and the creation of the Federal Maritime Commission, see section 1111 of this title and notes thereunder. See also repeal note preceding section 801 of this title.

§ 804a. Shipping Board; reorganization.

CODIFICATION

Section, act June 30, 1932, ch. 314, § 306, 47 Stat. 408, reorganized the United States Shipping Board, which has since been abolished. See note under section 804 of this title.

§§ 805, 806. Repealed. June 29, 1936, ch. 858, title IX, § 903 (a), (b), 49 Stat. 2016.

Sections, acts Sept. 7, 1916, ch. 451, §§ 4, 6, 39 Stat. 729, 730; June 5, 1920, ch. 250, § 3, 41 Stat. 990; June 10, 1921, ch. 18, § 304, 42 Stat. 24, related to salaries of members of the Shipping Board, employees of the board, expenditures, and transfer of vessels to the board by the President. Transfer of functions and abolishment of Shipping Board, see note under section 804 of this title.

§ 807. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 645, 646.

Section, acts June 12, 1922, ch. 218, 42 Stat. 648; Feb. 13, 1923, ch. 72, 42 Stat. 1242; June 7, 1924, ch. 292, § 1, 43 Stat. 531; Mar. 3, 1925, ch. 468, § 1, 43 Stat. 1209; Apr. 22, 1926, ch. 171, § 1, 44 Stat. 318; Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083; May 16, 1928, ch. 580, § 1, 45 Stat. 586; Feb. 20, 1929, ch. 270, § 1, 45 Stat. 1244; Apr. 19, 1930, ch. 201, § 1, 46 Stat. 245; Feb. 23, 1931, ch. 281, § 1, 46 Stat. 1372; June 30, 1932, ch. 330, § 1, 47 Stat. 469, related to limitation on salaries of officers and employees of the United States Shipping Board, which has been abolished. See note under section 804 of this title.

§ 808. Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade.

Any vessel purchased, chartered, or leased from the Secretary of Commerce, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided,* That foreign-built vessels admitted to American registry on enrollment and license under this chapter, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the Secretary to any person a citizen of the United States, as provided in this chapter, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

Every vessel purchased, chartered, or leased from the Secretary shall, unless otherwise authorized by the Secretary, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

Except as provided in section 1181 of this title, it shall be unlawful, without the approval of the Secretary of Commerce, to sell, mortgage, lease,

charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, or transfer or place under foreign registry or flag, any vessel or any interest therein owned in whole or in part by a citizen of the United States and documented under the laws of the United States, or the last documentation of which was under the laws of the United States.

The issuance, transfer, or assignment of a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, to a person not a citizen of the United States, without the approval of the Secretary of Commerce, is unlawful unless the trustee or a substitute trustee of such mortgage or assignment is approved by the Secretary of Commerce. The Secretary of Commerce shall grant his approval if such trustee or a substitute trustee is a bank or trust company which (1) is organized as a corporation, and is doing business, under the laws of the United States or any State thereof, (2) is authorized under such laws to exercise corporate trust powers, (3) is a citizen of the United States, (4) is subject to supervision or examination by Federal or State authority, and (5) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000. If such trustee or a substitute trustee at any time ceases to meet the foregoing qualifications, the Secretary of Commerce shall disapprove such trustee or substitute trustee, and after such disapproval the transfer or assignment of such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary of Commerce, shall be unlawful. The trustee or substitute trustee approved by the Secretary of Commerce shall not operate the vessel under the mortgage or assignment without the approval of the Secretary of Commerce. If a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, is issued, transferred, or assigned to a person not a citizen of the United States in violation of this section, the issuance, transfer, or assignment shall be void.

Any such vessel, or any interest therein, chartered, sold, transferred, or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than $5,000, or to imprisonment for not more than five years, or both. (Sept. 7, 1916, ch. 451, § 9, 39 Stat. 730; July 15, 1918, ch. 152, § 3, 40 Stat. 900; June 5, 1920, ch. 250, § 18, 41 Stat. 994; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; June 23, 1938, ch. 600, § 42, 52 Stat. 964; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277; Nov. 8, 1965, Pub. L. 89–346, § 1, 79 Stat. 1305.)

CODIFICATION

Section is based on act Sept. 7, 1916, and as originally enacted, it read:

"Any vessel purchased, chartered, or leased from the board may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided,* That foreign-built vessels admitted to American registry or enrollment and license under this Act, and vessels owned, chartered, or leased by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered to any person a citizen of the United States, as provided in this Act, may engage in the coastwise trade of the United States.

"Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein. No such vessel, without the approval of the board, shall be transferred to a foreign registry or flag, or sold; nor, except under regulations prescribed by the board, be chartered or leased.

"When the United States is at war, or during any national emergency the existence of which is declared by proclamation of the President, no vessel registered or enrolled and licensed under the laws of the United States shall, without the approval of the board, be sold, leased, or chartered to any person not a citizen of the United States, or transferred to a foreign registry or flag. No vessel registered or enrolled and licensed under the laws of the United States, or owned by any person a citizen of the United States, except one which the board is prohibited from purchasing, shall be sold to any person not a citizen of the United States or transferred to a foreign registry or flag, unless such vessel is first tendered to the board at the price in good faith offered by others, or, if no such offer, at a fair price to be determined in the manner provided in section ten.

"Any vessel sold, chartered, leased, transferred, or operated in violation of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than $5,000 or to imprisonment of not more than five years, or both such fine and imprisonment."

The act was amended by act July 15, 1918, which added the words "while owned, leased, or chartered by such a person," at the end of the first paragraph, and changed the last two paragraphs to read as follows:

"No vessel documented under the laws of the United States or owned by any person a citizen of the United States or by a corporation organized under the laws of the United States or of any State, Territory, District, or possession thereof, except one which the board is prohibited from purchasing, shall be sold to any person not a citizen of the United States or transferred to or placed under a foreign registry or flag, unless such vessel is first tendered to the board at the price in good faith offered by others, or, if no such offer, at a fair price to be determined in the manner provided in section ten.

"Any vessel sold, chartered, leased, transferred to or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than $5,000 or to imprisonment for not more than five years, or both."

The act was again amended by act June 5, 1920, to read:

"Any vessel purchased, chartered, or leased from the board, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges

appertaining thereto: *Provided,* That foreign-built vessels admitted to American registry or enrollment and license under this act, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the board to any person a citizen of the United States, as provided in this act, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

"Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

"It shall be unlawful to sell, transfer or mortgage, or, except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag, without first obtaining the board's approval.

"Any vessel chartered, sold, transferred or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than $5,000, or to imprisonment for not more than five years, or both."

AMENDMENTS

1965—Pub. L. 89-346 made it unlawful to issue, transfer, or assign a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, to a person not a citizen of the United States, without the approval of the Secretary of Commerce, unless the trustee or a substitute trustee of such mortgage or assignment is approved by the Secretary of Commerce, required the Secretary to grant his approval if such trustee or substitute trustee is a bank or trust company which meets certain specified qualifications and to disapprove such trustee or substitute trustee if at any time he ceases to meet such qualifications, made it unlawful to transfer or assign such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary, after such disapproval, prohibited the trustee or substitute trustee approved by the Secretary to operate the vessel under the mortgage or assignment without approval of the Secretary, and voided the issuance, transfer, or assignments of bonds, notes, or other evidences of indebtedness if issued, transferred, or assigned to a person not a citizen of United States in violation of this section.

1938—Act June 23, 1938, substituted the last two paragraphs for the former last two.

1936—Act June 29, 1936, substituted "Commission" for "Board".

RETROACTIVE PROVISIONS

Section 4 of Pub. L. 89-346 provided that:

"Bonds, notes, and other evidence of indebtedness which are secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction which have heretofore been issued, transferred, or assigned, or are issued, transferred, or assigned within one year after the enactment of this Act [Nov. 8, 1965], to a person not a citizen of the United States without the approval of the Secretary of Commerce are valid in the hands of such person and the validity and perferred status of such mortgage and the validity and lawfulness of such issuance, transfer, or assignment shall not be affected by such issuance, transfer, or assignment if the trustee or a substitute trustee is approved by the Secretary of Commerce within one year after enactment of this Act [Nov. 8, 1965], under the standards for trustees specified in the amendments made by this Act to sections 9 and 37 of the Shipping Act, 1916 [this section and section 835 of this title], and to subsection O of the Ship Mortgage Act, 1920 [section 961 of this title].

"Nothing in this section shall be construed to alter retroactively any rights which were the subject matter of litigation pending on the date of enactment of this Act [Nov. 8, 1965]."

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "United States Maritime Commission" and "commission", respectively, on authority of 1950 Reorg. Plan No. 21 and 1961 Reorg. Plan No. 7, set out in the note under section 1111 of this title. The United States Maritime Commission, including the offices of the members thereof, was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, which also created the Federal Maritime Board and transferred thereto many of the functions formerly held by the Commission, with the remainder transferred to the Secretary of Commerce. The Federal Maritime Board, in turn, was abolished by the 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, which created the Federal Maritime Commission. The functions of the Board were transferred to the Commission or the Secretary of Commerce.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1069. See note under section 1111 of this title.

"United States Maritime Commission" and "commission", as formerly used in this section, originally read "United States Shipping Board" and "board," respectively. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

Corporation meeting certain conditions deemed citizen for purposes of this section, see section 883-1 of this title.

Documentation of foreign merchant vessels acquired under emergency authority, see section 198 of Title 50, War and National Defense.

Offense punishable by imprisonment for term in excess of one year deemed a felony, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 864, 883, 883-1 of this title; title 50 section 198.

§§ 809, 810. Repealed. June 29, 1936, ch. 858, title IX, § 903 (a), 49 Stat. 2016.

Sections, act Sept. 7, 1916, ch. 451, §§ 10, 11, 39 Stat. 731, related to the taking of vessels by the President for naval and military purposes, and the creation of corporations for the purchase, construction, equipment, maintenance and operation of merchant vessels.

§ 810a. United States Shipping Board Merchant Fleet Corporation; change of name.

CODIFICATION

Section, act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083, changed the name of the United States Shipping Board Emergency Fleet Corporation to United States Shipping Board Merchant Fleet Corporation. The corporation has since been abolished. See sections 804 and 1113 of this title and notes thereunder.

§ 811. Investigations as to cost of merchant vessels.

The Secretary of Commerce shall investigate the relative cost of building merchant vessels in the United States and in foreign maritime countries, and the relative cost, advantages, and disadvantages of operating in the foreign trade vessels under United States registry and under foreign registry. He shall examine the rules under which vessels are

constructed abroad and in the United States, and the methods of classifying and rating same, and he shall examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies, and ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of an American merchant marine. He shall examine the navigation laws of the United States and the rules and regulations thereunder, and make such recommendations to the Congress as he deems proper for the amendment, improvement, and revision of such laws, and for the development of the American merchant marine. He shall investigate the legal status of mortgage loans on vessel property, with a view to means of improving the security of such loans and of encouraging investment in American shipping.

He shall, on or before the 1st day of December in each year, make a report to the Congress, which shall include his recommendations and the results of his investigations, a summary of his transactions, and a statement of all expenditures and receipts under this chapter, and of the operations of any corporation in which the United States is a stockholder, and the names and compensation of all persons employed by him. (Sept. 7, 1916, ch. 451, § 12, 39 Stat. 732; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 105 (3), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1275, 1277; 1961 Reorg. Plan No. 7, § 202(b), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166, and act June 29, 1936, see note under section 804 of this title.

§ 812. Rebates and discriminations by carriers by water prohibited; use of "fighting ship."

No common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country—

First. Pay or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow a deferred rebate to any shipper. The term "deferred rebate" in this chapter means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" in this chapter means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing, or reducing competition by driving another carrier out of said trade.

Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims.

Any carrier who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than $25,000 for each offense. *Provided,* That nothing in this section or elsewhere in this chapter, shall be construed or applied to forbid or make unlawful any dual rate contract arrangement in use by the members of a conference on May 19, 1958, which conference is organized under an agreement approved under section 814 of this title by the regulatory body administering this chapter unless and until such regulatory body disapproves, cancels, or modifies such arrangement in accordance with the standards set forth in section 814 of this title. The term "dual rate contract arrangement" as used herein means a practice whereby a conference establishes tariffs of rates at two levels the lower of which will be charged to merchants who agree to ship their cargoes on vessels of members of the conference only and the higher of which shall be charged to merchants who do not so agree. (Sept. 7, 1916, ch. 451, § 14, 39 Stat. 733; June 5, 1920, ch. 250, § 20, 41 Stat. 996; Aug. 12, 1958, Pub. L. 85-626, § 1, 72 Stat. 574.)

CODIFICATION

Act Sept. 7, 1916, was amended by act June 5, 1920, by adding the words "directly or indirectly" at the end of the first introductory paragraph and the rest of that paragraph.

AMENDMENTS

1958—Pub. L. 85-626 provided, in last paragraph, that nothing in this chapter be construed to forbid dual rate contract arrangements in use by members of conference on May 19, 1958, unless regulatory body disapproves arrangement, and defined "dual rate contract arrangements".

EFFECTIVE AND TERMINATION DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-626 as amended by Pub. L. 86-542, June 29, 1960, 74 Stat. 253; Pub. L. 87-75, June 30, 1961, 75 Stat. 195; Pub. L. 87-252, § 2, Sept. 16, 1961, 75 Stat. 521, provided that: "This Act [amending this section] shall be effective immediately upon enactment [Aug. 12, 1958] and shall cease to be effective on and after October 15, 1961: *Provided, however,* That contracts in effect midnight September 14, 1961, shall remain in effect until midnight October 15, 1961, unless such contracts terminate earlier by their own terms, or are rendered illegal under the terms of the first section of this Act [amending this section]."

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 813 of this title.

§ 813. Determination by Commission as to violations.

The Federal Maritime Commission upon its own initiative may, or upon complaint shall, after due notice to all parties in interest and hearing, determine where any person, not a citizen of the United States and engaged in transportation by water of passengers or property—

(1) Has violated any provision of section 812 of this title, or

(2) Is a party to any combination, agreement, or understanding, express or implied, that involves in respect to transportation of passengers or property between foreign ports, deferred rebates or any other unfair practice designated in section 812 of this title, and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water which is a citizen of the United States and which has applied for such admission.

If the Commission determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the Commission shall thereupon certify such fact to the Commissioner of Customs. The Commissioner of Customs shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the Commission certifies that the violation has ceased or such combination, agreement, or understanding has been terminated. (Sept. 7, 1916, ch. 451, § 14a, as added June 15, 1920, ch. 250, § 20, 41, Stat. 996, and amended Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in this section, is an officer of the Treasury Department.

"Federal Maritime Board" and "Board" were substituted for "commission" (which referred to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note under section 1111 of this title.

References to the Secretary of Commerce were changed to Commissioner of Customs on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

§ 813a. Dual rate contracts used by carriers in foreign commerce; subjection to public interest; fairness; provisions; termination on notice; permission of Commission required for lawfulness.

Notwithstanding any other provisions of this chapter, on application the Federal Maritime Commission (hereinafter "Commission"), shall, after notice, and hearing, by order, permit the use by any common carrier or conference of such carriers in foreign commerce of any contract, amendment, or modification thereof, which is available to all shippers and consignees on equal terms and conditions, which provides lower rates to a shipper or consignee who agrees to give all or any fixed portion of his patronage to such carrier or conference of carriers unless the Commission finds that the contract, amendment, or modification thereof will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and provided the contract, amendment, or modification thereof, expressly (1) permits prompt release of the contract shipper from the contract with respect to any shipment or shipments for which the contracting carrier or conference of carriers cannot provide as much space as the contract shipper shall require on reasonable notice; (2) provides that whenever a tariff rate for the carriage of goods under the contract becomes effective, insofar as it is under the control of the carrier or conference of carriers, it shall not be increased before a reasonable period, but in no case less than ninety days; (3) covers only those goods of the contract shipper as to the shipment of which he has the legal right at the time of shipment to select the carrier: *Provided, however,* That it shall be deemed a breach of the contract if, before the time of shipment and with the intent to avoid his obligation under the contract, the contract shipper divests himself, or with the same intent permits himself to be divested, of the legal right to select the carrier and the shipment is carried by a carrier which is not a party to the contract; (4) does not require the contract shipper to divert shipment of goods from natural routings not served by the carrier or conference of carriers where direct carriage is available; (5) limits damages recoverable for breach by either party to actual damages to be determined after breach in accordance with the principles of contract law: *Provided, however,* That the contract may specify that in the case of a breach by a contract shipper the damages may be an amount not exceeding the freight charges computed at the contract rate on the particular shipment, less the cost of handling; (6) permits the contract shipper to terminate at any time without penalty upon ninety days' notice; (7) provides for a spread between ordinary rates and rates charged contract shippers which the Commission finds to be reasonable in all the circumstances but which spread shall in no event be more than 15 per centum of the ordinary rates; (8) excludes cargo of the contract shippers which is loaded and carried in bulk without mark or count except liquid bulk cargoes, other than chemicals, in less than full shipload lots: *Provided, however,* That upon finding that economic factors so warrant, the Commission may exclude from the contract any commodity subject to the foregoing exception; and (9) contains such other provisions not inconsistent herewith as the Commission shall require or permit. The Commission shall withdraw permission which it has granted under the authority contained in this section for the use of any contract if it finds, after notice and hearing, that the use of such contract is detrimental to the commerce of the United States or contrary to the public interest, or is unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors. The carrier or conference of carriers may on ninety days' notice terminate without penalty the contract rate system herein authorized, in whole or with respect to any commodity: *Provided, however,* That after such termination the carrier or conference of carriers may not reinstitute such contract rate system or part thereof so terminated without prior permission by the Commission in accordance with the provisions of this section. Any contract, amendment, or modification of any contract not permitted by the Commission shall be unlawful, and contracts, amendments, and modifications shall be lawful only when and as long as permitted by the Commission; before permission is granted or after permission is withdrawn it shall be unlawful to carry out in whole or in part, directly or indirectly, any such contract, amendment, or modification. As used in this section, the term "contract shipper" means a person other than a carrier or conference of carriers who is a party to a contract the use of which may be permited under this section. (Sept. 7, 1916, ch. 451, § 14b, as added Oct. 3, 1961, Pub. L. 87–346, § 1, 75 Stat. 762.)

AGREEMENTS AFFECTED BY 1961 SHIPPING ACT AMENDMENTS

Section 3 of Pub. L. 87–346, as amended by Pub. L. 88–5, Apr. 3, 1963, 77 Stat. 5, provided that: "Notwithstanding the provisions of sections 14, 14b, and 15, Shipping Act, 1916, as amended by this Act [section 812, this section, and section 814 of this title], all existing agreements which are lawful under the Shipping Act, 1916, immediately prior to enactment of this Act [Oct. 3, 1961], shall remain lawful unless disapproved, canceled, or modified by the Commission pursuant to the provisions of the Shipping Act, 1916, as amended by this Act: *Provided, however,* That all such existing agreements which are rendered unlawful by the provisions of such Act as hereby amended must be amended to comply with the provisions of such Act as hereby amended, and if such amendments are filed for approval within six months after the enactment of this Act, such agreements so amended shall be lawful for a further period but not beyond April 3, 1964. Within such period the Commission shall approve, disapprove, cancel or modify all such agreements and amendments in accordance with the provisions of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 814 of this title.

§ 814. Contracts between carriers filed with Commission; definition of "agreement"; approval, disapproval, etc., by Commission; unlawful execution of agreements; conference agreements and antitrust laws exemptions; civil actions for penalties; terminal leases exemption.

Every common carrier by water, or other person subject to this chapter, shall file immediately with the Commission a true copy, or, if oral, a true and

complete memorandum, of every agreement with another such carrier or other person subject to this chapter, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this chapter, and shall approve all other agreements, modifications, or cancellations. No such agreement shall be approved, nor shall continued approval be permitted for any agreement (1) between carriers not members of the same conference or conferences of carriers serving different trades that would otherwise be naturally competitive, unless in the case of agreements between carriers, each carrier, or in the case of agreement between conferences, each conference, retains the right of independent action, or (2) in respect to any conference agreement, which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal.

The Commission shall disapprove any such agreement, after notice and hearing, on a finding of inadequate policing of the obligations under it, or of failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints.

Any agreement and any modification or cancellation of any agreement not approved, or disapproved, by the Commission shall be unlawful, and agreements, modifications, and cancellations shall be lawful only when and as long as approved by the Commission; before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation; except that tariff rates fares, and charges, and classifications, rules, and regulations explanatory thereof (including changes in special rates and charges covered by section 813a of this title which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers) agreed upon by approved conferences, and changes and amendments thereto, if otherwise in accordance with law, shall be permitted to take effect without prior approval upon compliance with the publication and filing requirements of section 817(b) of this title and with the provisions of any regulations the Commission may adopt.

Every agreement, modification, or cancellation lawful under this section, or permitted under section 813a of this title, shall be excepted from the provisions of sections 1 to 11 and 15 of Title 15, and amendments and Acts supplementary thereto.

Whoever violates any provision of this section or of section 813a of this title shall be liable to a penalty of not more than $1,000 for each day such violation continues, to be recovered by the United States in a civil action. *Provided, however,* That the penalty provisions of this section shall not apply to leases, licenses, assignments, or other agreements of similar character for the use of terminal property or facilities which were entered into before the date of enactment of this Act, and, if continued in effect beyond said date, submitted to the Federal Maritime Commission for approval prior to or within ninety days after the enactment of this Act, unless such leases, licenses, assignments, or other agreements for the use of terminal facilities are disapproved, modified, or canceled by the Commission and are continued in operation without regard to the Commission's action thereon. The Commission shall promptly approve, disapprove, cancel, or modify each such agreement in accordance with the provisions of this section. (Sept. 7, 1916, ch. 451, § 15, 39 Stat. 733; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104(1), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; Oct. 3, 1961, Pub. L. 87–346, § 2, 75 Stat. 763; Feb. 29, 1964, Pub. L. 88–275, 78 Stat. 148.)

REFERENCES IN TEXT

Sections 1—11 and 15 of Title 15, and amendments and Acts supplementary thereto, referred to in the text, as originally enacted read: "Act approved July second, eighteen hundred and ninety, entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' and amendments and Acts supplementary thereto, and the provisions of sections seventy-three to seventy-seven, both inclusive, of the Act approved August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' and amendments and Acts supplementary thereto."

Act July 2, 1890, Sherman Anti-Trust Act, and sections 73—76 of the act of Aug. 27, 1894, Wilson Tariff Act, constitute sections 1—11 of Title 15, Commerce and Trade, Section 77 of the act of 1894 was superseded by section 4 of the Clayton Act of Oct. 15, 1914, section 15 of Title 15.

"Date of enactment of this Act" and "enactment of this Act", referred to in the text, probably means Feb. 29, 1964, the date of approval of Pub. L. 88–275 amending this section.

AMENDMENTS

1964—Pub. L. 88–275 provided for exemption of certain terminal leases from penalties.

1961—Pub. L. 87–346 amended section generally and, among other changes, substituted "Commission" for "Federal Maritime Board" and included provisions referring to sections 813a and 817(b) of this title.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board", formerly used in this section, were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 819 of this title; title 49 section 920.

§ 815. Discriminatory acts prohibited.

It shall be unlawful for any shipper, consignor, consignee, forwarder, broker, or other person, or any officer, agent, or employee thereof, knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

It shall be unlawful for any common carrier by water, or other person subject to this chapter, either alone or in conjunction with any other person, directly or indirectly—

First. To make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided,* That within thirty days after enactment of this Act, or within thirty days after the effective date or the filing with the Commission, whichever is later, of any conference freight rate, rule, or regulation in the foreign commerce of the United States, the Governor of any State, Commonwealth, or possession of the United States may file a protest with the Commission upon the ground that the rate, rule, or regulation unjustly discriminates against that State, Commonwealth, or possession of the United States, in which case the Commission shall issue an order to the conference to show cause why the rate, rule, or regulation should not be set aside. Within one hundred and eighty days from the date of the issuance of such order, the Commission shall determine whether or not such rate, rule, or regulation is unjustly discriminatory and issue a final order either dismissing the protest, or setting aside the rate, rule, or regulation.

Second. To allow any person to obtain transportation for property at less than the regular rates or charges then established and enforced on the line of such carrier by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means.

Third. To induce, persuade, or otherwise influence any marine insurance company or underwriter, or agent thereof, not to give a competing carrier by water as favorable a rate of insurance on vessel or cargo, having due regard to the class of vessel or cargo, as is granted to such carrier or other person subject to this chapter.

Whoever violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than $5,000 for each offense. (Sept. 7, 1916, ch. 451, § 16, 39 Stat. 734; June 16, 1936, ch. 581, 49 Stat. 1518; Oct. 3, 1961, Pub. L. 87–346, § 6, 75 Stat. 766.)

REFERENCES IN TEXT

Reference in Par. First to "enactment of this Act" is probably a reference to Pub. L. 87–346, which was enacted on Oct. 3, 1961.

AMENDMENTS

1961—Pub. L. 87–346 added provisions at the end of par. First permitting the filing of protests.

1936—Act June 16, 1936, inserted opening paragraph, added paragraph relating to punishment of violations, and inserted "or charges" following "regular rates" in paragraph designated "Second".

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

§ 816. Discriminatory rates prohibited; supervision by Board.

No common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States as compared with their foreign competitors. Whenever the Federal Maritime Commission finds that any such rate, fare, or charge is demanded, charged, or collected it may

alter the same to the extent necessary to correct such unjust discrimination or prejudice and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare, or charge.

Every such carrier and every other person subject to this chapter shall establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivering of property. Whenever the Commission finds that any such regulation or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable regulation or practice. (Sept. 7, 1916, ch. 451, § 17, 39 Stat. 734; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 817. Carriers in interstate commerce to establish, observe, and enforce reasonable rates and regulations; carriers in foreign commerce to file tariffs of rates and charges.

(a) Every common carrier by water in interstate commerce shall establish, observe, and enforce just and reasonable rates, fares, charges, classifications, and tariffs, and just and reasonable regulations and practices relating thereto and to the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the receiving, handling, transporting, storing, or delivering of property.

Every such carrier shall file with the Commission and keep open to public inspection, in the form and manner and within the time prescribed by the Commission, the maximum rates, fares, and charges for or in connection with transportation between points on its own route; and if a through route has been established, the maximum rates, fares, and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water.

No such carrier shall demand, charge, or collect a greater compensation for such transportation than the rates, fares, and charges filed in compliance with this section, except with the approval of the Commission and after ten days' public notice in the form and manner prescribed by the Commission, stating the increase proposed to be made; but the Commission for good cause shown may waive such notice.

Whenever the Commission finds that any rate, fare, charge, classification, tariff, regulation, or practice, demanded, charged, collected, or observed by such carrier is unjust or unreasonable, it may determine, prescribe, and order enforced a just and reasonable maximum rate, fare, or charge, or a just and reasonable classification, tariff, regulation, or practice.

(b) (1) From and after ninety days following October 3, 1961, every common carrier by water in foreign commerce and every conference of such carriers shall file with the Commission and keep open to public inspection tariffs showing all the rates and charges of such carrier or conference of carriers for transportation to and from United States ports and foreign ports between all points on its own route and on any through route which has been established. Such tariffs shall plainly show the places between which freight will be carried, and shall contain the classification of freight in force, and shall also state separately such terminal or other charge, privilege, or facility under the control of the carrier or conference of carriers which is granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such aforesaid rates, or charges, and shall include specimens of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement. Copies of such tariffs shall be made available to any person and a reasonable charge may be made therefor. The requirements of this section shall not be applicable to cargo loaded and carried in bulk without mark or count, or to cargo which is softwood lumber. As used in this paragraph, the term "softwood lumber" means softwood lumber not further manufactured than passing lengthwise through a standard planing machine and crosscut to length, logs, poles, piling, and ties, including such articles preservatively treated, or bored, or framed, but not including plywood or finished articles knocked down or set up.

(2) No change shall be made in rates, charges, classifications, rules or regulations, which results in an increase in cost to the shipper, nor shall any new or initial rate of any common carrier by water in foreign commerce or conference of such carriers be instituted, except by the publication, and filing, as aforesaid, of a new tariff or tariffs which shall become effective not earlier than thirty days after the date of publication and filing thereof with the Commission, and each such tariff or tariffs shall plainly show the changes proposed to be made in the tariff or tariffs then in force and the time when the rates, charges, classifications, rules or regulations as changed are to become effective: *Provided, however,* That the Commission may, in its discretion and for good cause, allow such changes and such new or initial rates to become effective upon less than the period of thirty days herein specified. Any change in the rates, charges, or classifications, rules or regulations which results in a decreased cost to the shipper may become effective upon the publication and filing with the Commission. The term "tariff" as used in this paragraph shall include any amendment, supplement or reissue.

(3) No common carrier by water in foreign commerce or conference of such carriers shall charge or demand or collect or receive a greater or less or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariffs on file with the Commission and duly published and in effect at the time; nor shall any such carrier rebate, refund, or remit in any manner or by any device any portion of the rates or charges so specified, nor extend or deny to any person any privilege or facility, except in accordance with such tariffs: *Provided, however,* That the Federal Maritime Commission may in its discretion and for good cause shown permit a common carrier by water in foreign commerce or conference of such carriers to refund a portion of freight charges collected from a shipper or waive the collection of a portion of the charges from a shipper where it appears that there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and that such refund or waiver will not result in discrimination among shippers: *Provided further,* That the common carrier by water in foreign commerce or conference of such carriers has, prior to applying for authority to make refund, filed a new tariff with the Federal Maritime Commission which sets forth the rate on which such refund or waiver would be based: *Provided further,* That the carrier or conference agrees that if permission is granted by the Federal Maritime Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Federal Maritime Commission may require, which give notice of the rate on which such refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application: *And provided further,* That application for refund or waiver must be filed with the Commission within one hundred and eighty days from the date of shipment.

(4) The Commission shall by regulations prescribe the form and manner in which the tariffs required by this section shall be published and filed; and the Commission is authorized to reject any tariff filed with it which is not in conformity with this section and with such regulations. Upon rejection by the Commission, a tariff shall be void and its use unlawful.

(5) The Commission shall disapprove any rate or charge filed by a common carrier by water in the foreign commerce of the United States or conference of carriers which, after hearing, it finds to be so unreasonably high or low as to be detrimental to the commerce of the United States.

(6) Whoever violates any provision of this section shall be liable to a penalty of not more than $1,000 for each day such violation continues, to be recovered by the United States in a civil action. **(Sept. 7, 1916, ch. 451, § 18, 39 Stat. 735; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; Oct. 3, 1961, Pub. L. 87–346, § 4, 75 Stat. 764; Aug. 22, 1963, Pub. L. 88–103, 77 Stat. 129; Oct. 30, 1965, Pub. L. 89–303, 79 Stat. 1124; Apr. 29, 1968, Pub. L. 90–298, 82 Stat. 111.)**

AMENDMENTS

1968—Subsec. (b)(3). Pub. L. 90–298 added provisos that the Federal Maritime Commission may permit a common carrier by water in foreign commerce or a conference of such carriers to refund or waive collection of a portion of the freight charges, where the carrier or conference of carriers prior to applying for authority to make such refund or waiver, files a tariff revision with the Commission, which sets forth the refunding rate, agrees, upon approval by the Commission, to publish appropriate notice in the tariff or take such other steps as the Commission may require for the benefit of all other shippers charged or billed incorrectly, and such application for refund or waiver is filed with the Commission within 180 days from the date of shipment.

1965—Subsec. (b)(1). Pub. L. 89–303 substituted "softwood lumber" for "lumber" wherever appearing.

1963—Subsec. (b)(1). Pub. L. 88–103 inserted provisions excluding lumber from the requirements of this section.

1961—Pub. L. 87–346 designated existing provisions as subsec. (a) and added subsec. (b).

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board", as formerly used in this section, were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission," as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 817a. Preferential rate to alien veterans and families.

CODIFICATION

Section, act July 3, 1926, ch. 764, 44 Stat. 837, which related to a preferential rate for alien veterans of World War I and their families, who were granted visas to enter the United States in excess of quotas, is obsolete.

§ 817b. Free transportation of Government personnel in American vessels prohibited; exceptions; reduction of Government rate; penalty.

No common carrier by water subject to this chapter; the Merchant Marine Act of 1936, as amended; or any other Act; shall directly or indirectly issue any ticket or pass for free or reduced-rate transportation to any official or employee of the United States Government (military or civilian) or to any member of their immediate families, traveling as a passenger on any ship sailing under the American flag in foreign commerce or in commerce between the United States and its territories and possessions; except that this restriction shall not apply to persons injured in accidents at sea and physicians and nurses attending such persons, and persons rescued at sea, and except that this restriction shall not apply to persons referred to in section 1145(b) of this title, relating to steamship companies carrying mails of the United States: *Provided,* That nothing in this section shall prevent the United States Government from entering into contractual arrangements with said companies for reduced transportation rates involving the traveling expenses of those Government employees (military or civilian) or their families, when such transportation costs are paid for by the United States Government. Any person or corporation who knowingly violates this section shall upon conviction thereof be fined not less than $500 nor more than $10,000 at the discretion of the courts for each such violation. (Pub. L. 86–607, § 3, July 7, 1960, 74 Stat. 362.)

REFERENCES IN TEXT

Merchant Marine Act of 1936, as amended, referred to in the text, is classified to chapter 27 of this title.

CODIFICATION

Section was not enacted as a part of the "Shipping Act, 1916" which comprises this chapter.

§ 817c. Free transportation of Government personnel in vessels under foreign flags prohibited; exceptions; penalty.

No official or employee of the United States Government nor any member of their immediate families may accept directly or indirectly free or at a reduced rate passenger travel or carriage of personal property on any ship sailing under a flag other than that of the United States. This restriction shall not apply to persons injured in accidents at sea and physicians and nurses attending such persons, and persons rescued at sea, and this restriction shall not apply to persons referred to in section 1145(b) of this title, relating to steamship companies carrying the mails of the United States. Any person who knowingly violates this section shall upon conviction thereof be fined not less than $500 nor more than $10,000 at the discretion of the courts for each such violation. (Pub. L. 86–607, § 4, as added Pub. L. 87–877, § 3, Oct. 24, 1962, 76 Stat. 1201.)

§ 817d. Financial responsibility of owners and charterers for death or injury to passengers or other persons.

(a) Amount; method of establishment.

Each owner or charterer of an American or foreign vessel having berth or stateroom accommodations for fifty or more passengers, and embarking passengers at United States ports, shall establish, under regulations prescribed by the Federal Maritime Commission, his financial responsibility to meet any liability he may incur for death or injury to passengers or other persons on voyages to or from United States ports, in an amount based upon the number of passenger accommodations aboard the vessel, calculated as follows:

$20,000 for each passenger accommodation up to and including five hundred; plus

$15,000 for each additional passenger accommodation between five hundred and one and one thousand; plus

$10,000 for each additional passenger accommodation between one thousand and one and one thousand five hundred; plus

$5,000 for each passenger accommodation in excess of one thousand five hundred:

Provided, however, That if such owner or charterer is operating more than one vessel subject to this section, the foregoing amount shall be based upon the number of passenger accommodations on the vessel being so operated which has the largest number of passenger accommodations. This amount shall be available to pay any judgment for damages, whether in amount less than or more than $20,000 for death or injury occurring on such voyages to any passenger or other person. Such financial responsibility may be established by any one of, or a combination of, the following methods which is acceptable to the Commission: (1) policies of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility.

(b) Issuance of bond when filed with Commission.

If a bond is filed with the Commission, then such bond shall be issued by a bonding company authorized to do business in the United States or any State thereof or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any territory or possession of the United States.

(c) Civil penalties for violations; remission or mitigation of penalties.

Any person who shall violate this section shall be subject to a civil penalty of not more than $5,000 in addition to a civil penalty of $200 for each passage sold, such penalties to be assessed by the Federal

Maritime Commission. These penalties may be remitted or mitigated by the Federal Maritime Commission upon such terms as they in their discretion shall deem proper.

(d) Rules and regulations.

The Federal Maritime Commission is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section. The provisions of this chapter shall apply with respect to proceedings conducted by the Commission under this section.

(e) Refusal of departure clearance.

The collector of customs of the port or place of departure from the United States of any vessel described in subsection (a) of this section shall refuse the clearance required by section 91 of this title to any such vessel which does not have evidence furnished by the Federal Maritime Commission that the provisions of this section have been complied with. (Pub. L. 89–777, § 2, Nov. 6, 1966, 80 Stat. 1356.)

CODIFICATION

Section was not enacted as part of the Shipping Act, 1916, which comprises this chapter.

EFFECTIVE DATE

Section effective 9 months after November 6, 1966, see section 5 of Pub. L. 89–777, set out as a note under section 362 of this title.

§ 817e. Financial responsibility for indemnification of passengers for nonperformance of transportation.

(a) Filing of information or bond with Commission.

No person in the United States shall arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers and which is to embark passengers at United States ports without there first having been filed with the Federal Maritime Commission such information as the Commission may deem necessary to establish the financial responsibility of the person arranging, offering, advertising, or providing such transportation, or in lieu thereof a copy of a bond or other security, in such form as the Commission, by rule or regulation, may require and accept, for indemnification of passengers for nonperformance of the transportation.

(b) Issuance of bond when filed with Commission; amount of bond.

If a bond is filed with the Commission, such bond shall be issued by a bonding company authorized to do business in the United States or any State thereof, or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States and such bond or other security shall be in an amount paid equal to the estimated total revenue for the particular transportation.

(c) Civil penalties for violations; remission or mitigation of penalties.

Any person who shall violate this section shall be subject to a civil penalty of not more than $5,000 in addition to a civil penalty of $200 for each passage sold, such penalties to be assessed by the Federal Maritime Commission. These penalties may be remitted or mitigated by the Federal Maritime Commission upon such terms as they in their discretion shall deem proper.

(d) Rules and regulations.

The Federal Maritime Commission is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section. The provisions of this chapter shall apply with respect to proceedings conducted by the Commission under this section.

(e) Refusal of departure clearance.

The collector of customs at the port or place of departure from the United States of any vessel described in subsection (a) of this section shall refuse the clearance required by section 91 of this title to any such vessel which does not have evidence furnished by the Federal Maritime Commission that the provisions of this section have been complied with. (Pub. L. 89–777, § 3, Nov. 6, 1966, 80 Stat. 1357.)

CODIFICATION

Section was not enacted as part of the Shipping Act, 1916, which comprises this chapter.

EFFECTIVE DATE

Section effective 180 days after November 6, 1966, see section 5 of Pub. L. 89–777, set out as a note under section 362 of this title.

§ 818. Rates reduced not to be increased without approval of Commission.

Whenever a common carrier by water in interstate commerce reduces its rates on the carriage of any species of freight to or from competitive points below a fair and remunerative basis with the intent of driving out or otherwise injuring a competitive carrier by water, it shall not increase such rates unless after hearing the Federal Maritime Commission finds that such proposed increase rests upon changed conditions other than the elimination of said competition. (Sept. 7, 1916, ch. 451, § 19, 39 Stat. 735; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a) eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" was substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission," as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 819. Disclosure of confidential information prohibited.

It shall be unlawful for any common carrier by water or other person subject to this chapter, or any officer, receiver, trustee, lessee, agent, or employee of such carrier or person, or for any other person authorized by such carrier or person to receive information, knowingly to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier or other person subject to this chapter for transportation in interstate or foreign commerce, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor, or which may be used to the detriment or prejudice of any carrier; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States, or of any State, Territory, District, or possession thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers; or to prevent any common carrier by water which is a party to a conference agreement approved pursuant to section 814 of this title, or any other person subject to this chapter, or any receiver, trustee, lessee, agent, or employee of such carrier or person, or any other person authorized by such carrier to receive information, from giving information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this chapter or any other Act shall be unlawful. (Sept. 7, 1916, ch. 451, § 20, 39 Stat. 735; Oct. 3, 1961, Pub. L. 87–346, § 5, 75 Stat. 765.)

AMENDMENTS

1961—Pub. L. 87–346 added provisions at the end excluding from the prohibition information given to the conference or its designee for the purpose of determining whether a shipper or consignee has breached his agreement with the conference or its members or whether a conference member has breached the agreement or for compiling cargo statistics.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

§ 820. Reports by carriers required.

The Federal Maritime Commission and the Secretary of Commerce may require any common carrier by water, or other person subject to this chapter, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it or him any periodical or special report, or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this chapter. Such report, account, record, rate, charge, or memorandum shall be under oath whenever the Commission or Secretary so requires, and shall be furnished in the form and within the time prescribed by the Commission or Secretary. Whoever fails to file any report, account, record, rate, charge, or memorandum as required by this section shall forfeit to the United States the sum of $100 for each day of such default.

Whoever willfully falsifies, destroys, mutilates, or alters any such report, account, record, rate, charge, or memorandum, or willfully files a false report, account, record, rate, charge, or memorandum shall be guilty of a misdemeanor, and subject upon conviction to a fine of not more than $1,000, or imprisonment for not more than one year, or to both such fine and imprisonment. (Sept. 7, 1916, ch. 451, § 21, 39 Stat. 736; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (5), 105 (4), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1275, 1277; 1961 Reorg. Plan No. 7, § 103(e), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been

substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

Functions under this section with respect to requiring the filing of reports, accounts, records, rates, charges and memoranda, transferred from the Federal Maritime Board to the Federal Maritime Commission by section 103(e) of 1961 Reorg. Plan No. 7, to the extent that they relate to functions transferred to the Commission by section 103(a—d) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board and the Secretary of Commerce", and "Board or Secretary" were substituted for "commission" (meaning the United States Maritime Commission), and words "or him" were inserted after "it" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission," as formerly used in this section, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 821. Complaints to Commission and investigations.

Any person may file with the Federal Maritime Commission a sworn complaint setting forth any violation of this chapter by a common carrier by water, or other person subject to this chapter, and asking reparation for the injury, if any, caused thereby. The Commission shall furnish a copy of the complaint to such carrier or other person, who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied the Commission shall, except as otherwise provided in this chapter, investigate it in such manner and by such means, and make such order as it deems proper. The Commission, if the complaint is filed within two years after the cause of action accrued, may direct the payment, on or before a day named, of full reparation to the complaint for the injury caused by such violation.

The Commission, upon its own motion, may in like manner and, except as to orders for the payment of money, with the same powers, investigate any violation of this chapter. (Sept. 7, 1916, ch. 451, § 22, 39 Stat. 736; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7, transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission," as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 822. Orders of Commission made only after full hearing.

Orders of the Federal Maritime Commission relating to any violation of this chapter shall be made only after full hearing, and upon a sworn complaint or in proceedings instituted of its own motion.

All orders of the Federal Maritime Commission, other than for the payment of money, made under this chapter, as amended or supplemented, shall continue in force until its further order, or for a specified period of time, as shall be prescribed in the order, unless the same shall be suspended, or modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction. (Sept. 7, 1916, ch. 451, § 23, 39 Stat. 736; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; Aug. 4, 1939, ch. 417, § 1, 53 Stat. 1182; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1939—Act Aug. 4, 1939, removed the time limitation on orders, except for the payment of money.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions

derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission", "United States Maritime Commission" and "Commission", on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 823. Records of Commission; copies; publication of reports; evidence.

The Federal Maritime Commission shall enter of record a written report of every investigation made under this chapter in which a hearing has been held, stating its conclusions, decision, and order, and, if reparation is awarded, the findings of fact on which the award is made, and shall furnish a copy of such report to all parties to the investigation.

The Federal Maritime Commission may publish such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be competent evidence of such reports in all courts of the United States and of the States, Territories, Districts, and possessions thereof. (Sept. 7, 1916, ch. 451, § 24, 39 Stat. 736; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transfered to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 44 on this section, see note by Advisory Committee under said rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 824. Reversal, suspension, or modification of orders.

The Federal Maritime Commission may reverse, suspend, or modify, upon such notice and in such manner as it deems proper, any order made by it. Upon application of any party to a decision or order it may grant a rehearing of the same or any matter determined therein, but no such application for or allowance of a rehearing shall, except by special order of the Commission, operate as a stay of such order. (Sept. 7, 1916, ch. 451, § 25, 39 Stat. 736; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 903(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transfered to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 825. Investigation by Commission as to acts of foreign governments.

The Federal Maritime Commission shall have power, and it shall be its duty whenever complaint shall be made to it, to investigate the action of any foreign government with respect to the privileges afforded and burdens imposed upon vessels of the United States engaged in foreign trade whenever it shall appear that the laws, regulations, or practices of any foreign Government operate in such a manner that vessels of the United States are not accorded equal privileges in foreign trade with vessels of such foreign countries or vessels of other foreign countries, either in trade to or from the ports of such foreign country or in respect of the passage or transportation through such foreign country of passengers or goods intended for shipment or transportation in such vessels of the United States, either to or from ports of such foreign country or to or from ports of other foreign countries. It shall be the duty of the Commission to report the results of its investigation to the President with its recommendations and the President is authorized and empowered to secure by diplomatic action equal privileges for vessels of the United States engaged in such foreign trade. And if by such diplomatic action the President shall be unable to secure such equal privileges then the President shall advise Congress as to the facts and his conclusions by special message, if deemed important in the public interest, in order that proper action may be taken thereon. (Sept. 7, 1916, ch. 451, § 26, 39 Stat. 737; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104(1), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transfered to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 826. Discovery; attendance of witnesses and production of books and papers.

(a) In all proceedings under section 821 of this title, depositions, written interrogatories, and discovery procedure shall be available under rules and regulations issued by the Federal Maritime Commission, which rules and regulations shall, to the extent practicable, be in conformity with the rules applicable in civil proceedings in the district courts of the United States. In such proceedings, the Commission may by subpena compel the attendance of witnesses and the production of books, papers, documents, and other evidence, in such manner and to such an extent as the Commission may by rule or regulation require. Attendance of witnesses and the production of books, papers, documents, and other evidence in response to subpena may be required from any place in the United States at any designated place of hearing, and persons so acting under the direction of the Commission and witnesses shall, unless employees of the Commission, be entitled to the same fees and mileage as in the courts of the United States.

(b) Obedience to this section shall, on application by the Commission, be enforced as are orders of the Commission other than for the payment of money. (Sept. 7, 1916, ch. 451, § 27, 39 Stat. 737; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104(1), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; Dec. 6, 1967, Pub. L. 90-177, 81 Stat. 544.)

AMENDMENTS

1967—Pub. L. 90-177 divided the existing provision into subsecs. (a) and (b) and empowered the Commission to adopt pre-trial discovery procedures along with its existing power to issue subpenas in adjudicatory proceedings under section 821 of this title.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the

United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 827. Repealed. Pub. L. 91-452, title II, § 240, Oct. 15, 1970, 84 Stat. 930.

Section, acts Sept. 7, 1916, ch. 451, § 28, 39 Stat. 737; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan. No. 21, §§ 104(1), 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277, related to the immunity from prosecution of any natural person testifying or producing evidence in obedience to a subpoena of the Federal Maritime Board or of any court in any proceeding based upon or growing out of any alleged violation of this chapter. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 91-452 effective on the sixtieth day following Oct. 16, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Repeal by Pub. L. 91-452 not to affect any immunity to which any individual was entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 828. Enforcement of orders of Commission.

In case of violation of any order of the Federal Maritime Commission; other than an order for the payment of money, the Commission, or any party injured by such violation, or the Attorney General, may apply to a district court having jurisdiction of the parties; and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce obedience thereto by a writ of injunction or other proper process, mandatory or otherwise. (Sept. 7, 1916, ch. 451, § 29, 39 Stat. 737; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936 ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 755 Stat. 840.)

REPEALS

For provisional repeal see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Secton 104 of 1961 Reorg. Plan No. 7 transferred to the Charman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of sections 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 829. Violation of orders of Commission for payment of money.

In case of violation of any order of the Federal Maritime Commission for the payment of money the person to whom such award was made may file in the district court for the district in which such person resides, or in which is located any office of the carrier or other person to whom the order was directed, or in which is located any point of call on a regular route operated by the carrier, or in any court of general jurisdiction of a State, Territory, District, or possession of the United States having jurisdiction of the parties, a petition or suit setting forth briefly the causes for which he claims damages and the order of the Commission in the premises.

In the district court the findings and order of the Federal Maritime Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor shall he be liable for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If a petitioner in a district court finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as part of the costs of the suit.

All parties in whose favor the Federal Maritime Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties to such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against any such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

No petition or suit for the enforcement of an order for the payment of money shall be maintained unless filed within one year from the date of the order. (Sept. 7, 1916, ch. 451, § 30, 39 Stat. 737; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan

No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 54 on this section, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

§ 830. Venue and procedure in suits to enforce, suspend, or set aside orders.

The venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the Federal Maritime Commission shall, except as otherwise provided, be the same as in similar suits in regard to orders of the Interstate Commerce Commission, but such suits may also be maintained in any district court having jurisdiction of the parties. (Sept. 7, 1916, ch. 451, § 31, 39 Stat. 738; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" was substituted for "Maritime Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Maritime Commission," as formerly used in this section, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

Injunction by courts of appeals restraining orders, see section 2348 of Title 28, Judiciary and Judicial Procedure.

Review of orders by courts of appeals, see chapter 158 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

§ 831. Penalty for violation of chapter.

Whoever violates any provision of this chapter, except where a different penalty is provided, shall be guilty of a misdemeanor, punishable by fine of not to exceed $5,000. (Sept. 7, 1916, ch. 451, § 32, 39 Stat. 738.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 832. Powers of Interstate Commerce Commission not affected; intrastate commerce.

This chapter shall not be construed to affect the power or jurisdiction of the Interstate Commerce Commission, nor to confer upon the Federal Maritime Commission concurrent power or jurisdiction over any matter within the power or jurisdiction of such Interstate Commerce Commission; nor shall this chapter be construed to apply to intrastate commerce. (Sept. 7, 1916, ch. 451, § 33, 39 Stat. 738; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(a), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(a) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman

of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" was substituted for "Maritime Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Maritime Commission", as formerly used in this section, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 833. Partial invalidity of chapter as not affecting remainder.

If any provision of this chapter, or the application of such provision to certain circumstance, is held unconstitutional, the remainder of the chapter, and the application of such provision to circumstances other than those as to which it is held unconstitutional, shall not be affected thereby. (Sept. 7, 1916, ch. 451, § 34, 39 Stat. 738.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 833a. Exemption of agreements where exemption will not substantially impair effective regulation, be unjustly discriminatory, or detrimental to commerce; conditions; hearings.

The Federal Maritime Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this chapter or any specified activity of such persons from any requirement of this chapter, or Intercoastal Shipping Act, 1933, where it finds that such exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce.

The Commission may attach conditions to any such exemptions and may, by order, revoke any such exemption.

No order or rule of exemption or revocation of exemption shall be issued unless opportunity for hearing has been afforded interested persons. (Sept. 7, 1916, ch. 451, § 35, as added Nov. 6, 1966, Pub. L. 89–778, 80 Stat. 1358.)

§ 834. Refusal of clearance to vessel refusing to accept freight.

The Secretary of the Treasury is authorized to refuse a clearance to any vessel or other vehicle laden with merchandise destined for a foreign or domestic port whenever he shall have satisfactory reason to believe that the master, owner, or other officer of such vessel or other vehicle refuses or declines to accept or receive freight or cargo in good condition tendered for such port of destination or for some intermediate port of call, together with the proper freight or transportation charges therefor, by any citizen of the United States, unless the same is fully laden and has no space accommodations for the freight or cargo so tendered, due regard being had for the proper loading of such vessel or vehicle, or unless such freight or cargo consists of merchandise for which such vessel or vehicle is not adaptable. (Sept. 7, 1916, ch. 451, § 36, 39 Stat. 738.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 835. Restrictions on transfer of shipping facilities during war or national emergency.

When the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President, it shall be unlawful, without first obtaining the approval of the Secretary of Commerce:

(a) To transfer to or place under any foreign registry or flag any vessel owned in whole or in part by any person a citizen of the United States or by a corporation organized under the laws of the United States, or of any State, Territory, District, or possession thereof; or

(b) To sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, (1) any such vessel or any interest therein, or (2) any vessel documented under the laws of the United States, or any interest therein, or (3) any shipyard, dry dock, shipbuilding or ship-repairing plant or facilities, or any interest therein; or

(c) To issue, transfer, or assign a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, or by a mortgage to a trustee on a shipyard, drydock, or shipbuilding or ship-repairing plant or facilities, to a person not a citizen of the United States, unless the trustee or a substitute trustee of such mortgage or assignment is approved by the Secretary of Commerce: *Provided, however,* That the Secretary of Commerce shall grant his approval if such trustee or a substitute trustee is a bank or trust company which (1) is organized as a corporation, and is doing business, under the laws of the United States or any State thereof, (2) is authorized under such laws to exercise corporate trust powers, (3) is a citizen of the United States, (4) is subject to supervision or examination by Federal or State authority, and (5) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000; or for the trustee or substitute trustee approved by the Secretary of Commerce to operate said vessel under the mortgage or assignment: *Provided further,* That if such trustee or a substitute trustee at any time ceases to meet the foregoing qualifications, the Secretary of Commerce shall disapprove such trustee or substitute trustee, and after such disapproval the transfer or assignment of such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary of Commerce, shall be unlawful; or

(d) To enter into any contract agreement, or understanding to construct a vessel within the United States for or to be delivered to any person not a citizen of the United States, without expressly stipulating that such construction shall not begin until after the war or emergency proclaimed by the President has ended; or

(e) To make any agreement or effect any understanding whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest or a majority of the voting power in a corporation which is organized under the laws of the United States, or of any State, Territory, District, or possession thereof, and which owns any vessel, shipyard, drydock, or shipbuilding, or ship-repairing plant or facilities; or

(f) To cause or procure any vessel constructed in whole or in part within the United States, which has never cleared for any foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

Whoever violates, or attempts or conspires to violate, any of the provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

If a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, or by a mortgage to a trustee on a shipyard, drydock or ship-building or ship-repairing plant or facilities, is issued, transferred, or assigned to a person not a citizen of the United States in violation of subsection (c) of this section, the issuance, transfer or assignment shall be void.

Any vessel, shipyard, drydock, ship-building or ship-repairing plant or facilities, or interest therein, sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of any of the provisions of this section, and any stocks, bonds, or other securities sold or transferred, or agreed to be sold or transferred, in violation of any of such provisions, or any vessel departing in violation of the provisions of subdivision (e) of this section, shall be forfeited to the United States.

Any such sale, mortgage, lease, charter, delivery, transfer, documentation, or agreement therefor shall be void, whether made within or without the United States, and any consideration paid therefor or deposited in connection therewith shall be recoverable at the suit of the person who has paid or deposited the same, or of his successors or assigns, after the tender of such vessel, shipyard, dry dock, shipbuilding or ship-repairing plant or facilities, or interest therein, or of such stocks, bonds, or other securities, to the person entitled thereto, or after forfeiture thereof to the United States, unless the person to whom the consideration was paid, or in whose interest it was deposited, entered into the transaction in the honest belief that the person who paid or deposited such consideration was a citizen of the United States. (Sept. 7, 1916, ch. 451, § 37, as added July 15, 1918, ch. 152, § 4, 40 Stat. 901, and amended Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Nov. 8, 1965, Pub. L. 89–346, § 2, 79 Stat. 1306.)

AMENDMENTS

1965—Subsec. (c). Pub. L. 89–346, § 2(a), added subsec. (c).

Subsecs. (d)—(f). Pub. L. 89–346, § 2(a), redesignated former subsecs. (c)—(e) as (d)—(f), respectively.

Pub. L. 89–346 § 2(b), added provisions voiding the issuance, transfer or assignment of bonds, notes, or other evidences of indebtedness which are secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, or by a mortgage to a trustee on a shipyard, drydock or ship-building or ship-repairing plant or facilities, if such issuance, transfer or assignment is made in violation of subsec. (c) of this section.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out in the note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of said Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Corporation meeting certain conditions deemed citizen for purposes of this section, see section 883–1 of this title.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 840, 883–1 of this title.

§ 836. Forfeitures.

All forfeitures incurred under the provisions of this chapter may be prosecuted in the same court, and may be disposed of in the same manner, as forfeitures incurred for offenses against the law relating to the collection of duties. (Sept. 7, 1916, ch. 451, § 38, as added July 15, 1918, ch. 152, § 4, 40 Stat. 902.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Forfeitures for offenses against collection of duties, see section 1604 et seq. of Title 19, Customs Duties.

§ 837. Prima facie evidence.

In any action or proceeding under the provisions of this chapter to enforce a forfeiture the conviction in a court of criminal jurisdiction of any person for a violation thereof with respect to the subject of the forfeiture shall constitute prima facie evidence of such violation against the person so convicted. (Sept. 7, 1916, ch. 451, § 39, as added July 15, 1918, ch. 152, § 4, 40 Stat. 902.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 838. Record of sale or other disposition of vessels.

Whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented to any collector of the customs to be recorded, the vendee, mortgagee, or transferee shall file therewith a written declaration in such form as the Secretary of Commerce may by regulation prescribe, setting forth the facts relating to his citizenship, and such other facts as the Secretary requires, showing that the transaction does not involve a violation of any of the provisions of section 808 or 835 of this title. Unless the Secretary, before such presentation, has failed to prescribe such form, no such bill of sale, mortgage, hypothecation, or conveyance shall be valid against any person whatsoever until such declaration has been filed. Any declaration filed by or in behalf of a corporation shall be signed by the president, secretary, or treasurer thereof, or any other official thereof duly authorized by such corporation to execute any such declaration.

Whoever knowingly makes any false statement of a material fact in any such declaration shall be guilty of a misdemeanor and subject to a fine of not more than $5,000, or to imprisonment for not more than five years, or both. (Sept. 7, 1916, ch. 451, § 40, as added July 15, 1918, ch. 152, § 4, 40 Stat. 902, and amended Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; May 10, 1948, ch. 269, 62 Stat. 212; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

AMENDMENTS

1948—Act May 10, 1948, added at the end of the first paragraph "or any other * * * any such declaration."

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out in the note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 839. Approvals by Secretary.

Whenever by section 808 or 835 of this title the approval of the Secretary of Commerce is required to render any act or transaction lawful, such approval may be accorded either absolutely or upon such conditions as the Secretary prescribes. Whenever the approval of the Secretary is accorded upon any condition a statement of such condition shall be entered upon his records and incorporated in the same document or paper which notifies the applicant of such approval. A violation of such condition so incorporated shall constitute a misdemeanor and shall be punishable by fine and imprisonment in the same manner, and shall subject the vessel, stocks, bonds, or other subject matter of the application conditionally approved to forfeiture in the same manner, as though the act conditionally approved had been done without the approval of the Secretary, but the offense shall be deemed to have been committed at the time of the violation of the condition.

Whenever by this chapter the approval of the Secretary of Commerce is required to render any act or transaction lawful, whoever knowingly makes any false statement of a material fact to the Secretary, or to any officer, attorney, or agent of the Department of Commerce, for the purpose of securing such

approval, shall be guilty of a misdemeanor and subject to a fine of not more than $5,000, or to imprisonment for not more than five years, or both. (Sept. 7, 1916, ch. 451, § 41, as added July 15, 1918, ch. 152, § 4, 40 Stat. 902, and amended; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to United States Maritime Commission) and words "or to any officer, attorney, or agent of the Department of Commerce" were substituted for "or to any member thereof, or to any officer, attorney, or agent thereof" on authority of 1950 Reorg. Plan No. 21, set out in the note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 840. Documented vessels.

Any vessel registered, enrolled, or licensed under the laws of the United States shall be deemed to continue to be documented under the laws of the United States within the meaning of subdivision (b) of section 835 of this title, until such registry, enrollment, or license is surrendered with the approval of the Secretary of Commerce, the provisions of any other Act of Congress to the contrary notwithstanding. (Sept. 7, 1916, ch. 451, § 42, as added July 15, 1918, ch. 152, § 4, 40 Stat. 903, and amended Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out in the note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

NATIONAL EMERGENCY, 1950

For Presidential Proclamation of the existence of a national emergency, see Proc. No. 2914, Dec. 16, 1950, 15 F. R. 9029, 64 Stat. 454, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 841. Repealed. June 29, 1936, ch. 858, § 903(a), 49 Stat. 2016.

Section, act Sept. 7, 1916, ch. 451, § 43, as added, act July 15, 1918, ch. 152, § 4. 40 Stat. 903, required ending of war or emergency to be evidenced by a proclamation of the President.

§ 841a. Rules and regulations.

The Commission shall make such rules and regulations as may be necessary to carry out the provisions of this chapter. (Sept. 7, 1916, ch. 451, § 43, as added Oct. 3, 1961, Pub. L. 87–346, § 7, 75 Stat. 766.)

§ 841b. Licensing of ocean freight forwarders.

(a) Requirement; exception.

No person shall engage in carrying on the business of forwarding as defined in this chapter unless such person holds a license issued by the Federal Maritime Commission to engage in such business: *Provided, however,* That a person whose primary business is the sale of merchandise may dispatch shipments of such merchandise without a license.

(b) Qualifications for issuance of license; existing freight forwarders.

A forwarder's license shall be issued to any qualified applicant therefor if it is found by the Commission that the applicant is, or will be, an independent ocean freight forwarder as defined in this Act and is fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission issued thereunder, and that the proposed forwarding business is, or will be, consistent with the national maritime policies declared in the Merchant Marine Act, 1936; otherwise such application shall be denied. Any independent ocean freight forwarder who, on the effective date of this Act, is carrying on the business of forwarding under a registration number issued by the Commission may continue such business for a period of one hundred and twenty days thereafter without a license and if application for such license is made within such period, such forwarder may, under such regulations as the Commission shall prescribe, continue such business until otherwise ordered by the Commission.

(c) Rules and regulations; bond or other security.

The Commission shall prescribe reasonable rules and regulations to be observed by independent ocean freight forwarders and no such license shall be issued or remain in force unless such forwarder shall have furnished a bond or other security approved by the Commission in such form and amount as in the opinion of the Commission will insure financial responsibility and the supply of the services in accordance with contracts, agreements, or arrangements therefor.

(d) Effective date, amendment, suspension or revocation of license.

Licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended or revoked for willful failure to comply with any provision of this chapter, or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

(e) Compensation of licensees; performance of duties; separate compensation for soliciting, booking or arranging space for cargo; certification of licensed status and of services rendered.

A common carrier by water may compensate a person carrying on the business of forwarding to the extent of the value rendered such carrier in connection with any shipment dispatched on behalf of others when, and only when, such person is licensed hereunder and has performed with respect to such shipment the solicitation and securing of the cargo for the ship or the booking of, or otherwise arranging for space for, such cargo, and at least two of the following services:

(1) The coordination of the movement of the cargo to shipside;

(2) The preparation and processing of the ocean bill of lading;

(3) The preparation and processing of dock receipts or delivery orders;

(4) The preparation and processing of consular documents or export declarations;

(5) The payment of the ocean freight charges on such shipments:

Provided, however, That where a common carrier by water has paid, or has incurred an obligation to pay, either to an ocean freight broker or freight forwarder, separate compensation for the solicitation or securing of cargo for the ship or the booking of, or otherwise arranging for space for, such cargo, then such carrier shall not be obligated to pay additional compensation for any other forwarding services rendered on the same cargo. Before any such compensation is paid to or received by any person carrying on the business of forwarding, such person shall, if he is qualified under the provisions of this paragraph to receive such compensation, certify in writing to the common carrier by water by which the shipment was dispatched that he is licensed by the Federal Maritime Commission as an independent ocean freight forwarder and that he performed the above specified services with respect to such shipment. Such carrier shall be entitled to rely on such certification unless it knows that the certification is incorrect. (Sept. 7, 1916, ch. 451, § 44, as added Sept. 19, 1961, Pub. L. 87–254, § 2, 75 Stat. 522.)

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsec. (b), is classified to chapter 27 of this title.

The effective date of this act, referred to in subsec. (b), probably means the effective date of Pub. L. 87–254, which was approved on Sept. 19, 1961.

§ 842. "Shipping Act, 1916."

This chapter may be cited as "Shipping Act, 1916." (Sept. 7, 1916, ch. 451, § 45, formerly § 44, as added July 15, 1918, ch. 152, § 4, 40 Stat. 903, and renumbered Sept. 19, 1961, Pub. L. 87–254, § 2, 75 Stat. 522.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

Chapter 23A.—INTERCOASTAL SHIPPING

Sec.
843. Definitions.
844. Schedule of rates; filing; posting; availability; incorporation by reference in short form documents; penalties for violations.
845. Same; changes in rates; hearings on new schedules; suspension of rates pending hearing; burden of proof.
845a. Same; reasonable maximum and minimum rates, etc.
845b. Application to common carrier by water in interstate commerce.
846. Reduced rates for property of United States, States, municipalities, or charitable purposes.
847. Application of chapter 23 to intercoastal shipping.
848. Short title.

EFFECT OF INTERSTATE COMMERCE ACT, PART III, ON THIS CHAPTER

For effect of the Interstate Commerce Act, Part III, (Water Carriers), chapter 12 of Title 49, Transportation, see section 920 of Title 49 and note preceding section 801 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 28 section 2342.

§ 843. Definitions.

When used in this chapter—

The term "common carrier by water in intercoastal commerce" for the purposes of this chapter shall include every common and contract carrier by water engaged in the transportation for hire of passengers or property between one State of the United States and any other State of the United States by way of the Panama Canal. (Mar. 3, 1933, ch. 199, § 1, 47 Stat. 1425.)

REPEAL

For provisional repeal, see note preceding section 801 of this title.

§ 844. Schedule of rates; filing; posting; availability; incorporation by reference in short form documents; penalties for violations.

Every common carrier by water in intercoastal commerce shall file with the Federal Maritime Commission and keep open to public inspection schedules showing all the rates, fares, and charges for on in connection with transportation between intercoastal points on its own route; and, if a through

route has been established, all the rates, fares, and charges for or in connection with transportation between intercoastal points on its own route and points on the route of any other carrier by water. The schedules filed, and kept open to public inspection as aforesaid by any such carrier shall plainly show the places between which passengers and/or freight will be carried, and shall contain the classification of freight and of passenger accommodations in force, and shall also state separately each terminal or other charge, privilege, or facility, granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, or charges, or the value of the service rendered to the passenger consignor, or consignee, and shall include the terms and conditions of any passenger ticket, bill of lading, contract of affreightment, or other document evidencing the transportation agreement. The terms and conditions as filed with the Federal Maritime Commission shall be framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times. Such carriers in establishing and fixing rates, fares, or charges may make equal rates, fares, or charges for similar service between all ports of origin and all ports of destination, and it shall be unlawful for any such carrier, either directly or indirectly, through the medium of any agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any such carrier from extending service to any publicly owned terminal located on any improvement project authorized by the Congress at the same rates which it charges at its nearest regular port of call. Such schedules shall be plainly printed, and copies shall be kept posted in a public and conspicuous place at every wharf, dock, and office of such carrier where passengers or freight are received for transportation, in such manner that they shall be readily accessible to the public and can be conveniently inspected. In the event that any such schedule includes the terms and conditions of any passenger ticket, bill of lading, contract of affreightment or other document evidencing the transportation agreement, as herein provided, copies of such terms and conditions shall be made available to any shipper, consignee, or passenger upon request. Such terms and conditions, if filed as permitted by this section and framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times, may be incorporated by reference in a short form of same actually issued for the transportation, or in a dock receipt or other document issued in connection therewith, by notice printed on the back of each document that all parties to the contract are bound by the terms and conditions as filed with the Federal Maritime Commission and posted on board each vessel, and when so incorporated by reference every carrier and any other person having any interest or duty in respect of such transportation shall be deemed to have such notice thereof as if all such terms and conditions had been set forth in the short form document.

No change shall be made in the rates, fares, or charges, or classifications, rules, or regulations, which have been filed and posted as required by this section, except by the publication, filing, and posting as aforesaid of a new schedule or schedules which shall become effective not earlier than thirty days after date of posting and filing thereof with the Federal Maritime Commission and such schedule or schedules shall plainly show the changes proposed to be made in the schedule or schedules then in force and the time when the rates, fares, charges, classifications, rules, or regulations as changed are to become effective: *Provided,* That the Commission may, in its discretion and for good cause, allow changes upon less than the period of thirty days herein specified: *And provided further,* That schedules or changes which provide for extension of actual service to additional ports at rates of said carrier already in effect for similar service at the nearest port of call to said additional ports shall become effective immediately upon notice to the Commission.

From and after ninety days following March 3, 1933, no person shall engage in transportation as a common carrier by water in intercoastal commerce unless and until its schedules as provided by this section have been duly and properly filed and posted; nor shall any common carrier by water in intercoastal commerce charge or demand or collect or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares, and/or charges which are specified in its schedules filed with the Federal Maritime Commission and duly posted and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, nor extend or deny to any person any privilege or facility, except in accordance with such schedules.

The Federal Maritime Commission shall by regulations prescribe the form and manner in which the schedules required by this section shall be published, filed, and posted; and the Commission is authorized to reject any schedule filed with it which is not in consonance with this section and with such regulations. Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

Whoever violates any provision of this section shall be liable to a penalty of not more than $1,000 for each day such violation continues, to be recovered by the United States in a civil action. (Mar. 3, 1933, ch. 199, § 2, 47 Stat. 1425; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (2), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; Aug. 28, 1958, Pub. L. 85-810, 72 Stat. 977; July 9, 1965, Pub. L. 89-71, 79 Stat. 213.)

AMENDMENTS

1965—Pub. L. 89-71 substituted provisions limiting penalties to not more than $1,000 for each day the violation continues, for former provisions prescribing a fine of not less than $1,000 no more than $5,000 for each act of violation and/or for each day the violation continues.

1958—Pub. L. 85-810 provided in first paragraph that the terms and conditions of any long-form document evidencing the transportation agreement of a common carrier by water in intercoastal commerce shall be included in the schedules filed with the Federal Maritime Board, shall be framed under glass and posted in a conspicuous

place on board each vessel where they may be seen by passengers and others at all times, shall be made available to any shipper, consignee, or passenger upon request, shall be incorporated by reference in a short form document issued to the shipper, consignee, or passenger and containing a printed notice binding the parties to the terms and conditions of the long form filed with the Board and posted on board each vessel as if the term and conditions had been actually set forth in the short form document.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, § 103(b), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out under section 1111 of this title.

All functions under this section with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations and practices of common carriers by water vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(b) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "United States Maritime Commission" and "commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 8 4 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 845. Same; changes in rates; hearings on new schedules; suspension of rates pending hearing; burden of proof.

Whenever there shall be filed with the Federal Maritime Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation on practice affecting any rate, fare or charge, the Commission shall have, and it is given, authority, either upon complaint or upon its own initiative without complaint, and if it so orders without answer or other formal pleadings by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice: *Provided, however,* That there shall be no suspension of a tariff schedule or service which extends to additional ports, actual service at rates of said carrier for similar service already in effect at the nearest port of call to said additional port.

Pending such hearing and the decision thereon the Federal Maritime Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than four months beyond the time when it would otherwise go into effect; and after full hearing whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period. At any hearing under this paragraph the burden of proof to show that the rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the carrier or carriers. The Commission shall give preference to the hearing and decision of such questions and decide the same as speedily as possible. (Mar. 3, 1933, ch. 199, § 3, 47 Stat. 1426; Ex. Ord. No. 6166 § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 903(d), 904, 49 Stat. 2016; Aug. 4, 1939, ch. 417, § 2, 53 Stat. 1182; 1950 Reorg. Plan No. 21, §§ 104 (2), 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(b), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1939—Act Aug. 4, 1939, inserted next to last sentence in second par.

REPEALS

Section 903(d) of act June 29, 1936, repealed what was formerly the last sentence of this section prohibiting the board from affirmatively fixing specific rates.

For provisional repeal, see note preceding section 801 of this title

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations and practices of common carriers by water vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(b) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

Injunction by courts of appeals restraining orders, see section 2348 of Title 28, Judiciary and Judicial Procedure.

Review of orders by courts of appeals, see chapter 158 of Title 28.

§ 845a. Same; reasonable maximum and minimum rates, etc.

Whenever the Federal Maritime Commission finds that any rate, fare, charge, classification, tariff, regulation, or practice demanded, charged, collected, or observed by any carrier subject to the provisions of this chapter is unjust or unreasonable, it may determine, prescribe, and order enforced a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge, or a just and reasonable classification, tariff, regulation, or practice: *Provided,* That the minimum-rate provision of this section shall not apply to common carriers on the Great Lakes. (Mar. 3, 1933, ch. 199, § 4, as added June 23, 1938, ch. 600, § 43(a), 52 Stat. 964, and amended 1950 Reorg. Plan. No. 21, §§ 104(2), 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; 1961 Reorg. Plan No. 7, § 103(b), eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

EFFECTIVE DATE

Section 43(e) of act June 23, 1938, provided that: "The amendments made by subsections (a), (b), (c), and (d) of this section [to this section and sections 845b—848 of this title] shall take effect ninety days after the date of the enactment of this Act [June 23, 1938].

REPEALS

For provisional repeal, see note preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

All functions under this section with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations and practices of common carriers by water vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(b) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" was substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 845b. Application to common carrier by water in interstate commerce.

The provisions of this chapter are extended and shall apply to every common carrier by water in interstate commerce, as defined in section 801 of this title. (Mar. 3, 1933, ch. 199, § 5, as added June 23, 1938, ch. 600, § 43 (a), 52 Stat. 964.)

EFFECTIVE DATE

See note under section 845a of this title.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 846. Reduced rates for property of United States, States, municipalities, or charitable purposes.

Nothing in this chapter shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State, or municipal Governments, or for charitable purposes. (Mar. 3, 1933, ch. 199, § 6, formerly § 4, 47 Stat. 1427, renumbered June 23, 1938, ch. 600, § 43(b), 52 Stat. 964.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 847. Application of chapter 23 to intercoastal shipping.

The provisions of the Shipping Act, 1916, as amended, shall in all respects, except as amended by this chapter, continue to be applicable to every carrier subject to the provisions of this chapter. (Mar. 3, 1933, ch. 199, § 7, formerly § 5, 47 Stat. 1427, renumbered June 23, 1938, ch. 600, § 43(c), 52 Stat. 965.)

REFERENCES IN TEXT

The Shipping Act, 1916, as amended, referred to in the text, is classified to chapter 23 of this title.

AMENDMENTS

1938—Act June 23, 1938, amended the text and renumbered section 5 of act Mar. 3, 1933, to be section 7.

EFFECTIVE DATE OF 1938 AMENDMENT

See note under section 845a of this title.

REPEALS

For provisional repeal, see note preceding section 801 of this title.

§ 848. Short title.

This chapter may be cited as the Intercoastal Shipping Act, 1933. (Mar. 3, 1933, ch. 199, § 8, formerly § 6, 47 Stat. 1427, renumbered June 23, 1938, ch. 600, § 43(d), 52 Stat. 965.)

REPEALS

For provisional repeal, see note preceding section 801 of this title.

Chapter 24.—MERCHANT MARINE ACT, 1920

Sec.
861. Purpose and policy of United States.
862, 863. Omitted.
864. Sale of vessels; terms and conditions.
864a. Same; purchase allowance for cost of putting vessels in class.
864b. Same; elements considered in determination of selling price.
865. Sale to aliens.
866. Establishment and operation of steamship lines between ports of United States.
867. Investigation of port, terminal, and warehouse facilities.
868. Vessels sold under deferred payment plan; insurance.
869. Creation of fund for insurance of interests of United States.
870. Repealed.
870a to 870d. Omitted.
871. Repair and operation of vessels until sale.
872. Sale of property other than vessels.
873. Repealed.
874. Authority in respect to housing privileges for employees terminated.
875. Possession and control of terminal equipment and facilities.
876. Power of Secretary and Commission to make rules and regulations.
877. Coastwise laws extended to island Territories and possessions.
878, 879. Omitted.
880. Repealed.
881. Classification of vessels by American Bureau of Shipping.
882. Number of passengers cargo vessels may carry.
883. Transportation of merchandise between points in United States in other than domestic-built or rebuilt and documented vessels.
883–1. Corporation as citizen; fisheries and transportation of merchandise or passengers between points in United States; parent and subsidiary corporations; domestic-built vessels; certificate; surrender of documents on change in status.
883a. Reports required of United States vessels rebuilt abroad; penalty for failure to report; mitigation of penalty.
883b. Same; regulations.
884. Charges for transportation subject to "Interstate Commerce Act".
885. Association of marine insurance companies; application of antitrust laws.
886. Repealed.
887. Partial invalidity.
888. Definitions.
889. Short title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 1014.

§ 861. Purpose and policy of United States.

It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, insofar as may not be inconsistent with the express provisions of this act, the Federal Maritime Commission and the Secretary of Commerce shall in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained. (June 5, 1920, ch. 250, § 1, 41 Stat. 988; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104, 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, which is contained in sections 13, 597, 599, 688, 808, 812, 813, 861, 864, 865—869, 871, 872, 875—877, 881—883–1, 884, 885, 887—889, 911, 921—927, 941, 951—954, 961, 971—975 and 981—984 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to th Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Secretary of Commerce" were substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission", to which reference formerly was also made, originally read "United States Shipping Board." For dissolution of the Board and transfer of its functions to the Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§§ 862, 863. Omitted.

CODIFICATION

Section 862, act June 5, 1920, ch. 250, § 2, 41 Stat. 988, repealed certain provisions enacted during World War I which related to the construction, acquisition, and operation of ships during the emergency then existing. The section further provided that the enforcement of certain penalties and contract rights should not be affected by the repeal. Subsections (a) (1)—(5) of the section enumerated the acts and parts of acts repealed as follows:

"(1) The emergency shipping fund provisions of the Act entitled 'An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June 30, 1917, and for other purposes,' approved June 15, 1917 (ch. 29, 40 Stat. 182), as amended by the Act entitled 'An Act to amend the emergency shipping fund provisions of the Urgent Deficiency Appropriation Act, approved June 15, 1917, so as to empower the President and his designated agents to take over certain transportation systems for the transportation of shipyard and plant employees, and for other purposes,' approved April 22, 1918 (ch. 62, 40 Stat. 535), and as further amended by the Act entitled 'An Act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes,' approved November 4, 1918 (ch. 201, 40 Stat. 1022).

"(2) Section 3 of such Act of April 22, 1918 (ch. 62, 40 Stat. 535).

"(3) The paragraphs numbered 2 and 3 under the heading 'Emergency shipping fund' in such Act of November 4, 1918 (ch. 201, 40 Stat. 1022); and

"(4) The Act entitled 'An Act to confer on the President power to prescribe charter rates and freight rates and to requisition vessels, and for other purposes,' approved July 18, 1918 (ch. 157, 40 Stat. 913).

"(5) Sections 5, 7, and 8, Shipping Act, 1916 (Sept. 7, 1916, ch. 451, 39 Stat. 730)."

Section 863, act June 5, 1920, ch. 250, § 4, 41 Stat. 990, transferred to the former United States Shipping Board all vessels (except those in the military or naval service) acquired by the President under the acts repealed by former section 862 of this title or under Res. May 12, 1917, ch. 13, 40 Stat. 75. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission, and subsequent dissolution of the United States Maritime Commission, see note under section 804 of this title.

§ 864. Sale of vessels; terms and conditions.

In order to accomplish the declared purposes of this act, and to carry out the policy declared in section 861 of this title, the Secretary of Commerce is authorized and directed to sell, as soon as practicable, consistent with good business methods and the objects and purposes to be attained by this act, at public or private competitive sale after appraisement and due advertisement, to persons who are citizens of the United States except as provided in section 865 of this title, all of the vessels acquired by the commission under former sections 862 and 863 of this title or otherwise. Such sale shall be made at such prices and on such terms and conditions as the Secretary may prescribe, but the completion of the payment of the purchase price and interest shall not be deferred more than fifteen years after the making of the contract of sale. The Secretary in fixing or accepting the sale price of such vessels shall take into consideration the prevailing domestic and foreign market price of, the available supply of, and the demand for vessels, existing freight rates and prospects of their maintenance, the cost of constructing vessels of similar types under prevailing conditions, as well as the cost of the construction or purchase price of the vessels to be sold, and any other facts or conditions that would influence a prudent, solvent business man in the sale of similar vessels or property which he is not forced to sell. All sales made under the authority of this act shall be subject to the limitations and restrictions of section 808 of this title. (June 5, 1920, ch. 250, § 5, 41 Stat. 990; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out in the note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted, "Commission", which meant the United States Maritime Commission, read "Board," meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1195 of this title.

§ 864a. Same; purchase allowance for cost of putting vessels in class.

On and after June 30, 1948, the Secretary of Commerce may make allowances to purchasers of vessels for cost of putting such vessels in class, such allowances to be determined on the basis of competitive bids, without regard to the provisions of the last paragraph of section 1736 (d) of Appendix to Title 50. (June 30, 1948, ch. 775, § 101, 62 Stat. 1199; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Section was enacted as a part of The Supplemental Independent Offices Appropriation Act, 1949, act June 30, 1948 and not as a part of the Merchant Marine Act of 1920, which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 864b. Same; elements considered in determination of selling price.

On and after June 29, 1949, no sale of a vessel by the Secretary of Commerce shall be completed until its ballast and equipment shall have been inventoried and their value taken into consideration by the Secretary in determining the selling price. (June 29, 1949, ch. 281, § 1, 63 Stat. 349; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1920 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Maritime Commission" and "Commission", respectively, on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 865. Sale to aliens.

The Secretary of Commerce is authorized and empowered to sell to aliens, at such prices and on such terms and conditions as he may determine, not inconsistent with the provisions of section 864 of this title (except that completion of the payment of the purchase price and interest shall not be deferred more than ten years after the making of the contract of sale), such vessels as he shall, after careful investigation, deem unnecessary to the promotion and maintenance of an efficient American merchant marine; but no such sale shall be made unless the Secretary, after diligent effort, has been unable to sell, in accordance with the terms and conditions of said section, such vessels to persons citizens of the United States, and has determined to make such sale; and he shall make as a part of his records a full statement of his reasons for making such sale.

Deferred payments of purchase price of vessels under this section shall bear interest at the rate of not less than 5½ per centum per annum, payable semiannually. (June 5, 1920, ch. 250, § 6, 41 Stat. 991; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Words ", upon an affirmative vote of not less than five of its members, spread upon the minutes of the commission,", which related to one of the requirements in the determination of sale by the former United States Maritime Commission, were omitted since the function is now vested in the Secretary of Commerce. See Transfer of Functions notes below.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) and "he" and "his" for "it" and "its" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 866. Establishment and operation of steamship lines between ports of United States.

Investigation and determination by Secretary.—The Secretary of Commerce is authorized and directed to investigate and determine as promptly as possible after June 5, 1920, and from time to time thereafter what steamship lines should be established and put in operation from ports in the United States or any Territory, District, or possession thereof to such world and domestic markets as in his judgment are desirable for the promotion, development, expansion, and maintenance of the foreign and coastwise trade of the United States and an adequate postal service, and to determine the type, size, speed, and other requirements of the vessels to be employed upon such lines and the frequency and regularity of their sailings, with a view to furnishing adequate, regular, certain, and permanent service.

Sale or charter of vessels.—The Secretary is authorized to sell, and if a satisfactory sale cannot be made, to charter such of the vessels referred to in section 863 of this title, or otherwise acquired by the Secretary, as will meet these requirements to responsible persons who are citizens of the United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the Secretary may deem just and necessary to secure and maintain the service desired; and if any such steamship line is deemed desirable and necessary, and if no such citizen can be secured to supply such service by the purchase or charter of vessels on terms satisfactory to the Secretary, the Secretary shall operate vessels on such line until the business is developed so that such vessels may be sold on satisfactory terms and the service maintained, or unless it shall appear within a reasonable time that such line cannot be made self-sustaining.

Preference in sales or charters.—Preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the Secretary is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who may then be maintaining a service from the port of the United States to or in the general direction of the world-market port to which the Secretary has determined that such service should be established.

Lines established by shipping board; continued operation.—Where steamship lines and regular service had been established and were being maintained by ships of the United States Shipping Board on June 5, 1920, such lines and service shall be maintained by the Secretary until, in the opinion of the Secretary, the maintenance thereof is unbusinesslike and against the public interests.

Additional lines established by Secretary; rates and charges.—Whenever the Secretary shall determine, as provided in this act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such Government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein. (June 5, 1920, ch. 250, § 7, 41 Stat. 991; May 22, 1928, ch. 675, § 414 (b), 45 Stat. 696; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

Section 863 of this title, referred to in text, was omitted as obsolete. See note under section 863 of this title.

AMENDMENTS

1928—Act May 22, 1928, struck out paragraph which related to contracts for carrying mails.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) and "his" for "its" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted, "Commission" which meant the United States Maritime Commission, read "Board", meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1195 of this title.

§ 867. Investigation of port, terminal, and warehouse facilities.

It shall be the duty of the Secretary of Commerce, in cooperation with the Secretary of the Army, with the object of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which he has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports: *Provided*, That if after such investigation the Secretary of Commerce shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section, the Secretary may submit his findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law. (June 5, 1920, ch. 250, § 8, 41 Stat. 992; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "United States Maritime Commission" and "commission" and "his" for "its" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission" and "Maritime Commission", as formerly used in this section (which referred to United States Maritime Commission) originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 868. Vessels sold under deferred payment plan; insurance.

If the terms and conditions of any sale of a vessel made under the provisions of this act include deferred payments of the purchase price, the Secretary of Commerce shall require, as part of such terms and conditions, that the purchaser of the vessel shall keep the same insured (a) against loss or damage by fire, and against marine risks and disasters, and war and other risks if the Secretary so specifies, with such insurance companies, associations or underwriters, and under such forms of policies, and to such an amount, as the Secretary may prescribe or approve; and (b) by protection and indemnity insurance with such insurance companies, associations, or underwriters and under such forms of policies, and to such an amount as the Secretary may prescribe or approve. The insurance required to be carried under this section shall be made payable to the Secretary and/or to the parties as interest may appear. The Secretary is authorized to enter into any agreement that he deems wise in respect to the payment and/or the guarantee of premiums of insurance. (June 5, 1920, ch. 250, § 9, 41 Stat. 992; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) and "he" for "it" in last sentence on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted "Commission", which meant the United States Maritime Commission, read "Board", meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1153 of this title.

§ 869. Creation of fund for insurance of interests of United States.

The Secretary of Commerce may create out of insurance premiums, and revenue from operations and sales, and maintain and administer separate insurance funds which he may use to insure in whole or in part against all hazards commonly covered by insurance policies in such cases, any legal or equitable interest of the United States (1) in any vessel constructed or in process of construction; and (2) in any plants or property in the possession or under

the authority of the Secretary. The United States shall be held to have such an interest in any vessel toward the construction, reconditioning, remodeling, improving, or equipping of which a loan has been made under the authority of this act, in any vessel upon which it holds a mortgage or lien of any character, or in any vessel which is obligated by contract with the owner to perform any service in behalf of the United States, to the extent of the Government's interest therein. (June 5, 1920, ch. 250, § 10, 41 Stat. 992; May 22, 1928, ch. 675, § 501, 45 Stat. 697; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

AMENDMENTS

1928—Act May 22, 1928, added sentence relating to extent of interest of United States, among other changes.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted "Commission", which meant the United States Maritime Commission, read "Board", meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

CROSS REFERENCES

War risk insurance, see section 1281 et seq. of this title.

§ 870. Repealed. June 29, 1936, ch. 858, § 903 (b), (c), 49 Stat. 2016.

Section, acts June 5, 1920, ch. 250, § 11, 41 Stat 993, as amended June 6, 1924, ch. 273, § 1, 43 Stat. 467; Mar. 4, 1927, ch. 512, § 1, 44 Stat. 1451; May 22, 1928, ch. 675, § 301 (a), 45 Stat. 690; Feb. 2, 1931, ch. 100, 46 Stat. 1059, provided for a construction loan fund for aiding in the construction of vessels. See section 1116 of this title.

§ 870a to 870d. Omitted.

CODIFICATION

Section 870a, act Mar. 4, 1927, ch. 512, § 2, 44 Stat. 1451, related to disposition of funds received in repayment of loans, under former section 870 of this title, as interest on said loans and from sales of vessels. Present provisions relating to such moneys are contained in section 1116 of this title.

In letter dated Feb. 26, 1941, the chairman of the U. S. Maritime Commission suggested that former sections 870b—870d, act Apr. 16, 1934, ch. 148, §§ 1—3, 48 Stat. 596, which extended the construction loan fund to whaling and/or fishing vessels, were impliedly repealed by act June 29, 1936, ch. 858, § 903 (b), 49 Stat. 2016.

§ 871. Repair and operation of vessels until sale.

All vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the Secretary of Commerce or chartered or leased by him on such terms and conditions as he shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 861 and 864 of this title.

The term "reconditioned" as used in this section includes the substitution of the most modern, most efficient, and most economical types of internal-combustion engines as the main propulsive power of vessels. Should the Secretary have any such engines built in the United States and installed, in private shipyards or navy yards of the United States, in one or more merchant vessels owned by the United States, and the cost to the Secretary of such installation exceeds the amount of funds otherwise available to him for that use, the Secretary may transfer to his funds from which expenditures under this section may be paid, from his construction fund authorized by section 870 of this title, so much as in his judgment may be necessary to meet obligations under contracts for such installation; and the Treasurer of the United States shall, at the request of the Secretary, make the transfer accordingly: *Provided,* That the total amount expended by the Secretary for this purpose shall not in the aggregate exceed $25,000,000. Any such vessel so equipped by the Secretary under the provisions of this section shall not be sold for a period of five years from the date the installation thereof is completed, unless it is sold for a price not less than the cost of the installation thereof and of any other work of reconditioning done at the same time plus an amount not less than $10 for each dead-weight ton of the vessel as computed before such reconditioning thereof is commenced. The date of the completion of such installation and the amount of the dead-weight tonnage of the vessel shall be fixed by the Secretary: *Provided further,* That in fixing the minimum price at which the vessel may thus be sold the Secretary may deduct from the aggregate amount above prescribed 5 per centum thereof per annum from the date of the installation to the date of sale as depreciation: *And provided further,* That no part of such fund shall be expended upon the reconditioning of any vessel unless the Secretary shall have first made a binding contract for a satisfactory sale of such vessel in accordance with the provisions of this act, or for the charter or lease of such vessels for a period of not less than five years by a capable, solvent operator; or unless the Secretary is prepared and intends to directly put such vessel in operation immediately upon completion. Such vessel, in any of the enumerated instances, shall be documented under the laws of the United States and shall remain documented under such laws for a period of not less than five years from the date of the completion of the installation, and during such period it shall be operated only on voyages which are not exclusively coastwise. (June 5, 1920, ch. 250, § 12, 41 Stat. 993; June 6, 1924, ch. 273, § 2, 43 Stat. 468; Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 203, 204, 206, 904, 49 Stat. 1987, 2016; Aug. 26, 1937, ch. 822, § 2, 50 Stat. 839; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Phrase "this Act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

Section 870 of this title, to which reference is made in this section, was repealed by act June 29, 1936, ch. 858, title IX, § 903 (b), (c), 49 Stat. 2016.

CODIFICATION

Act June 5, 1920, was amended by act June 6, 1924, which added the second paragraph.

Effect of act Aug. 26, 1937, see note under section 1116 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission), "he" for "commission" and "him" and "his" for "it" and "its" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted "Commission", which meant the United States Maritime Commission, read "Board", meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

U. S. SHIPPING BOARD MERCHANT FLEET CORPORATION

The first paragraph of this section originally contained a further provision continuing the United States Shipping Board Merchant Fleet Corporation in existence with authority to operate vessels. The corporation was subsequently dissolved by act June 29, 1936, ch. 858, title II, § 203, 49 Stat. 1987.

§ 872. Sale of property other than vessels.

The Secretary of Commerce is further authorized to sell all property other than vessels transferred to it under section 863 of this title upon such terms and conditions as the Secretary may determine and prescribe. (June 5, 1920, ch. 250, § 13, 41 Stat. 993; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Section 863 of this title, referred to in text, has been omitted as obsolete. See note under the section.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 873. Repealed. June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016.

Section, act June 5, 1920, ch. 250, § 14, 41 Stat. 993, related to the disposition of the net proceeds of activities of the Shipping Board.

§ 874. Authority in respect to housing privileges for employees terminated.

CODIFICATION

Section, act June 5, 1920, ch. 250, § 16, 41 Stat. 994, terminated all authority granted the United States Emergency Fleet Corporation to acquire houses, buildings, or lands under certain acts.

§ 875. Possession and control of terminal equipment and facilities.

The possession and control of docks, piers, warehouses, wharves, and terminal equipment and facilities or parts thereof, including all leasehold easements, rights of way, riparian rights, and other rights, estates, or interests therein or appurtenant thereto, other than those acquired by the President under Act March 28, 1918, ch. 28, 40 Stat. 459, which were acquired by the War Department or the Navy Department for military or naval purposes during the war emergency may be transferred by the President to the Secretary of Commerce whenever the President deems such transfer to be for the best interests of the United States.

The President may at any time he deems it necessary, by order setting out the need therefor and fixing the period of such need, permit or transfer the possession and control of any part of the property taken over by or transferred to the Secretary of Commerce under this section to the Department of the Army or the Navy Department for their needs, and when in the opinion of the President such need therefor ceases the possession and control of such property shall revert to the Secretary. None of such property shall be sold except as may be provided by law. (June 5, 1920, ch. 250, § 17, 41 Stat. 994; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army. Such change of name was not executed in the first paragraph since the paragraph related to acquisitions by the former War Department during the World War I emergency.

As originally enacted, this section contained an additional paragraph directing the Commission to take over, on January 1, 1921, certain terminal facilities acquired by the President under act Mar. 28, 1918, ch. 28, 40 Stat. 459.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board," meaning the United States Shipping Board.

For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 876. Power of Secretary and Commission to make rules and regulations.

(1) The Secretary of Commerce is authorized and directed in aid of the accomplishment of the purposes of this act—

(a) To make all necessary rules and regulations to carry out the provisions of this act; and

The Federal Maritime Commission is authorized and directed in aid of the accomplishment of the purposes of this act—

(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally, and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the steamboat inspection service.

(2) No rule or regulation shall be established by any department, board, bureau, or agency of the Government which affects shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the steamboat inspection service, until such rule or regulation has been submitted to the Federal Maritime Commission for its approval and final action has been taken thereon by the Commission or the President.

(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the Federal Maritime Commission, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the Commission in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the Commission or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is authorized to establish or suspend, modify, or annul such rule or regulation.

(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States. (June 5, 1920, ch. 250, § 19, 41 Stat. 995; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 104 (3), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; 1961 Reorg. Plan No. 7, § 103(c), Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title.

Functions under this section, exclusive of subsec. (1)(a), with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(c) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

In first clause of par. (1), "Secretary of Commerce" was substituted for "commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title. In addition, under 1950 Reorg. Plan No. 21, the clause following subdivision (a) of par. (1) was inserted, and it referred to duties of the "Federal Maritime Board;" over the remainder of the section "Federal Maritime Board" and "Board" were substituted for "Commission," which referred to United States Maritime Commission.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted "Commission", which meant the United States Maritime Commission, read "Board", meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

The Steamboat Inspection Service was consolidated in the Bureau of Marine Inspection and Navigation which was later abolished. Functions relating to the inspection of vessels are now vested in the Commandant of the Coast Guard. See notes under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 1356j.

§ 877. Coastwise laws extended to island Territories and possessions.

From and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not covered thereby on June 5, 1920, and the Secretary of Commerce is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be

taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided,* That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: *And provided further,* That the coastwise laws of the United States shall not extend to the Virgin Islands of the United States until the President of the United States shall, by proclamation, declare that such coastwise laws shall extend to the Virgin Islands and fix a date for the going into effect of same. (June 5, 1920, ch. 250, § 21, 41 Stat. 997; Ex. Ord. No. 6166, § 12, June 10, 1933; Apr. 16, 1936, ch. 228, 49 Stat. 1207; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Provisos authorizing the government of the Philippine Islands to regulate transportation between ports or places in the Philippine Archipelago until Congress authorized the registry of vessels owned in those islands, and providing that this section should not go into effect in the Philippine Islands until after investigation and proclamation by the President, were omitted on authority of 1946 Proc. No. 2695, set out in note under section 1394 of Title 22, Foreign Relations and Intercourse, which proclaimed the independence of the Philippines.

AMENDMENTS

1936—Act Apr. 16, 1936, added last proviso at end of section.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§§ 878, 879. Omitted.

CODIFICATION

Section 878, act June 5, 1920, ch. 250, § 23, 41 Stat. 997, provided for allowance of deduction in determining net income for the ten taxable years beginning with taxable year ending after June 5, 1920, of amount equivalent to net earnings of vessels operated in foreign trade provided owner has set aside funds for construction of new vessels of type approved by United States.

Section 879, acts June 5, 1920, ch. 250, § 23, 41 Stat. 998; May 29, 1928, 8:00 a. m., ch. 852, § 707, 45 Stat. 881, exempted proceeds of sales of vessels from income taxes when invested in building of new ships, for period of 10 years from June 5, 1920.

§ 880. Repealed. Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 722, 723, eff. Sept. 1, 1960.

Section, acts June 5, 1920, ch. 250, § 24, 41 Stat. 998; May 22, 1928, ch. 675, § 414(a), 45 Stat. 696, related to the carriage of United States mails on American-built documented vessels. See sections 6101, 6104, and 6429 of revised Title 39.

§ 881. Classification of vessels by American Bureau of Shipping.

For the classification of vessels owned by the United States, and for such other purposes in connection therewith as are the proper functions of a classification bureau, all departments, boards, bureaus, and commissions of the Government are directed to recognize the American Bureau of Shipping as their agency so long as the American Bureau of Shipping continues to be maintained as an organization which has no capital stock and pays no dividends: *Provided,* That the Commandant of the Coast Guard and the Secretary of Commerce shall each appoint one representative who shall represent the Government upon the executive committee of the American Bureau of Shipping, and the bureau shall agree that these representatives shall be accepted by them as active members of such committee. Such representatives of the Government shall serve without any compensation, except necessary traveling expenses: *Provided further,* That the official list of merchant vessels published by the Government shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping. (June 5, 1920, ch. 250, § 25, 41 Stat. 998; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but the Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Secretary of Commerce" was substituted for "chairman of the commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commandant of the Coast Guard" was submitted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

American Bureau of Shipping to continue to function in connection with the Government, its bureaus, departments, boards, and commissions, as provided in this section, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 369 of this title.

§ 882. Number of passengers cargo vessels may carry.

Cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: *Provided,* That nothing herein shall be taken to exempt such vessels from the laws, rules, and regulations respecting life-saving equipment: *Provided further,* That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstance which would constitute a risk of safety for passenger or crew.

The privilege bestowed by this section on vessels of the United States shall be extended insofar as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of $500, which may be mitigated or remitted by the Commandant of the Coast Guard upon a proper representation of the facts. (June 5, 1920, ch. 250, § 26, 41 Stat. 998; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but the Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA 1929

International Convention for Safety of Life at Sea, 1929, definition of passenger ship as one which carries more than 12 passengers, see 50 Stat. Pt. 2, 1121, particularly Art. 2(3d) of such Treaty.

§ 883. Transportation of merchandise between points in United States in other than domestic-built or rebuilt and documented vessels.

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided,* That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further,* That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its territories (not including trust territories), or its possessions: *Provided further,* That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter by filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further,* That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Commerce shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: *Provided further,* That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States: *Provided further,* That upon such

terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 1322(a) of Title 19, if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade. (June 5, 1920, ch. 250, § 27, 41 Stat. 999; Ex. Ord. No. 6166, § 12, June 10, 1933; Apr. 11, 1935, ch. 58, 49 Stat. 154; July 2, 1935, ch. 355, § 1, 49 Stat. 442; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 14, 1956, ch. 600, § 1, 70 Stat. 544; July 7, 1958, Pub. L. 85–508, 627(a), 72 Stat. 351; July 5, 1960, Pub. L. 86–583, § 1, 74 Stat. 321; Sept. 21, 1965, Pub. L. 89–194, 79 Stat. 823; Aug. 11, 1968, Pub. L. 90–474, 82 Stat. 700.)

AMENDMENTS

1968—Pub. L. 90–474 in the final proviso designated existing provisions relating to empty cargo vans, empty lift vans, and empty shipping tanks as cl. (a), added cls. (b)—(d), saved modifying provisions relating to empty cargo vans, empty lift vans, and empty shipping tanks so as to render them applicable to cls. (a)—(d), and added cl. (e).

1965—Pub. L. 89–194 added proviso that section should not apply to the transportation of empty cargo vans, lift vans, and shipping tanks by vessels of the United States not qualified to engage in the coastwise trade of by vessels of foreign registry so long as such vans or tanks are owned or leased by the owner or operator of the transporting vessels and are being transported for use in the carriage of goods in foreign trade.

1960—Pub. L. 86–583 prohibits the operation in the coastwise trade of a rebuilt vessel unless the entire rebuilding, including the construction of any major components of the hull and superstructure of the vessel, is accomplished in the United States.

1958—Pub. L. 85–508 substituted "including Alaska" for "excluding Alaska".

1956—Act July 14, 1956, added proviso to prohibit the operation in coastwise trade of vessels of more than 500 gross tons which have been rebuilt outside the United States.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4 of Pub. L. 86–583 provided that: "This Act [amending this section and section 883a of this title] shall be effective from the time of enactment [July 5, 1960] hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges as a result of the amendments made by this Act [to this section and section 883a of this title] if it is rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before such date of enactment and if the work of rebuilding is commenced not later than twenty-four months after such date of enactment."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act July 14, 1956, provided that: "This Act [amending this section and adding sections 883a and 883b of this title] shall be effective from the date of enactment [July 14, 1956] hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges hereunder if it is rebuilt under a contract entered into before such date of enactment and if the work of rebuilding is commenced not later than six months after such date of enactment."

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission," as formerly used in this section, originally read "Shipping Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SIMILAR PROVISIONS

Prior to the enactment of this section provisions relating to the same subject were contained in act Feb. 17, 1898, ch. 26, § 1, 30 Stat. 248 (former section 290 of this title).

REGULATIONS

Section 3 of Pub. L. 86–583 provided that: "The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this Act [amending this section and section 883a of this title]."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85–508 was dependent upon the admission of Alaska into the Union under section 8(b) of Pub. L. 85–508. Admission was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

JURISDICTION OVER COMMON CARRIERS BETWEEN PORTS IN HAWAII AND OTHER PORTS

Section 18(a) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 12, as amended Pub. L. 86–624, § 46, July 12, 1960, 74 Stat. 423, provided that: "Nothing contained in this Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Hawaii and other ports in the United States, or possessions, or as conferring on the Interstate Commerce Commission jurisdiction over transportation by water between any such ports."

JURISDICTION OVER COMMON CARRIERS BETWEEN PORTS IN ALASKA AND OTHER PORTS

Section 27(b) of Pub. L. 85–508 provided that: "Nothing contained in this or any other Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Alaska and other ports in the United States, its Territories or possessions, or as conferring upon the Interstate Commerce Commission jurisdiction over transportation by water between any such ports."

SAVING PROVISION

Section expressly not repealed by part III of Interstate Commerce Act, see section 920 of Title 49, Transportation.

TRANSPORTATION OF LUMBER TO PUERTO RICO

Pub. L. 87-877, § 4, Oct. 24, 1962, 76 Stat. 1201, allowed for suspension of this section during a 1-year period beginning Oct. 24, 1962, with respect to transportation of lumber to Puerto Rico from ports or terminal areas in the United States if Secretary of Commerce determined that no domestic vessel was reasonably available.

TRANSPORTATION OF COAL BETWEEN POINTS IN UNITED STATES IN CANADIAN VESSELS

Act Aug. 7, 1956, ch. 1028, 70 Stat. 1090, permitted Canadian vessels to transport coal to Ogdensburg, N.Y., from other points in the United States, on the Great Lakes, or their connecting or tributary waters for a period ending June 30, 1957.

TRANSPORTATION OF IRON ORE IN VESSELS OF CANADIAN REGISTRY

Act June 24, 1952, ch. 458, 66 Stat. 156, provided for the transportation of iron ore and terminated on Dec. 31, 1952.

Similar provisions were contained in the following acts:

1951—Mar. 29, 1951, ch. 25, 65 Stat. 28.
1950—June 30, 1950, ch. 427, § 5, 64 Stat. 309.
1949—Mar. 28, 1949, ch. 36, 63 Stat. 16.
1948—Mar. 24, 1948, ch. 144, 62 Stat. 85.
1942—Jan. 27, 1942, ch. 21, 56 Stat. 19, as amended Aug. 1, 1942, ch. 544, 56 Stat. 735, and repealed July 25, 1947, ch. 327, § 2b, 61 Stat. 451, eff. six months after July 25, 1947.
1941—May 31, 1941, ch. 158, 55 Stat. 236.

TRANSPORTATION OF PASSENGERS AND MERCHANDISE ON CANADIAN VESSELS BETWEEN POINTS IN ALASKA AND UNITED STATES

Pub. L. 85-473, June 30, 1958, 72 Stat. 244, allowed passengers to be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska or the continental United States either directly or via a foreign port, or for any part of the transportation for a period ending June 30, 1959, unless the Secretary of Commerce determined that U.S. flag service was available to provide such transportation.

Similar provisions were contained in the following acts:

1957—July 11, 1957, Pub. L. 85-103, 71 Stat. 294.
1956—Apr. 18, 1956, ch. 207, 70 Stat. 114.
1955—May 7, 1955, ch. 35, 60 Stat. 47.
1954—June 29, 1954, ch. 413, 68 Stat. 321.
1953—July 16, 1953, ch. 201, 67 Stat. 175.
1952—June 11, 1952, ch. 391, 66 Stat. 133.
1951—June 27, 1951, ch. 153, 65 Stat. 90.
1950—June 29, 1950, ch. 409, 64 Stat. 301.
1949—Aug. 22, 1949, ch. 493, 63 Stat. 622.

TRANSPORTATION OF GRAIN BETWEEN UNITED STATES PORTS ON GREAT LAKES BY VESSELS OF CANADIAN REGISTRY DURING 1951

Act Oct. 10, 1951, ch. 459, 65 Stat. 371, provided for the transportation of grain and terminated on Dec. 31, 1951.

TRANSPORTATION OF MERCHANDISE BETWEEN HYDER, ALASKA, AND UNITED STATES

Act July 30, 1947, ch. 387, 61 Stat. 632, as amended June 28, 1948, ch. 693, 62 Stat. 1067, provided for the transportation of merchandise between Hyder, Alaska, and United States and terminated on June 30, 1949.

CROSS REFERENCES

Corporation meeting certain conditions deemed citizen for purposes of this section, see section 833-1 of this title.

Provisions restricting coastwise transportation to vessels of United States not applicable to American Samoa, see section 1664 of Title 48, Territories and Insular Possessions.

Transportation of passengers in foreign vessels, see section 289 of this title and notes thereunder.

Transportation of passengers and merchandise in Canadian vessels between points in Alaska and United States, see section 289b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 316, 883-1 of this title; title 19 section 1554; title 49 section 920.

§ 883-1. Corporation as citizen; fisheries and transportation of merchandise or passengers between points in United States; parent and subsidiary corporations; domestic-built vessels; certificate; surrender of documents on change in status.

Notwithstanding any other provision of law, a corporation incorporated under the laws of the United States or any State, Territory, District, or possession thereof, shall be deemed to be a citizen of the United States for the purposes of and within the meaning of that term as used in sections 316, 808, 835 and 883 of this title, and the laws relating to the documentation of vessels, if it is established by a certificate filed with the Secretary of the Treasury as hereinafter provided, that—

(a) a majority of the officers and directors of such corporation are citizens of the United States;

(b) not less than 90 per centum of the employees of such corporation are residents of the United States;

(c) such corporation is engaged primarily in a manufacturing or mineral industry in the United States or any Territory, District, or possession thereof;

(d) the aggregate book value of the vessels owned by such corporation does not exceed 10 per centum of the aggregate book value of the assets of such corporation; and

(e) such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 per centum of the raw materials used or sold in its operations

but no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except as a service for a parent or subsidiary corporation and except when such vessel is under demise or bareboat charter at prevailing rates for use otherwise than in the domestic noncontiguous trades from any such corporation to a common or contract carrier subject to chapter 12 of title 49, which otherwise qualifies as a citizen under section 2 of the Shipping Act, 1916, as amended, and which is not connected, directly or indirectly, by way of ownership or control with such corporation.

As used herein (1), the term "parent" means a corporation which controls, directly or indirectly, at least 50 per centum of the voting stock of such corporation, and (2), the term "subsidiary" means a corporation not less than 50 per centum of the voting stock of which is controlled, directly or indirectly, by such corporation or its parent, but no corporation shall be deemed to be a "parent" or "subsidiary" hereunder unless it is incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, and there has been filed with the Secretary of the Treasury a certificate as hereinafter provided.

Vessels built in the United States and owned by a corporation meeting the conditions hereof which are non-self-propelled or which, if self-propelled, are of less than five hundred gross tons shall be entitled to documentation under the laws of the

United States, and except as restricted by this section, shall be entitled to engage in the coastwise trade and, together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States.

A corporation seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States shall file with the Secretary of the Treasury of the United States a certificate under oath, in such form and at such times as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such corporation complies with the conditions of this section above set forth. A "parent" or "subsidiary" of such corporation shall likewise file with the Secretary of the Treasury a certificate under oath, in such form and at such time as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such "parent" or "subsidiary" complies with the conditions of this section above set forth, before such corporation may transport any merchandise or passengers for such parent or subsidiary. If any material matter of fact alleged in any such certificate which, within the knowledge of the party so swearing is not true, there shall be a forfeiture of the vessel (or the value thereof) documented or operated hereunder in respect to which the oath shall have been made. If any vessel shall transport merchandise for hire in violation of this section, such merchandise shall be forfeited to the United States. If any vessel shall transport passengers for hire in violation of this section, such vessel shall be subject to a penalty of $200 for each passenger so transported. Any penalty or forfeiture incurred under this section may be remitted or mitigated by the Secretary of the Treasury under the provisions of section 7 of this title.

Any corporation which has filed a certificate with the Secretary of the Treasury as provided for herein shall cease to be qualified under this section if there is any change in its status whereby it no longer meets the conditions above set forth, and any documents theretofore issued to it, pursuant to the provisions of this section, shall be forthwith surrendered by it to the Secretary of the Treasury. (June 5, 1920, ch. 250, § 27A, as added Sept. 2, 1958, Pub. L. 85-902, 72 Stat. 1736.)

REFERENCE IN TEXT

The Shipping Act of 1916, referred to in text, is classified to chapter 23 of this title. Section 2 of the Act is classified to section 802 of this title.

§ 883a. Reports required of United States vessels rebuilt abroad; penalty for failure to report; mitigation of penalty.

If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of $200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 7 of this title. (July 14, 1956, ch. 600, § 2, 70 Stat. 544; July 5, 1960, Pub. L. 86-583, § 2, 74 Stat. 321.)

REFERENCES IN TEXT

This Act, referred to in the text, means act July 14, 1956, which amended section 883 of this title and added this section, section 883b of this title and provisions set out as a note under section 883 of this title.

CODIFICATION

This section was not enacted as part of the Merchant Marine Act, 1920.

AMENDMENTS

1960—Pub. L. 86-583 provided for a report of the rebuilding of any part of the vessel, including the construction of major components of the hull and superstructure of the vessel, and for a report upon completion of the rebuilding in certain cases.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-583 effective July 5, 1960, and effect on rebuilding contracts executed before such date, see section 4 of Pub. L. 86-583, set out as a note under section 883 of this title.

EFFECTIVE DATE

Section effective July 14, 1956, see note set out under section 883 of this title.

REGULATIONS

Secretary of Treasury to prescribe regulations to carry out the purposes of this section, see section 3 of Pub. L. 86-583, set out as a note under section 883 of this title.

§ 883b. Same; regulations.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this Act. (July 14, 1956, ch. 600, § 3, 70 Stat. 544.)

REFERENCES IN TEXT

This Act, referred to in the text, means act July 14, 1956, which amended section 883 of this title and added section 883a of this title, this section, and provisions set out as a note under section 883 of this title.

CODIFICATION

This section was not enacted as part of the Merchant Marine Act, 1920.

EFFECTIVE DATE

Section effective July 14, 1956, see note set out under section 883 of this title.

§ 884. Charges for transportation subject to "Interstate Commerce Act."

No common carrier shall charge, collect, or receive for transportation subject to the Interstate Commerce Act of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is

based in whole or in part on the fact that the persons or property affected thereby is to be transported to, or has been transported from, any port in a possession or dependency of the United States, or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the Secretary of Commerce is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of the United States or a foreign country are not afforded by vessels so documented, he shall certify this fact to the Interstate Commerce Commission, and the Interstate Commerce Commission may, by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported to such ports, for such length of time and under such terms and conditions as it may prescribe in such order, or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the Interstate Commerce Commission whenever the Secretary of Commerce is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the Interstate Commerce Commission. (June 5, 1920, ch. 250, § 28, 41 Stat. 999; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

Interstate Commerce Act, referred to in the text, is classified to chapters 1, 8, 12, 13 and 19 of Title 49, Transportation.

SAVINGS PROVISION

Section expressly not repealed by part III of Interstate Commerce Act, see section 929 of Title 49, Transportation.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Maritime Commission" (which referred to United States Maritime Commission) as formerly used in this section, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission, by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 885. Association of marine insurance companies; application of antitrust laws.

(a) Whenever used in this section—

(1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and

(2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.

(b) Nothing contained in the "antitrust laws" as designated in section 12 of Title 15, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members. (June 5, 1920, ch. 250, § 29, 41 Stat. 1000.)

§ 886. Repealed. June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016.

Section, act June 5, 1920, ch. 250, § 35, 41 Stat. 1007, as affected by act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083, authorized the Shipping Board to exercise its power and authority directly or through the United States Shipping Board Merchant Fleet Corporation.

§ 887. Partial invalidity.

If any provision of this act is declared unconstitutional or the application of any provision to certain circumstances be held invalid, the remainder of such act and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby. (June 5, 1920, ch. 250, § 36, 41 Stat. 1007.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

§ 888. Definitions.

When used in this act, unless the context otherwise requires, the terms "person", "vessel", "documented under the laws of the United States", and "citizen of the United States" shall have the meaning assigned to them by sections 801, 802, and 803 of this title; and the term "alien" means any person not a citizen of the United States. (June 5, 1920, ch. 250, § 37, 41 Stat. 1008; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Sept. 21, 1959, Pub. L. 86-327, § 2, 73 Stat. 597.)

REFERENCES IN TEXT

Phrase "this act" refers to act June 5, 1920, for distribution of which see note under section 861 of this title.

CODIFICATION

The words "the term 'commission' means the United States Maritime Commission;" were omitted from the Code preceding the definition of "alien" in view of 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277, set out as a note under section 1111 of this title, which abolished the United States Maritime Commission and transferred its functions to the Federal Maritime Board and to the Secretary of Commerce.

AMENDMENTS

1959—Pub. L. 86-327 substituted "sections 1 and 2 of the 'Shipping Act, 1916,' as amended" for "sections 1 and 2 of the 'Shipping Act, 1916,' as amended by this Act", which sections are referred to in the text as "sections 801, 802, and 803 of this title" for purposes of codification.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6 eff. Aug.

19, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

In this section as originally enacted "commission" and "Maritime Commission" (which referred to United States Maritime Commission) read "Board" and "Shipping Board," respectively, meaning the United States Shipping Board. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission by Ex. Ord No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 889. Short title.

The Act of June 5, 1920, chapter 250, may be cited as the "Merchant Marine Act, 1920." (June 5, 1920, ch. 250, § 39, 41 Stat. 1008.)

REFERENCES IN TEXT

For distribution of act June 5, 1920, ch. 250, in this Code, see note under section 861 of this title.

Chapter 24A.—MERCHANT MARINE ACT, 1928

Sec.
891. Declaration of policy.
891a. Repealed.
891b. Vessels of Secretary; remodeling and improving.
891c. Same; replacements.
891d to 891r. Repealed.
891s. Appropriations; authorization.
891t. Repealed.
891u. Definitions.
891v. Reaffirmation of policy in section 866.
891w. Ship operations; allocations.
891x. Short title.
891y. Limitation on salaries paid by ocean and air mail carriers.

§ 891. Declaration of policy.

The policy and the primary purpose declared in section 861 of this title are confirmed. (May 22, 1928, ch. 675, § 1, 45 Stat. 689.)

§ 891a. Repealed. June 29, 1936, ch. 858, § 903 (c), 49 Stat. 2016.

Section, act May 22, 1928, ch. 675, § 201, 45 Stat. 690, related to the sale of any vessel or line of vessels by the United States Shipping Board.

§ 891b. Vessels of Secretary; remodeling and improving.

In addition to his power to recondition and repair vessels under section 871 of this title, the Secretary of Commerce may remodel and improve vessels owned by the United States and in his possession or under his control, so as to equip them adequately for competition in the foreign trade of the United States. Any vessel so remodeled or improved shall be documented under the laws of the United States and shall remain documented under such laws for not less than five years from the date of the completion of the remodeling or improving and so long as there remains due the United States any money or interest on account of such vessel, and during such period it shall be operated only on voyages which are not exclusively coastwise. (May 22, 1928, ch. 675, § 202, 45 Stat. 690; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "United States Maritime Commission" and "Maritime Commission" and "his" for "its" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission," as formerly used in this section, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 891c. Same; replacements.

The necessity for the replacement of vessels owned by the United States and in the possession or under the control of the Secretary of Commerce and the construction for the Secretary of additional up-to-date cargo, combination cargo and passenger, and passenger ships, to give the United States an adequate merchant marine, is recognized, and the Secretary is authorized and directed to present to Congress from time to time, recommendations setting forth what new vessels are required for permanent operation under the United States flag in foreign trade, and the estimated cost thereof, to the end that Congress may, from time to time, make provision for replacements and additions. All vessels built for the Secretary shall be built in the United States, and they shall be planned with reference to their possible usefulness as auxiliaries to the naval and military services of the United States. (May 22, 1928, ch. 675, § 203, 45 Stat. 690; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set under section 1111 of this title.

"Commission", as formerly used in this section, which meant the United States Maritime Commission, originally read "Board" meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§§ 891d to 891r. Repealed. June 20, 1936, ch. 858, §§ 302 (f), 903 (c), 49 Stat. 1993, 2016.

Section 891d, act May 22, 1928, ch. 675, § 302, 45 Stat. 692, related to the construction loan fund created by section 870 of this ttile, also repealed. See section 1116 of this title.

Sections 891e—891q, acts May 22, 1928, ch. 675, §§ 401—413, 45 Stat. 692—696; Apr. 17, 1930, ch. 173, §§ 1—3, 46 Stat. 169, 170, related to ocean mail service and contracts therefor.

Section 891r, act May 22, 1928, ch. 675, § 601, 45 Stat. 697, related to travel on vessels registered under laws of United States by officers and employees traveling on official business. It was reenacted in substance by section 901 of the repealing act. See section 1241 of this title.

§ 891s. Appropriations; authorization.

The appropriations necessary to carry out the provisions and accomplish the purposes of this act

are authorized. (May 22, 1928, ch. 675, § 701, 45 Stat. 697.)

REFERENCES IN TEXT

Phrase "this act" refers to act May 22, 1928, which is contained in this chapter and sections 866 and 869 of this title.

§ 891t. Repealed. June 29, 1936, ch. 858, § 903 (c), 49 Stat. 2016.

Section, act May 22, 1928, ch. 675, § 702, 45 Stat. 697, related to the requisition of vessels by the United States for national defense or during a national emergency. See section 1242 of this title.

§ 891u. Definitions.

(a) When used in this act, and for the purposes of this act only, the words "foreign trade" mean trade between the United States, its Territories or possessions, or the District of Columbia and a foreign country: *Provided, however,* That the loading or the unloading of cargo, mail, or passengers at any port in any Territory or possession of the United States shall be construed to be foreign trade if the stop at such Territory or possession is an intermediate stop on what would otherwise be a voyage in foreign trade.

(b) When used in this act the term "citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 802 of this title. (May 22, 1928, ch. 675, § 703, 45 Stat. 698.)

REFERENCES IN TEXT

Phrase "this act" refers to act May 22, 1928, for distribution of which see note under section 891s of this title.

§ 891v. Reaffirmation of policy in section 866.

The policy and the primary purpose declared in section 866 of this title are reaffirmed. (May 22, 1928, ch. 675, § 704, 45 Stat. 698.)

§ 891w. Ship operations; allocations.

In the allocations of the operations of the ships, the Secretary of Commerce shall distribute them as far as possible and without detriment to the service among the various ports of the country. (May 22, 1928, ch. 675, § 705, 45 Stat. 698; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Maritime Commission," as formerly used in this section meaning United States Maritime Commission, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

§ 891x. Short title.

Act May 22, 1928, ch. 675, may be cited as the "Merchant Marine Act, 1928." (May 22, 1928, ch. 675, § 706, 45 Stat. 698.)

REFERENCES IN TEXT

For distribution of act May 22, 1928, see note under section 891s of this title.

§ 891y. Limitation on salaries paid by ocean and air mail carriers.

CODIFICATION

Section was from act June 23, 1933, ch. 101, § 6, 48 Stat. 305. Insofar as it related to ocean mail carriers it is considered by the Post Office Department to have been impliedly repealed by act June 29, 1936, ch. 858, §§ 302, 903, 49 Stat. 1993. Insofar as it related to air mail carriers it was expressly repealed by act June 23, 1938, ch. 601, § 1107 (c), 52 Stat. 1027. See letter from Post Office Department dated Feb. 26, 1941.

Chapter 25.—SHIP MORTGAGES

DEFINITIONS

Sec.
911. Words and terms used in chapter.

RECORDING OF SALES, CONVEYANCES, AND MORTGAGES OF VESSELS OF THE UNITED STATES

921. Sale, conveyance, or mortgage of vessel of United States; record.
922. Preferred mortgages.
923. Certified copies of mortgage; exhibition.
924. Prior and subsequent maritime liens on mortgaged vessel.
925. Record of notice of claim of lien on mortgaged vessel; discharge of lien.
926. Conditions precedent to record; interest on preferred mortgage.
927. Inspection of and copies from records; fees.

PENALTIES

941. Failure of master to exhibit documents; unlawful acts by mortgagor; liability of collector of customs.

FORECLOSURE OF PREFERRED MORTGAGES

951. Lien of preferred mortgage; foreclosure; jurisdiction; procedure; foreign ship mortgages.
952. Receiver in foreclosure; possession by marshal.
953. Preferred maritime lien; priorities; other liens.
954. Suits in personam in admiralty on default.

TRANSFERS OF MORTGAGED VESSELS AND ASSIGNMENT OF VESSEL MORTGAGES

961. Surrender of documents; termination of mortgagee's interest; sale of mortgaged vessel.

MARITIME LIENS FOR NECESSARIES

971. Persons entitled to lien.
972. Persons authorized to procure repairs, supplies, and necessaries.
973. Notice to person furnishing repairs, supplies, and necessaries.
974. Waiver of right to lien.
975. State statutes superseded.

MISCELLANEOUS PROVISIONS

981. Existing mortgages not affected.
982. Books for collectors of customs.
983. Rules and regulations by Commissioner of Customs.
984. Short title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home port of vessels, see sections 18 and 1011 et seq. of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 18 of this title.

DEFINITIONS

§ 911. Words and terms used in chapter.

When used in this chapter—

(1) The term "document" includes registry and enrollment and license;

(2) The term "documented" means registered or enrolled or licensed under the laws of the United States, whether permanently or temporarily;

(3) Except as provided in section 1011 of this title, the term "port of documentation" means the port at which the vessel is documented, in accordance with law;

(4) The term "vessel of the United States" means any vessel documented under the laws of the United States and such vessel shall be held to continue to be so documented until its documents are surrendered with the approval of the Secretary of Transportation; and

(5) The term "mortgagee", in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

(June 5, 1920, ch. 250, § 30, subsec. B, 41 Stat. 1000; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, § 904, 49 Stat. 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; 1967 Reorg. Plan No. 1, eff. May 9, 1967, 32 F.R. 7049, 81 Stat. 947.)

Codification

This chapter comprises section 30 of the Merchant Marine Act, 1920. The act is classified generally to chapter 24 of this title. For remainder of the act, see Tables Volumes.

Transfer of Functions

"Secretary of Transportation" was substituted for "Secretary of Commerce" pursuant to 1967 Reorg. Plan No. 1 which transferred to the Secretary of Transportation the functions of the Secretary of Commerce relating to the approval of the surrender of the documents of a vessel pursuant to par. (4) of this section to the Secretary of Transportation, see 1967 Reorg. Plan No. 1, eff. May 9, 1967, 32 F.R. 7049, 81 Stat. 947, set out as a note under section 961 of this title.

"Secretary of Commerce" was substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"Commission", as formerly used in par. (4) of this section, which meant the United States Maritime Commission, originally read "Board", meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

Cross References

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Federal ship mortgage insurance, see section 1271 et seq., of this title.

Home port of vessels, see sections 18 and 1011 et seq. of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

RECORDING OF SALES, CONVEYANCES, AND MORTGAGES OF VESSELS OF THE UNITED STATES

§ 921. Sale, conveyance, or mortgage of vessel of United States; record.

(a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subsection (b) of this section.

(b) Such collector of customs shall record bills of sale, conveyances, and mortgages delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—

(1) The name of the vessel;

(2) The names of the parties to the sale, conveyance, or mortgage;

(3) The time and date of reception of the instrument;

(4) The interest in the vessel so sold, conveyed, or mortgaged; and

(5) The amount and date of maturity of the mortgage.

(June 5, 1920, ch. 250, § 30, subsec. C, 41 Stat. 1000.)

Transfer of Functions

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1290, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an officer of the Treasury Department.

Administrative Delegation of Functions by Secretary of the Treasury

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

Cross References

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 922. Preferred mortgages.

(a) A valid mortgage which at the time it is made, includes the whole of any vessel of the United States

(other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than twenty-five gross tons), shall, in addition, have, in respect to such vessel and as of the date of the compliance with all the provisions of this subsection, the preferred status given by the provisions of section 953 of this title, if—

(1) The mortgage is endorsed upon the vessel's documents in accordance with the provisions of this section;

(2) The mortgage is recorded as provided in section 921 of this title, together with the time and date when the mortgage is so endorsed;

(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

(5) The mortgagee is a citizen of the United States and for the purposes of this section the Reconstruction Finance Corporation shall, in addition to those designated in sections 888 and 802 of this title, be deemed a citizen of the United States.

(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this section is hereafter in this chapter called a "preferred mortgage" as to such vessel.

(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

(1) The names of the mortgagor and mortgagee;

(2) The time and date the indorsement is made;

(3) The amount and date of maturity of the mortgage; and

(4) Any amount required to be indorsed by the provisions of subsection (e) or (f) of this section.

(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage. (June 5, 1920, ch. 250, § 30, subsec. D, 41 Stat. 1000; June 27, 1935, ch. 319, 49 Stat. 424; Sept. 26, 1961, Pub. L. 87-303, § 1(a), 75 Stat. 661.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-303 substituted "twenty-five gross tons" for "two hundred gross tons."

1935—Subsec. (a). Act June 27, 1935, eliminated the words "over two hundred gross tons and upwards" and inserted matter in parentheses.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of Pub. L. 87-303 provided that: "The amendment made by the first section of this Act [to this section] shall take effect December 31, 1961, or on the date of enactment of this Act [Sept. 26, 1961], whichever date first occurs."

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of th Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

MORTGAGES IN EXISTENCE ON SEPT. 26, 1961

Section 1(b) of Pub. L. 87-303 provided that: "The amendment made by subsection (a) of this section [the subsec. (a) of this section] shall not apply to (1) any mortgage in existence on the date of enactment of this Act [Sept. 26, 1961], or (2) any mortgage placed on a vessel after the date of enactment of this Act [Sept. 26, 1961] under a mortgage on such vessel in existence on the date of enactment of this Act [Sept. 26, 1961] so long as such existing mortgage remains undischarged."

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

Penalty for failure to file affidavit, see section 941(c) of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 923. Certified copies of mortgage; exhibition.

The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof. The master of the vessel shall, upon the request of any such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof. The requirement of this section that a copy of a preferred mortgage be placed and retained on board the mortgaged vessel shall not apply in the case of a mortgaged vessel which is not self-propelled (including but not limited to, barges, scows, lighters, and car floats). (June 5, 1920, ch. 250, § 30, subsec. E, 41 Stat. 1001; Sept. 16, 1966, Pub. L. 89-582, § 2(a), 80 Stat. 795.)

AMENDMENTS

1966—Pub. L. 89-582 excluded a mortgaged vessel which is not self-propelled from the requirement that a copy of a preferred mortgage be placed and retained on board the mortgaged vessel.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(b) of Pub. L. 89-582 provided that: "The amendment made by subsection (a) of this section [to this section] shall apply to all mortgages whether made before, on, or after the date of enactment of this section [Sept. 16, 1966]."

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

Penalties for violation of this section, see section 941 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 924. Prior and subsequent maritime liens on mortgaged vessel.

The mortgagor (1) shall, upon request of the mortgagee, disclose in writing to him prior to the execution of any preferred mortgage, the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, that is known to the mortgagor, and (2), without the consent of the mortgagee, shall not incur, after the execution of such mortgage and before the mortgagee has had a reasonable time in which to record the mortgage and have indorsements in respect thereto made upon the documents of the vessel, any contractual obligation creating a lien upon the vessel other than a lien for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, or for salvage, including contract salvage, in respect to the vessel. (June 5, 1920, ch. 250, § 30, subsec. F, 41 Stat. 1002.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

Penalties for violation of this section, see section 941 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 925. Record of notice of claim of lien on mortgaged vessel; discharge of lien.

(a) The collector of customs of the port of documentation shall upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate.

(b) The mortgagor upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of customs shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made. (June 5, 1920, ch. 250, § 30, subsec. G, 41 Stat. 1002.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the

Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 951 of this title.

§ 926. Conditions precedent to record; interest on preferred mortgage.

(a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy.

(d) A preferred mortgage may bear such rate of interest as is agreed by the parties thereto. (June 5, 1920, ch. 250, § 30, subsec. H, 41 Stat. 1002.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 927. Inspection of and copies from records; fees.

Each collector of customs shall permit records made under the provisions of this chapter to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subsection (c) of section 926 of this title. The collector of customs shall collect a fee for any bill of sale, conveyance, or mortgage recorded, or any certificate or certified copy furnished by him, in the amount of 20 cents a folio with a minimum charge of $1, except that if a person requesting certification of more than ten copies of a mortgage which includes more than one vessel, furnishes such copies to the collector, the fee for certification of each copy in excess of ten shall be $1 per copy. All such fees shall be covered into the Treasury of the United States as miscellaneous receipts. (June 5, 1920, ch. 250, § 30, subsec. I, 41 Stat. 1002; Sept. 16, 1966, Pub. L. 89-582, § 1, 80 Stat. 795.)

AMENDMENTS

1966—Pub. L. 89-582 prescribed a certification fee of $1 per each furnished copy in excess of ten of a mortgage which includes more than one vessel.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg.

Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

PENALTIES

§ 941. Failure of master to exhibit documents; unlawful acts by mortgagor; liability of collector of customs.

(a) If the master of the vessel willfully fails to exhibit the documents of the vessel or the copy of any preferred mortgage thereof, as required by section 923 of this title, the Coast Guard may suspend or cancel the master's license.

(b) A mortgagor who, with intent to defraud, violates any provision of section 924 of this title, and if the mortgagor is a corporation or association, the president or other principal executive officer of the corporation or association, shall upon conviction thereof be held guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned not more than two years, or both. The mortgaged indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

(c) If any person enters into any contract secured by, or upon the credit of, a vessel of the United States covered by a preferred mortgage, and suffers pecuniary loss by reason of the failure of the collector of customs, or any officer, employee, or agent thereof, properly to perform any duty required of the collector under the provisions of this chapter, the collector of customs shall be liable to such person for damages in the amount of such loss. If any such person is caused any such loss by reason of the failure of the mortgagor, or master of the mortgaged vessel, or any officer, employee, or agent thereof, to comply with any provision of section 923 or 924 of this title, or to file an affidavit as required by subsection (a) of section 922 of this title, correct in each particular thereof, the mortgagor shall be liable to such person for damages in the amount of such loss. The district courts of the United States are given jurisdiction (but not to the exclusion of the courts of the several States, Territories, Districts, or possessions) of suits for the recovery of such damages, irrespective of the amount involved in the suit or the citizenship of the parties thereto. Such suit shall be begun by personal service upon the defendant within the limits of the district. Upon judgment for the plaintiff in any such suit, the court shall include in the judgment an additional amount for costs of the action and a reasonable counsel's fee, to be fixed by the court. (June 5, 1920, ch. 250, § 30, subsec. J, 41 Stat. 1003; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

In subsec. (a), "Coast Guard" was substituted for "board of local inspectors of vessels having jurisdiction of the license of the master," "the master's license" was substituted for "such license," and "subject to the provisions of sections 431—434 of this title" at end of subsection was omitted on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 54 on this section, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 951 of this title.

FORECLOSURE OF PREFERRED MORTGAGES

§ 951. Lien of preferred mortgage; foreclosure; jurisdiction; procedure; foreign ship mortgages.

A preferred mortgage shall constitute a lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. Upon the default of any term or condition of the mortgage, such lien may be enforced by the mortgagee by suit in rem in admiralty. Original jurisdiction of all such suits is granted to the district courts of the United States exclusively. In addition to any notice by publication, actual notice of the commencement of any such suit shall be given by the libellant, in such manner as the court shall direct, to (1) the master, other ranking officer, or caretaker of the vessel, and (2) any person who has recorded a notice of claim of an undischarged lien upon the vessel, as provided in section 925 of this title, unless after search by the libellant satisfactory to the court, such mortgagor, master, other ranking officer, caretaker, or claimant is not found within the United States. Failure to give notice to any such

person, as required by this section, shall not constitute a jurisdictional defect; but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit. Suit in personam for the recovery of such damages may be brought in accordance with the provisions of subsection (c) of section 941 of this title.

Foreign ship mortgages: As used in sections 951 to 954 of this title, of this section, the term "preferred mortgage" shall include, in addition to a preferred mortgage made pursuant to the provisions of this chapter, any mortgage, hypothecation, or similar charge created as security upon any documented foreign vessel (other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than two hundred gross tons) if such mortgage, hypothecation, or similar charge has been duly and validly executed in accordance with the laws of the foreign nation under the laws of which the vessel is documented and has been duly registered in accordance with such laws in a public register either at the port of registry of the vessel or at a central office; and the term "preferred mortgage lien" shall also include the lien of such mortgage, hypothecation, or similar charge: *Provided, however,* That such "preferred mortgage lien" in the case of a foreign vessel shall also be subordinate to maritime liens for repairs, supplies, towage, use of drydock or marine railway, or other necessaries, performed or supplied in the United States. (June 5, 1920, ch. 250, § 30, subsec. K, 41 Stat. 1003; June 29, 1954, ch. 419, 68 Stat. 323.)

AMENDMENTS

1954—Act June 29, 1954, added provision extending term "preferred mortgage" to include foreign ship mortgages.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 952. Receiver in foreclosure; possession by marshal.

In any suit in rem in admiralty for the enforcement of the preferred mortgage lien, the court may appoint a receiver and, in its discretion, authorize the receiver to operate the mortgaged vessel. The marshal may be authorized and directed by the court to take possession of the mortgaged vessel notwithstanding the fact that the vessel is in the possession or under the control of any person claiming a possessory common-law lien. (June 5, 1920, ch. 250, § 30, subsec. L, 41 Stat. 1004.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

Preexisting liens, termination and attachment, see section 953(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 953 of this title.

§ 953. Preferred maritime lien; priorities; other liens.

(a) When used hereinafter in this chapter, the term "preferred maritime lien" means (1) a lien arising prior in time to the recording and indorsement of a preferred mortgage in accordance with the provisions of this chapter; or (2) a lien for damages arising out of tort, for wages of a stevedore when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, and for salvage, including contract salvage.

(b) Upon the sale of any mortgaged vessel by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a preferred mortgage lien thereon, all preexisting claims in the vessel, including any possessory common-law lien of which a lienor is deprived under the provisions of section 952 of this title, shall be held terminated and shall thereafter attach, in like amount and in accordance with their respective priorities, to the proceeds of the sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except (1) preferred maritime liens, and (2) expenses and fees allowed and costs taxed, by the court. (June 5, 1920, ch. 250, § 30, subsec. M, 41 Stat. 1004.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

Preferred mortgages, see section 922 of this title.

§ 954. Suits in personam in admiralty on default.

(a) Upon the default of any term or condition of a preferred mortgage upon a vessel, the mortgagee may, in addition to all other remedies granted by this chapter, bring suit in personam in admiralty in a district court of the United States, against the mortgagor for the amount of the outstanding mortgage indebtedness secured by such vessel or any deficiency in the full payment thereof.

(b) This chapter shall not be construed, in the case of a mortgage covering, in addition to vessels, realty or personalty other than vessels, or both, to authorize the enforcement by suit in rem in admiralty of the rights of the mortgagee in respect to such realty or personalty other than vessels. (June 5, 1920, ch. 250, § 30, subsec. N, 41 Stat. 1004.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

TRANSFERS OF MORTGAGED VESSELS AND ASSIGNMENT OF VESSEL MORTGAGES

§ 961. Surrender of documents; termination of mortgagee's interest; sale of mortgaged vessel.

(a) The documents of a vessel of the United States covered by a preferred mortgage may not be surrendered (except in the case of the forfeiture of

the vessel or its sale by the order of any court of the United States or any foreign country) without the approval of the Secretary of Commerce. The Secretary shall refuse such approval unless the mortgagee consents to such surrender.

(b) The interest of the mortgagee in a vessel of the United States covered by a mortgage, shall not be terminated by the forfeiture of the vessel for a violation of any law of the United States, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

(c) Upon the sale of any vessel of the United States covered by a preferred mortgage, by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a maritime lien other than a preferred maritime lien, the vessel shall be sold free from all preexisting claims thereon; but the court shall, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagor[1] to accept a new mortgage of the vessel for the balance of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable, as those of the original mortgage and shall be subject to the approval of the court. If such new mortgage is given, the mortgagee shall not be paid from the proceeds of the sale and the amount payable as the purchase price shall be held diminished in the amount of the new mortgage indebtedness.

(d) No rights under a mortgage of a vessel of the United States shall be assigned to any person not a citizen of the United States without the approval of the Secretary of Commerce. Any assignment in violation of any provision of this chapter shall be void.

(e) No bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee may be issued, transferred, or assigned to a person not a citizen of the United States, without the approval of the Secretary of Commerce, unless the trustee or substitute trustee of such mortgage is approved by the Secretary of Commerce. The Secretary of Commerce shall grant his approval if such trustee or substitute trustee is a bank or trust company which (1) is organized as a corporation, and is doing business, under the laws of the United States or any State thereof, (2) is authorized under such laws to exercise corporate trust powers, (3) is a citizen of the United States, (4) is subject to supervision or examination by Federal or State authority, and (5) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000. If such trustee or a substitute trustee at any time ceases to meet the foregoing qualifications, the Secretary of Commerce shall disapprove such trustee or substitute trustee, and after such disapproval the transfer or assignment of such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary of Commerce, shall be unlawful. If a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee is issued, transferred, or assigned to a person not a citizen of the United States in violation of this paragraph, the issuance, transfer, or assignment shall be void.

(f) No vessel of the United States shall be sold by order of a district court of the United States in any suit in rem in admiralty to any person not a citizen of the United States. (June 5, 1920, ch. 250, § 30, subsec. O, 41 Stat. 1004; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Nov. 8, 1965, Pub. L. 89–346, § 3, 79 Stat. 1306.)

[1] So in original. Probably should be "mortgagee."

AMENDMENTS

1965—Subsec. (e). Pub. L. 89–346 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 89–346 redesignated former subsec. (e) as (f).

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "United States Maritime Commission" and "Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

"United States Maritime Commission" and "Commission," as formerly used in this section, originally read "Board," meaning the United States Shipping Board. For dissolution of the Board and transfer of its functions to United States Maritime Commission by Ex. Ord. No. 6166 and act June 29, 1936, see note under section 804 of this title.

REORGANIZATION PLAN NO. 1 OF 1967

Eff. May 9, 1967, 32 F.R. 7049, 81 Stat. 947.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 27, 1967, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

CERTAIN FUNCTIONS RELATING TO SHIP MORTGAGES

SECTION 1. TRANSFER OF FUNCTIONS

The functions which are now vested in the Secretary of Commerce relating to the approval of the surrender of the documents of a vessel pursuant to subsections B(4) and O(a) of the Ship Mortgage Act, 1920, as amended (46 U.S.C. 911(4) and 961(a)), are hereby transferred to the Secretary of Transportation.

SEC. 2. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred by this reorganization plan as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine, shall be transferred to the Department of Transportation at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting Reorganization Plan No. 1 of 1967.

This plan would transfer from the Secretary of Commerce to the Secretary of Transportation authority to approve the surrender of certain ship documents. These documents include certificates of ownership, declarations

of citizenship, and related ship papers issued for commercial vessels covered by preferred mortgages or owned by the United States.

Under the act establishing the Department of Transportation, the Secretary of Transportation, acting through the Coast Guard, will have responsibility for recording bills of sale, transfers, and mortgages of ships; for issuing new marine documents; and for retaining custody of preferred motgages on vessels.

The Secretary of Transportation will not, however, have the authority to approve the surrender of documents for vessels covered by preferred mortgages. That authority still resides with the Secretary of Commerce.

As a result, shipowners will have to deal with two separate departments of the Federal Government every time a ship's name is changed, its structure is modified, or it is sold or transferred.

In each of these and other cases, the shipowner must first seek the approval of the Secretary of Commerce to surrender the ship's documents and then request the Secretary of Transportation to issue new documents.

The reorganization plan is designed to eliminate this duplication of effort, and to save time and expense for shipowners.

This is not a major reorganization plan. But it is important. It is part of our larger effort to streamline the Government, to make its operations as efficient as possible, and to enable it to provide better service to the citizens and businessmen of this country.

This plan has been prepared in accordance with chapter 9 of title V of the United States Code. I have found, after investigation, that the reorganization is necessary to accomplish one or more of the purposes set forth in section 901(a) of that title.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 27, 1967.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

MARITIME LIENS FOR NECESSARIES

§ 971. Persons entitled to lien.

Any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, to any vessel, whether foreign or domestic, upon the order of the owner of such vessel, or of a person authorized by the owner, shall have a maritime lien on the vessel, which may be enforced by suit in rem, and it shall not be necessary to allege or prove that credit was given to the vessel. (June 5, 1920, ch. 250, § 30, subsec. P, 41 Stat. 1005.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 972. Persons authorized to procure repairs, supplies, and necessaries.

The following persons shall be presumed to have authority from the owner to procure repairs, supplies, towage, use of dry dock or marine railway, and other necessaries for the vessel: The managing owner, ship's husband, master, or any person to whom the management of the vessel at the port of supply is intrusted. No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel. (June 5, 1920, ch. 250, § 30, subsec. Q, 41 Stat. 1005.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

Officers and agents, see section 973 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 973 of this title.

§ 973. Notice to person furnishing repairs, supplies, and necessaries.

The officers and agents of a vessel specified in section 972 of this title shall be taken to include such officers and agents when appointed by a charterer, by an owner pro hac vice, or by an agreed purchaser in possession of the vessel; but nothing in this chapter shall be construed to confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies, or other necessaries was without authority to bind the vessel therefor. (June 5, 1920, ch. 250, § 30, subsec. R, 41 Stat. 1005.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 974. Waiver of right to lien.

Nothing in this chapter shall be construed to prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, or the mortgagee, from waiving his right to a lien, or in the case of a preferred mortgage lien, to the preferred status of such lien, at any time by agreement or otherwise; and this chapter shall not be construed to affect the rules of law existing on June 5, 1920, in regard to (1) the right to proceed against the vessel for advances, (2) laches in the enforcement of liens upon vessels, (3) the right to proceed in personam, (4) the rank of preferred maritime liens among themselves, or (5) priorities between maritime liens and mortgages, other than preferred mortgages, upon vessels of the United States. (June 5, 1920, ch. 250, § 30, subsec. S, 41 Stat. 1005.)

CODIFICATION

Words "existing on June 5, 1920" were substituted for "now existing".

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 975. State statutes superseded.

This chapter shall supersede the provisions of all State statutes conferring liens on vessels, insofar as such statutes purport to create rights of action to be enforced by suits in rem in admiralty against vessels for repairs, supplies, towage, use of dry dock or marine railway, and other necessaries. (June 5, 1920, ch. 250, § 30, subsec. T, 41 Stat. 1006.)

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

MISCELLANEOUS PROVISIONS

§ 981. Existing mortgages not affected.

This chapter shall not apply (1) to any existing mortgage, or (2) to any mortgage hereafter placed on any vessel under an existing mortgage, on June 5, 1920, so long as such existing mortgage remains undischarged. (June 5, 1920, ch. 250, § 30, subsec. U, 41 Stat. 1006.)

CODIFICATION

Words "on June 5, 1920," were inserted, and word "now" which appeared after "vessel" was stricken.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 982. Books for collectors of customs.

The Commissioner of Customs is authorized and directed to furnish collectors of customs with all necessary books and records, and with certificates of registry and of enrollment and license in such form as provides for the making of all indorsements thereon required by this chapter. (June 5, 1920, ch. 250, § 30, subsec. V, 41 Stat. 1006; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The Commissioner of Customs, and the collectors of customs, referred to in this section, are officers of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 983. Rules and regulations by Commissioner of Customs.

The Commissioner of Customs is authorized to make such regulations in respect to the recording and indorsing of mortgages covering vessels of the United States, as he deems necessary to the efficient execution of the provisions of this chapter. (June 5, 1920, ch. 250, § 30, subsec. W, 41 Stat. 1006; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolishd, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The collector of customs, referred to in this section, is an officer of the Treasury Department.

"Commissioner of Customs" was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

CROSS REFERENCES

Amendment of provisions of this chapter as are in conflict with sections 18, 1011, 1012, and 1013 of this title, see section 1014 of this title.

Home ports of vessels of United States, see section 18 of this title.

"Port of documentation" as meaning "home port", see section 1011 of this title.

§ 984. Short title.

This chapter may be cited as the "Ship Mortgage Act, 1920." (June 5, 1920, ch. 250, § 30, subsec. A, 41 Stat. 1000.)

Chapter 26.—HOME PORT OF VESSELS

Sec.
1011. Port of documentation.
1012. Record at home port.
1013. Conveyances and other instruments and acts validated.
1014. Navigation laws and Ship Mortgage Act amended.

§ 1011. Port of documentation.

Wherever in the Ship Mortgage Act, 1920, the words "port of documentation" are used they shall be deemed to mean the "home port" of the vessel. except that the words "port of documentation" shall not include a port in which a temporary document is issued. (Feb. 16, 1925, ch. 235, § 4, 43 Stat. 948.)

REFERENCES IN TEXT

The Ship Mortgage Act, 1920, referred to in the text, is classified to chapter 25 of this title.

§ 1012. Record at home port

No bill of sale, conveyance, mortgage, assignment of mortgage, or hypothecation (except bottomry), which includes a vessel of the United States or any portion thereof shall be valid in respect to such vessel against any person other than the grantor or mortgagor, his heirs or devisees, and any person having actual notice thereof, until such bill of sale, conveyance, mortgage, assignment of mortgage, or hypothecation is recorded in the office of the collector of customs at the home port of such vessel. Any bill of sale or conveyance of the whole or any part of a vessel shall be recorded at the home port of such vessel as shown in her new document. (Feb. 16, 1925, ch. 235, § 2, 43 Stat. 948.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an officer of the Treasury Department.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under section 1 of this title.

§ 1013. Conveyances and other instruments and acts validated.

All conveyances and mortgages of any vessel or any part thereof, and all documentations, recordations, indorsements, and indexing thereof, and proceedings incidental thereto made or done, prior to February 16, 1925, are declared valid to the extent they would have been valid if the port or ports at which said vessel has in fact been documented from time to time had been the port or ports at which it should have been documented in accordance with law; and this section is declared retroactive so as to accomplish such validations: *Provided*, That nothing herein contained shall be construed to deprive any person of any vested right. (Feb. 16, 1925, ch. 235, § 3, 43 Stat. 948.)

§ 1014. Navigation laws and Ship Mortgage Act amended.

All such provisions of the navigation laws of the United States and of the Ship Mortgage Act, 1920, as are in conflict with sections 18, 1011, 1012, and 1013 of this title, are amended to conform therewith. (Feb. 16, 1925, ch. 235, § 5, 43 Stat. 948.)

REFERENCES IN TEXT

Ship Mortgage Act, 1920, referred to in the text, is classified to chapter 25 of this title.

Chapter 27.—MERCHANT MARINE ACT, 1936

SUBCHAPTER I.—DECLARATION OF POLICY

Sec.
1101. Fostering development and maintenance of merchant marine.

SUBCHAPTER II.—CREATION AND FUNCTIONS OF MARITIME AGENCIES

1111. Powers and duties of agencies.
(a) Omitted.
(b) Restriction on appointments; other employment forbidden; interest in shipping as disqualifying member.
(c) Records of meetings; seal; rules and regulations.
(d) Expenditures.
(e) Officers and employees.
(f) Traveling and subsistence expenses; pay for military officer on assignment.
(g) Effective date of section.
1111a. Administrative expenses; limitations.
1111b. Repealed.
1112. Operation of property by Secretary.
1113. United States Shipping Board Merchant Fleet Corporation; dissolution and transfer of property; disposition of pending suits; ratification of payments to employees.
1114. Transfer of powers; rules and orders.
(a) Transfer of powers and duties of Shipping Board and Maritime Commission.
(b) Rules and regulations.
(c) Enforcement of orders; penalties for violations.
1115. Discrimination at ports by carriers by water against other carriers.
1116. Construction fund.
1116a. Same; application to obligations against emergency ship construction fund.
1117. Power to contract; audit of accounts; reports of departure of Secretary from provisions of chapter.
1118. Reports to Congress.
1119. Appropriations.
1119a. Same; emergency cargo ship construction.
1119b. Same; application of other laws to section 1119a.
1120. Survey of existing merchant marine for creation of adequate American-owned fleet.
1121. Investigations, studies, records, etc.
(a) Suitable ocean routes and lines to foreign ports; vessels and costs of operation.
(b) Bulk cargo carrying services.
(c) Vessels required in proposed routes.
(d) Cost of construction in United States and abroad.
(e) Relative cost of operation under laws of United States and foreign countries.
(f) Foreign subsidies.
(g) Shipyards.
(h) Laws applicable to aircraft.
(i) Transportation to foreign ports of cotton, coal, lumber, and cement.
(j) New designs of vessels; intercoastal and inland water transportation.

Sec.
1122. Maritime problems; cooperation with others; discriminatory charges on exports; cargo carriage; recommendations.
(a) Study of maritime problems.
(b) Inducing preferences for American vessels; construction of super-liners.
(c) Collaboration with owners and builders.
(d) Liaison with other agencies and trade organizations.
(e) Investigation of discriminatory charges, etc., against exports.
(f) Development and implementation of new methods of cargo carriage; preferences for cargo containers.
(g) Recommendations for further legislation.
1122a. Vessel utilization and performance reports; filing; civil penalty; lien upon vessel; remission or mitigation of penalty.
1122b. Mobile trade fairs.
(a) Use of United States flag vessels and aircraft insofar as practicable.
(b) Technical and financial assistance; exceptions.
(c) Authorization of appropriations; use of foreign currencies.
(d) Report to Congress.
1123. Obsolete tonnage; tramp service; relative costs at yards.
(a) Removal of obsolete tonnage.
(b) Tramp shipping; participation in by Americans.
(c) Relative cost of construction at different yards; equalization.
1124. Witnesses.
(a) Summoning; oaths; production of books and papers; fees.
(b) Refusal to obey subpena; court orders; contempt.
1125. Acquisition of vessels.
1125a. Construction, repair, etc., of vessels for government agencies.
1126. Training of merchant marine personnel.
(a) United States Maritime Service; number of trainee enrollees; compensation and allowances; curriculum; period of training; rank; uniforms.
(b) Merchant Marine Academy; maintenance; training; appointments; allowances; definitions.
(c) Extension and correspondence courses; authorization of purchases.
(d) Co-operation of governmental agencies.
(e) Faculty; compensation.
(f) Administrative enrollees; civil service status; compensation; application of laws affecting civilian employees of Government; exceptions and conditions; compensation; leave and service credit; travel expenses and health benefits restricted.
1126a. Repealed.
1126a–1. Bachelor of science degree on graduation from United States Merchant Marine Academy.
1126b. Admission of persons from other American republics to United States Merchant Marine Academy.
1126b–1. Admission of persons from the Trust Territory of the Pacific Islands to United States Merchant Marine Academy.
1126c. Board of Visitors for the United States Merchant Marine Academy.
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1127. Repealed.

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1128e–1. Compromise or settlement of claims after expiration of time for filing.
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1131. Manning and wage scales; subsidy contracts.
(a) Investigation of wages and working conditions; establishment of wage and manning scales; incorporation in subsidy contracts.
(b) Subsidy contracts; provisions relative to officers and crew.
1132. Citizenship of officers and crew.
(a) Vessels documented under laws of United States.
(b) Passenger vessels granted subsidies.
(c) Aliens; conditions of employment.
(d) Filling vacancies while on foreign voyage.
(e) Penalty for violations.
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SUBCHAPTER IV.—OCEAN MAIL CONTRACTS

1141 to 1144. Omitted.
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SUBCHAPTER V.—CONSTRUCTION-DIFFERENTIAL SUBSIDY

1151. Subsidy authorized for vessels to be operated in foreign trade.
(a) Application for subsidy for construction; conditions precedent to granting.
(b) Submission of plans to Navy Department; certification of approval.
(c) Application for subsidy for reconstruction or reconditioning; conditions precedent to granting; contracts.
1152. Construction of vessels; bids; subsidies.
(a) Approval of bids; contract with bidder; acceptance of negotiated price; shipyard records, availability; contract with applicant or qualified citizen for purchase of vessel.
(b) Basis for fixing subsidy; cost of construction in foreign yards; annual recomputation and publication of foreign cost; limitation on construction differential; report on American shipbuilding industry.
(c) Terms of sale of vessel to purchaser.
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(e) Construction in navy yards; sales to citizens; terms.
(f) Survey of shipbuilding capability; correction of inadequacies; reimbursement of certain vessel construction and delivery expenses.
(g) Sale of vessels acquired by Secretary.
1153. Documentation of completed vessel under laws of United States; delivery to purchaser; first mortgage to secure deferred payments.
1154. Purchase of vessel constructed in accordance with application for subsidy; bid or negotiated price basis for subsidy and payments for cost of national defense features; documentation.
1155. Eligible shipyards; materials; conditions of contracts; limitation to American shipyards; yards; American materials, waiver; ability of bidders; filing bids and data.
1155a. Same; suspension of profit-limiting provisions as to certain subcontracts.
1156. Operation of subsidy constructed vessel limited to foreign trade; repayments to Secretary for deviations.
1157. Construction of new vessel to replace obsolete; purchase of old vessel by Secretary; bond of seller against liens.
1158. Disposition of vessels transferred to Department of Commerce by United States Maritime Commission.

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1159. Vessels to be operated in domestic trade; terms and conditions of construction aid and sale to purchaser.
1160. Acquisition of obsolete vessels.
(a) Definitions.
(b) Promotion of construction of new vessels; allowance on obsolete vessels.
(c) Utility value of new vessel; gross tonnage.
(d) Amount of allowance on obsolete vessel; determination of amount.
(e) Recognition of gain for income tax purposes; basis for gain or loss.
(f) Report to Congress.
(g) Use of vessels 20 years old or more.
(h) Acquisition of tankers for national defense reserve.
(i) Exchange of vessels; conditions.
(j) Placement in national defense reserve fleet of acquired vessels.
1161. Reserve funds for construction or acquisition of vessels; taxation.
(a) "New vessel" defined.
(b) Establishment of construction reserve funds.
(c) Recognition of gain for taxation where proceeds of sale or indemnity for loss deposited in fund.
(d) Basis for determining gain or loss and for depreciation of new vessels.
(e) Order, proportions, etc., of deposits and withdrawals.
(f) Amounts in fund as accumulation of earnings or profits.
(g) Benefits of section conditioned upon manner and time of expenditure of deposits.
(h) Same; extensions of time.
(i) Same; taxation of deposits upon failure of conditions.
(j) Same; assessment and collection of deficiency tax.
(k) Taxable years governed by section.
(l) Vessels deemed constructed or acquired by taxpayers owning stock in corporations constructing or acquiring vessels.
(m) Definitions.
(n) Definition of "contract for the construction" and "construction contract".
(o) Definition of "reconstruction and reconditioning".

SUBCHAPTER VI.—OPERATING-DIFFERENTIAL SUBSIDY

1171. Subsidy authorized for operation of vessels in foreign trade.
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(b) Statements as to financial interests to accompany application; penalty for false statements.
1172. Determination of necessity of subsidy to meet competition.
1173. Contracts for payment of subsidy.
(a) Authorized to contract.
(b) Amount of subsidy.
(c) Definitions of "collective bargaining costs", "base period costs", "base period", and "subsidizable wage costs of United States officers and crews"; determination of collective bargaining costs and establishment of new base periods; wage change index.
(d) Foreign wage computation; foreign manning.
(e) Monthly payment of wage subsidy; procedures for calculation and payment of subsidy on certain expenses.
(f) Monthly percentage payment of other than wage subsidy; security for refund of overpayments; payment of remainder after audit of voyage accounts.
1174. Additional subsidy; when authorized.
1175. Vessels excluded from subsidy.
(a) Vessels engaged in coastwise or intercoastal trade; vessels on inland waterways.
(b) Vessels more than 25 years old.
(c) Vessels to be operated in an essential service served by citizens of the United States.
1176. Readjustments; change in service; withdrawal from service; payment of excess profits; wages, etc.; American materials.
1177. Capital construction fund.
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(b) Ceiling on deposits; lessees; "agreement vessel" defined.
(c) Investment requirements; depositories; fiduciary requirements; interest-bearing securities; stock: percentage for domestic issues, listing and registration, prudent acquisitions, value and percentage equilibrium, and treatment of preferred issues.
(d) Nontaxability of deposits; eligible deposits.
(e) Accounts within fund: capital account, capital gain account, and ordinary income account; limitation on capital losses.
(f) Purposes of qualified withdrawals; nonqualified withdrawal treatment for nonfulfillment of substantial obligations.
(g) Tax treatment of qualified withdrawals; basis: reduction.
(h) Tax treatment of nonqualified withdrawals; FIFO and LIFO bases; interest rate.
(i) Corporate reorganizations and partnership changes.
(j) Treatment of existing funds; relation of old to new fund.
(k) Definitions.
(l) Records; reports; rules and regulations; termination of agreement upon changes in regulations with substantial effect on rights or obligations.
1177a. Deposits in special reserve fund; excusal; tax treatment.
1178. Sale or assignment of contract; consent of Board; purchaser subject to terms of contract; rescinding contract on transfer without consent.
1179. Withholding payment to defaulting contractor.
1180. Vessels eligible to subsidy.
1181. Transfer of vessels to foreign registry on default of United States.
1182. Subordination of Secretary's interest to Reconstruction Finance Corporation.
1183. Off-season cruises by passenger vessels.
(a) Definition.
(b) Authorization for payment of subsidy.
(c) Authorization for payment of subsidy to passenger vessels providing domestic service.
(d) Conditions for cruises or domestic service while on voyages in an essential service in foreign commerce.
(e) Application for approval of cruise; notice to other American flag operators.
1183a. Off-season cruises additional to right of operator to make voyages on regular service, route, or line, including approved deviations.

SUBCHAPTER VII.—PRIVATE CHARTER OPERATION

1191. Additional powers of Secretary for completion of program.

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1192. Construction or reconditioning of vessels by Secretary.
1193. Competitive bidding; opening bids.
1194. Charter or sale of vessels acquired by Department of Commerce.
1195. Employment of vessels on foreign trade routes; selection of routes; encouraging private operation by sale or charter; selling price.
1196. Advertising for bids for charters; rejection of bids.
1197. Awarding charter on bids.
1198. Payment of subsidies to charterers.
1199. Excess profit; payment to Secretary; formula for determining profit.
1200. Undertaking required of charterer.
1201. Terms and conditions of charters.
1202. Insurance requirements; repairs; inspection by Secretary; termination of charter in national emergency.
1203. Financial resources and other factors considered in awarding charters.
1204. Construction and chartering of vessels for unsuccessful routes; purchase of vessel by charterer; purchase price; operation of vessel in foreign trade.
1205. Experimental operation and testing of United States vessels; number; bareboat charters; review of charters and agency agreements; provisions applicable to charters and agreements.
1206. Construction of nuclear-powered merchant ship; appropriations; special services; cooperation with other Federal agencies.

SUBCHAPTER VIII.—CONTRACT PROVISIONS

1211. Provision for books and records; filing balance sheets; inspection and auditing by Secretary; rescission of contract on failure to comply with provisions.
1212. Purchase or requisition of vessels by United States; amount of payment.
1213. Contracts designed equitably for all ports; preference to citizens of United States.
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1222. Operating competing foreign-flag vessel forbidden.
1223. Forbidden practices relating to coastwise service, salaries, officers, and employees.
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(b) Contractor in default paying more than specified salary.
(c) Repealed.
(d) Employing other persons or concerns as managing or operating agent.
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1227. Agreements with other carriers forbidden; withholding subsidies; actions by injured persons for damages.
1228. Fines and penalties; conviction as rendering persons ineligible to receive benefits of law.

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

1241. Transportation in American vessels of Government personnel and certain cargoes.
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(b) Cargoes procured, furnished or financed by United States; waiver in emergencies; exceptions; definition.
(c) Motor vehicle owned by Government personnel.
1241a. Vessel operations revolving fund; establishment; uses; limitation.

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1241b. Same; vessels involved in mortgage-foreclosure or forfeiture proceedings; redelivery and lay-up of chartered ships; custody and husbanding of Government-owned ships.
1241c. Same; expenses; receipts.
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(b) Determination of value of vessel.
(c) Charter of vessels; compensation; reimbursement for loss or damage.
(d) Determination of amount of compensation.
(e) Use of vessels by Secretary; transfer to other departments or agencies; reimbursement of Secretary.
1242-1. Computation of price for purchase or hire of vessels by Government.
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1243. Words "United States Shipping Board" or "Board" as applicable to United States Maritime Commission.
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SUBCHAPTER X.—MARITIME LABOR RELATIONS

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SUBCHAPTER XI.—FEDERAL SHIP MORTGAGE INSURANCE

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CROSS REFERENCES

Emergency foreign vessel acquisition, see sections 196—198 of Title 50, War and National Defense.

SUBCHAPTER I.—DECLARATION OF POLICY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1122 of this title.

§ 1101. Fostering development and maintenance of merchant marine.

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine, and (e) supplemented by efficient facilities for shipbuilding and ship repair. (June 29, 1936, ch. 858, § 101, 49 Stat. 1985; Oct. 21, 1970, Pub. L. 91–469, § 1, 84 Stat. 1018.)

AMENDMENTS

1970—Pub. L. 91–496 struck out from subd. (a) "on all routes" following "shipping service" and inserted subd. (e), respectively.

SHORT TITLE

Section 44 of Pub. L. 91–469 provided that: "This Act [which enacted section 1507a of Title 15 and section 270f of Title 40, amended section 5315 of Title 5, sections 985 and 988 of Title 33, sections 1101, 1111, 1119 to 1121, 1151 to 1155, 1159, 1160, 1171 to 1173, 1175 to 1177, 1204, 1213, 1222, 1223, 1241, 1244, 1271, 1273 to 1275, and 1294 of this title, repealed section 1221 of this title, and enacted provisions set out as notes under sections 1151, 1173, and 1177 of this title] may be cited as the 'Merchant Marine Act of 1970'."

CROSS REFERENCES

Assistance to State and Territorial maritime academies or colleges, promotion of policy set out in this section, see section 1381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1120, 1161, 1191, 1381 of this title.

SUBCHAPTER II.—CREATION AND FUNCTIONS OF MARITIME AGENCIES

§ 1111. Powers and duties of agencies.

(a) Omitted.

(b) Restriction on appointments; other employment forbidden; interest in shipping as disqualifying member.

No person shall hold office as a member of the Commission who, within three years prior to his appointment, shall have been employed by, or have had any pecuniary interest, in any carrier by water or substantial pecuniary interest in any other person who derives a substantial portion of his revenues from any business associated with ships or shipping.

Each member shall devote his full time to the duties of his office. It shall be unlawful for any member, officer, or employee of the Federal Maritime Commission to be in the employ of any other person, firm, or corporation, or to have any pecuniary interest in, or hold any official relationship with, any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Commission may have business relations.

(c) Records of meetings; seal; rules and regulations.

The Federal Martime Commission shall, through its secretary, keep a true record of all its meetings and the yea-and-nay votes taken therein, on every action, order, contract, or financial transaction approved or disapproved by the Commission. It shall have an official seal which shall be judicially noticed, and shall adopt rules and regulations in regard to its procedure and the conduct of its business.

(d) Expenditures.

The Federal Maritime Commission and the Secretary of Commerce may make such expenditures as are necessary in the performance of their functions from funds made available to them by this chapter or appropriated after June 25, 1936, which further appropriations are authorized.

(e) Officers and employees.

Subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, the Federal Maritime Commission and the Secretary of Commerce may appoint and prescribe the duties and fix the salaries of a secretary, a director for each of not to exceed five divisions, a general counsel, a clerk to each member of the Commission and not more than three assistants, a clerk to the general counsel, not more than a total of twenty naval architects or marine engineers, twenty special experts,

twenty-two examiners, twelve attorneys, and two inspectors for each vessel at each shipyard at which vessels are being constructed by it or under its supervision. The Commission and Secretary may, subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, appoint such other officers, engineers, inspectors, attorneys, examiners, and other employees as are necessary in the execution of their functions.

(f) Traveling and subsistence expenses; pay for military officer on assignment.

Each member, any employee of the Federal Maritime Commission or the Secretary of Commerce, and any person detailed to the Commission or Secretary from any other agency of the Government shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law, while away from his official station upon official business of the Commission or Secretary. Whenever any officer (not exceeding five in number at any time) of the Army, Navy, Marine Corps, or Coast Guard is detailed to the Commission or Secretary, he shall receive from the Commission or Secretary, for the period during which he is so detailed, such compensation as added to his pay and allowances as an officer in such service will make his aggregate compensation equal to the pay and allowances he would receive if he were the incumbent of an office or position in such service (or in the corresponding executive department), which, in the opinion of the Commission or Secretary, involves the performance of work similar in importance, difficulty, and responsibility to that performed by him while detailed to the Commission or Secretary. Expenditures by the Commission or Secretary shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or Secretary or a designated employee thereof.

(g) Effective date of section.

This section shall take effect on June 29, 1936. (June 29, 1936, ch. 858, §§ 201, 905(e), 49 Stat. 1985; Aug. 4, 1939, ch. 417, §§ 3, 4, 53 Stat. 1182; 1949 Reorg. Plan No. 6, § 2, eff. Aug. 10, 1949, 14 F. R. 5228, 63 Stat. 1069; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; 1950 Reorg. Plan No. 21, §§ 101—106, 204, 303, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; July 7, 1958, Pub. L. 85–507, § 21(b)(4), 72 Stat. 337; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, § 36, 84 Stat. 1036.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (e), are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Subsec. (a), which created the United States Maritime Commission, provided for its composition, the appointment, removal, qualifications and political affiliation of its members and the selection of a chairman and vice chairman, and specified the term of office for original appointments and in the event of vacancies, the quorum required for the transaction of business and the compensation of the members, was omitted as obsolete in view of the abolishment of the United States Maritime Commission by 1950 Reorg. Plan No. 21, set out as a note under this section.

Subsec. (c) proviso relating to the transfer of employees from the former United States Shipping Board Bureau or United States Shipping Board Merchant Fleet Corporation to the United States Maritime Commission and to the acquisition of United States Civil Service status has been omitted as executed.

In subsec. (e), words "Subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5" were substituted for "Without regard to the civil-service laws or the Classification Act of 1949", and provisions which prohibited any employee from receiving an annual salary at a rate in excess of that provided under the Classification Act of 1949 were omitted, since the employees referred to in subsec. (e) are now in the classified civil service and subject to the applicable compensation schedules. See Amendment notes below.

The authority for covering excepted positions into the classified civil service was given the President by former section 631a of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, the President exercised this authority with respect to many previously excepted positions.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–469 substituted in last sentence "Federal Maritime Commission" for "Commission" in two instances.

1958—Subsec. (e). Pub. L. 85–507 eliminated provisions which authorized detail of certain personnel for training at institutions for scientific education and research.

1949—Subsec. (e), Act Oct. 28, 1949, substituted the "Classification Act of 1949" for "Classification Act of 1923, as amended," which for purposes of codification are translated as chapter 51 and subchapter III of chapter 53 of Title 5.

1939—Subsec. (e). Act Aug. 4, 1939, § 3, authorized the appointment of a clerk to the general counsel, increased the number of naval architects and special experts from 12 to 20 each, and the number of examiners from 12 to 22, and permitted not more than 5 members to be detailed annually for engineering, technical, or other scientific education and training.

Subsec. (f). Act Aug. 4, 1939, § 4, provided for the payment of compensation to officers of the Army, Navy, Marine Corps, or Coast Guard.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–507, see section 21(a) of Pub. L. 85–507.

REPEALS

Act Oct. 15, 1949, ch. 695, §§ 4, 5(a), 63 Stat. 880, formerly set out in the credit to this section, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 665.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under this section, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the

Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14 Coast Guard.

"Of the Federal Maritime Board" was inserted after "Each member" and "Federal Maritime Board or of the Maritime Administration" and "Board or Maritime Administration" was substituted for "Commission" (which had reference to United States Maritime Commission) in subsection (b); "Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to United States Maritime Commission) in subsec. (c); "Federal Maritime Board and the Secretary of Commerce and "Board and Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) in subsec. (d); in subsection (e), "Federal Maritime Board and the Secretary of Commerce" were substituted for "Chairman of the Commission or other members of the Commission, as the case may be," (which had reference to United States Maritime Commission), "Board" was substituted for "Commission", and "Board and Secretary" was substituted for "Chairman of the Commission or other members of the Commission, as the case may be," (which had reference to United States Maritime Commission), and, in subsection (f), "Federal Maritime Board or the Secretary of Commerce" and "Board or Secretary" was substituted for "Chairman of the Commission" and "Commission" (which had reference to United States Maritime Commission), on authority of 1950 Reorg. Plan No. 21, set out in note under this section, act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission, including the functions of the Commission, with respect to the appointment and supervision of all personnel employed under the Commission, were transferred to the Chairman of the United States Maritime Commission by 1949 Reorg. Plan No. 6, set out below, but functions with respect to the appointment of personnel to be employed regularly and full time in the offices of members of the Commission other than the Chairman were excepted from the transfer.

ADMINISTRATIVE DELEGATION OF FUNCTIONS BY SECRETARY OF THE TREASURY

Administrative delegation of functions by Secretary of the Treasury, see note under former section 1 of this title.

COMPENSATION OF FEDERAL MARITIME COMMISSIONERS AND MARITIME ADMINISTRATOR

Annual basic compensation of Chairman of the Commission, members of the Commission, and Maritime Administrator, see sections 5314 and 5315 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Advertisements for proposals for purchases and contracts for supplies or services, see section 5 of Title 41, Public Contracts.

EX. ORD. NO. 11156. MARITIME ADVISORY COMMITTEE

Ex. Ord. No. 11156, June 17, 1964, 29 F.R. 7855, which established the Maritime Advisory Committee, was revoked by Ex. Ord. No. 11427, Sept. 4, 1968, 33 F.R. 12617.

REORGANIZATION PLAN NO. 7 OF 1961

Eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, as amended Pub. L. 88-426, title III, § 305(19), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91-469, § 38, Oct. 21, 1970, 84 Stat. 1036.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of Title 5].

MARITIME FUNCTIONS

PART I. FEDERAL MARITIME COMMISSION

SECTION 101. CREATION OF FEDERAL MARITIME COMMISSION

(a) There is hereby established a Federal Maritime Commission, hereinafter referred to as the Commission.

(b) The Commission shall not be a part of any executive department or under the authority of the head of any executive department.

SEC. 102. COMPOSITION OF THE COMMISSION

(a) The Commission shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. Each Commissioner shall be removable by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) The President shall from time to time designate one of the Commissioners to be the Chairman of the Commission.

(c) Of the first five Commissioners appointed hereunder, one shall be appointed for a term expiring on June 30, 1962, one for a term expiring on June 30, 1963, one for a term expiring on June 30, 1964, and two for terms expiring on June 30, 1965. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Not more than three of the Commissioners shall be appointed from the same political party. A vacancy in the office of any such Commissioner shall be filled in the same manner as the original appointment.

(d) A vacancy in the Commission, so long as there shall be three Commissioners in office, shall not impair the power of the Commission to execute its functions. Any three of the Commissioners in office shall constitute a quorum for the transaction of the business of the Commission and the affirmative votes of any three Commissioners shall be sufficient for the disposition of any matter which may come before the Commission.

SEC. 103. TRANSFER OF FUNCTIONS TO COMMISSION

The following functions, which are now vested in the Federal Maritime Board under the provisions of Reorganization Plan No. 21 of 1950 (64 Stat. 1273) [set out as a note under this section], are hereby transferred from that Board to the Commission:

(a) All functions under the provisions of sections 14—20, inclusive, and sections 22—33, inclusive, of the Shipping Act, 1916, as amended (46 U.S.C. §§ 812—819 and §§ 821—832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(b) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. §§ 843—848).

(c) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U.S.C. § 876), exclusive of subsection (1)(a) thereof.

(d) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212(e) of the Merchant Marine Act, 1936, as amended (46 U.S.C. § 1122(f)).

(e) To the extent that they relate to functions transferred to the Commission by the foregoing provisions of this section:

(1) The functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. § 820).

(2) The functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U.S.C. §§ 1114, 1118, and 1124).

SEC. 104. TRANSFER OF FUNCTIONS TO CHAIRMAN

There are hereby transferred to the Chairman of the Commission:

(a) The functions of the Chairman of the Federal Maritime Board, including his functions derived from

the provisions of Reorganization Plan No. 6 of 1949 [set out as a note under this section], to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

(b) The functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

SEC. 105. AUTHORITY TO DELEGATE

(a) The Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended.

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: *Provided, however,* That the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such action before the Commission for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

(d) There are hereby transferred to the Chairman of the Commission the functions with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to Commission personnel, including Commissioners, pursuant to the foregoing subsections of this section.

PART II. DEPARTMENT OF COMMERCE

SECTION 201. MARITIME ADMINISTRATOR

There shall be at the head of the Maritime Administration (established by the provisions of part II of Reorganization Plan No. 21 of 1950 [set out as a note under this section]) a Maritime Administrator, hereinafter referred to as the Administrator. The Assistant Secretary of Commerce for Maritime Affairs shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 202. FUNCTIONS OF SECRETARY OF COMMERCE

(a) Except to the extent inconsistent with the provisions of sections 101(b) or 104(b) of this reorganization plan, there shall remain vested in the Secretary of Commerce all the functions conferred upon the Secretary by the provisions of Reorganization Plan No. 21 of 1950 [set out as a note under this section].

(b) There are hereby transferred to the Secretary of Commerce:

(1) All functions of the Federal Maritime Board under the provisions of section 105(1) to 105(3), inclusive, of Reorganization Plan No. 21 of 1950 [set out as a note under this section].

(2) Except to the extent transferred to the Commission by the provisions of section 103(e) of this reorganization plan, the functions described in the said section 103(e).

(3) Any other functions of the Federal Maritime Board not otherwise transferred by the provisions of part I of this reorganization plan.

(4) Except to the extent transferred to the Chairman of the Commission by the provisions of part I of this reorganization plan, the functions of the Chairman of the Chairman of the Federal Maritime Board.

SEC. 203. DELEGATION OF FUNCTIONS

The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) [set out in the Appendix to Title 5] shall be applicable to all functions transferred to the Secretary of Commerce by, or remaining vested in him under, the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

SECTION 301. CONFLICT OF INTEREST

The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, as affected by the provisions of Reorganization Plan No. 21 of 1950 (46 U.S.C. § 1111(b) (prohibiting the members of the Federal Maritime Board and all officers and employees of that Board or of the Maritime Administration from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Board or the Maritime Administration may have business relations) shall hereafter be applicable to the Commissioners composing the Commission and all officers and employees of the Commission.

SEC. 302. INTERIM APPOINTMENTS

Pending the initial appointment hereunder of the Commissioners composing the Commission and of the Maritime Administrator, but not for a period exceeding 90 days, such officers of the executive branch of the Government (including any person who is a member of the Federal Maritime Board or Deputy Maritime Administrator immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be Acting Commissioners of the Federal Maritime Commission or Acting Maritime Administrator. The President may designate one of such Acting Commissioners as Acting Chairman of the Commission. Any person who is not while serving under an interim appointment pursuant to the foregoing provisions of this section receiving compensation attached to another Federal office shall receive the compensation herein provided for the office wherein he serves in an interim capacity.

SEC. 303. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Commission or to the Chairman of the Commission by the provisions of part I of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Subject to the foregoing provisions of this section, the Secretary of Commerce may transfer within the Department of Commerce personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions which were transferred to the Department of Commerce (including the Federal Maritime Board and the Chairman thereof) by the provisions of Reorganization Plan No. 21 of 1950 [set out as a note under this section].

SEC. 304. ABOLITION OF FEDERAL MARITIME BOARD

The Federal Maritime Board, including the offices of the members of the Board, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the said Board not otherwise provided for in this reorganization plan.

SEC. 305. STATUS OF PRIOR PLAN

The following provisions of Reorganization Plan No. 21 of 1950 [set out as a note under this section] are hereby superseded:

(1) Part I.

(2) Section 202.

(3) Sections 302 to 307, inclusive.

REORGANIZATION PLAN NO. 21 OF 1950

Effective May 24, 1950, 15 F. R. 3178, 64 Stat. 1273

PART I. FEDERAL MARITIME BOARD

§ 101. CREATION OF FEDERAL MARITIME BOARD

There is hereby established a Federal Maritime Board, hereinafter referred to as the Board.

§ 102. COMPOSITION OF THE BOARD

(a) The Board shall be composed of three members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The President shall from time to time designate one of such members to be the Chairman of the Board, hereinafter referred to as the Chairman.

(c) One of such members first appointed shall be appointed for a term expiring on June 30, 1952, another for a term expiring on June 30, 1953, and the third for a term expiring on June 30, 1954. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Not more than two of the members of the Board shall be appointed from the same political party. A vacancy in the office of any such member shall be filled in the same manner as the original appointment. The chairman shall receive a salary at the rate of $16,000 per annum, and each of the other two members shall receive a salary at the rate of $15,000 per annum.

(d) A vacancy in the Board, so long as there shall be two members in office, shall not impair the power of the Board to execute its functions. Any two of the members in office shall constitute a quorum for the transaction of the business of the Board, and the affirmative votes of any two members of the Board shall be sufficient for the disposition of any matter which may come before the Board.

§ 103. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

All functions of the Chairman of the United States Maritime Commission (including his functions under the provisions of Reorganization Plan Numbered 6 of 1949) [set out in note under this section] with respect to the functions transferred to the Board by the provisions of sections 104 and 105 of this reorganization plan are hereby transferred to the Chairman of the Federal Maritime Board.

§ 104. TRANSFER OF REGULATORY FUNCTIONS TO THE BOARD

The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) All functions under the provisions of sections 14 to 20, inclusive, and sections 22 to 33, inclusive, of the Shipping Act, 1916, as amended (46 U. S. C. §§ 812—817, 818, 819 and 821—832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(2) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U. S. C. §§ 843—848).

(3) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U. S. C. § 876), exclusive of subsection (1) (a) thereof.

(4) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212 (e) of the Merchant Marine Act, 1936 (46 U. S. C. 1122 (e)).

(5) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. § 820), as relates to the functions of the Board under the provisions of sections 104 (1) to 104 (4), inclusive, of this reorganization plan.

§ 105. TRANSFER OF SUBSIDY AWARD AND OTHER FUNCTIONS TO THE BOARD

The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) The functions with respect to making, amending, and terminating subsidy contracts, and with respect to conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of titles V, VI, and VIII, and sections 301, 708, 805 (a), and 805 (f) of the Merchant Marine Act, 1936, as amended (46 U. S. C. §§ 1131, 1151—1155, 1156—1182, 1198, 1211—1213, 1223 (a), and 1223 (f)), together with the functions with respect to making changes, subsequent to entering into an operating differential subsidy contract, in such determinations under the provisions of section 301 of such Act, as amended (46 U. S. C. § 1131), and readjustments in determinations as to operating cost differentials under the provisions of section 606 of such Act, as amended (46 U. S. C. § 1176), and with respect to the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of such Act (46 U. S. C. § 1178): *Provided,* That, for the purposes of this section 105 (1) of this reorganization plan, the term "subsidy contract" shall be deemed to include, in the case of a construction differential subsidy, the contract for the construction, reconstruction, or reconditioning of the vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction differential subsidy and the cost of national defense features, and, in the case of an operating differential subsidy, the contract with the subsidy applicant for the payment of the subsidy: *Provided further,* That, except as otherwise hereinbefore provided in respect of functions under sections 301, 606, and 608 of the Merchant Marine Act, 1936, as amended [46 U. S. C §§ 1131, 1176, 1178], the functions transferred by the provisions of this section 105 (1) shall exclude the making of all determinations and the taking of all actions (other than amending or terminating any subsidy contract), subsequent to entering into any subsidy contract, which are involved in administering such contract: *Provided further,* That actions of the Board in respect of the functions transferred by the provisions of this section 105 (1) shall be final.

(2) The functions with respect to investigating and determining (a) the relative cost of construction of comparable vessels in the United States and foreign countries, (b) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (c) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsections (c), (d) and (e) of section 211 of the Merchant Marine Act, 1936 (46 U. S. C. 1121 (c), (d), and (e)).

(3) All functions under the provisions of section 12 of the Shipping Act, 1916, as amended (46 U. S. C. § 811), including such functions with respect to making investigations and reports on relative costs and on marine insurance.

(4) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. § 820), as relates to the functions of the Board under the provisions of sections 105 (1) to 105 (3), inclusive, of this reorganization plan.

(5) So much of the functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of

books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U. S. C. §§ 1114, 1118, and 1124), as relates to the functions of the Board under the provisions of this reorganization plan.

§ 106. STATUS OF BOARD AND CHAIRMAN

The Board shall be an agency within the Department of Commerce. The Board, in respect of the functions transferred to it by the provisions of section 104 of this reorganization plan, and the Chairman, in respect of so much of the functions transferred to him by the provisions of section 103 of this reorganization plan as relates to functions of the Board under section 104 hereof, shall be independent of the Secretary of Commerce. In administering all other functions transferred to them by the provisions of this reorganization plan the Board and the Chairman shall be guided by the general policies of the Secretary of Commerce with respect to such functions.

PART II. MARITIME ADMINISTRATION

§ 201. CREATION OF MARITIME ADMINISTRATION

There is hereby established in the Department of Commerce a Maritime Administration.

§ 202. MARITIME ADMINISTRATOR

There shall be at the head of the Maritime Administration a Maritime Administrator, hereinafter referred to as the Administrator. The Chairman provided for in section 102 of this reorganization plan shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

§ 203. DEPUTY MARITIME ADMINISTRATOR

There shall be in the Maritime Administration a Deputy Maritime Administrator, who shall be appointed by the Secretary of Commerce, after consultation with the Administrator, under the classified civil service, and who shall perform such duties as the Administrator shall prescribe. The Deputy Maritime Administrator shall be Acting Maritime Administrator during the absence or disability of the Administrator and, unless the Secretary of Commerce shall designate another person, during a vacancy in the office of Administrator: *Provided,* That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board.

§ 204. TRANSFER OF FUNCTIONS

Except as otherwise provided in part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

§ 301. UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION

There shall be in the Department of Commerce an additional office of Under Secretary with the title "Under Secretary of Commerce for Transportation." The Under Secretary of Commerce for Transportation shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Under Secretaries of Executive departments, and shall perform such duties as the Secretary of Commerce shall prescribe.

§ 302. JOINT UTILIZATION OF PERSONNEL

In the interests of efficiency and economy, the Chairman and Administrator, insofar as he deems desirable, shall make joint use of the officers and employees under his supervision as Administrator or Chairman.

§ 303. CONFLICT OF INTEREST

The provisions of the last sentence of section 201 (b) of the Merchant Marine Act, 1936 (46 U. S. C. § 1111 (b)) (prohibiting any member, officer, or employee of the United States Maritime Commission from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations) shall hereafter be applicable to the members of the Federal Maritime Board and all officers and employees of the Federal Maritime Board. [As amended Pub. L. 91–469, § 37, Oct. 21, 1970, 84 Stat. 1036.]

§ 304. INTERIM APPOINTMENTS

Pending the initial appointment hereunder of the members of the Federal Maritime Board, but not for a period exceeding ninety days, such officers of the executive branch of the Government (including any person who is a member of the United States Maritime Commission immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be acting members of the Federal Maritime Board. The President may designate one of such acting members as Acting Chairman. Any such person shall while serving as acting member or Acting Chairman receive the compensation hereinabove prescribed for member and Chairman, respectively.

§ 305. TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND FUNDS

There are hereby transferred to the Department of Commerce, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, all of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the United States Maritime Commission. The Director of the Bureau of the Budget shall make such determinations and dispositions and take such measures, which shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate, as he shall deem to be consonant with the provisions of this reorganization plan and to be necessary in order to effectuate the transfers provided for in this section.

§ 306. ABOLITION OF MARITIME COMMISSION

The United States Maritime Commission, including the offices of the members of the Commission, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the Commission not otherwise provided for in this reorganization plan.

§ 307. RELATION TO OTHER REORGANIZATION PLAN

The functions transferred by the provisions of this reorganization plan shall not be subject to the provisions of Reorganization Plan Numbered 5 of 1950 [set out in the Appendix to Title 5, Government Organization and Employees].

REORGANIZATION PLAN NO. 6 OF 1949

Effective Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069.

§ 1. ADMINISTRATION OF FUNCTIONS OF COMMISSION

The Chairman of the United States Maritime Commission shall be the chief executive and administrative officer of the United States Maritime Commission. In executing and administering on behalf of the Commission its functions (exclusive of functions transferred by the provisions of section 2 of this reorganization plan) the Chairman shall be governed by the policies, regulatory decisions, findings, and determinations of the Commission.

§ 2. TRANSFER OF FUNCTIONS

There are hereby transferred from the United States Maritime Commission to the Chairman of the Commission the functions of the Commission with respect to (1) the appointment and supervision of all personnel employed under the Commission, (2) the distribution of business among such personnel and among organizational units of the Commission, and (3) the use and expenditure of funds for administrative purposes: *Provided,* That the provisions of this section do not extend to personnel employed regularly and full time in the offices of members of the Commission other than the Chairman: *Provided further,* That the heads of the major administrative units shall be appointed by the Chairman only after consultation with the other members of the Commission.

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The functions of the Chairman under the provisions of this reorganization plan shall be performed by him or, subject to his supervision and direction, by such officers and employees under his jurisdiction as he shall designate.

FEDERAL MARITIME BOARD AND MARITIME ADMINISTRATION

The following is a statement, in part, of the Department of Commerce, relating to the organization and functions of the Federal Maritime Board, and the Maritime Administration, created by 1950 Reorg. Plan No. 21 set out in note above, as such statement appeared in 16 F. R. 44—46, Jan. 3, 1951:

The statement of organization and functions of the Maritime Administration issued in 15 F. R. 4454—4457 is hereby revoked and the following substituted therefor:

1. *Establishment.* The Federal Maritime Board and the Maritime Administration were established in the Department of Commerce by Reorganization Plan No. 21 of 1950, effective May 24, 1950 [set out in note under this section]. In performance of their functions the Federal Maritime Board and the Maritime Administration are guided by the broad declaration of policy stated in Title I of the Merchant Marine Act, 1936 (49 Stat. 1985) [section 1101 of this title], reaffirmed in section 2 of the Merchant Ship Sales Act, 1946 (60 Stat. 41) [section 1735 of Appendix to Title 50] * * *.

2. *Organization of the Federal Maritime Board.* The Federal Maritime Board is composed of three members appointed by the President by and with the advice and consent of the Senate. The President designates one of the members to serve as Chairman of the Federal Maritime Board. The Chairman serves as chief executive and administrative officer of the Federal Maritime Board. Any two members in office constitute a quorum for the transaction of the business of the Federal Maritime Board, and the affirmative votes of any two members are sufficient for the disposition of any matter which may come before the Federal Maritime Board.

The Federal Maritime Board has the following organizational components: (a) Office of the Chairman of the Federal Maritime Board; (b) Offices of the Members of the Federal Maritime Board; (c) Secretary's Office; (d) Regulation Office; and (e) Hearing Examiners' Office.

Insofar as he deems desirable, the Chairman of the Federal Maritime Board makes use of the officers and employees of the Maritime Administration to perform activities for the Federal Maritime Board.

3. *Functions of the Federal Maritime Board*—(a) *Regulatory functions.* Under Reorganization Plan No. 21 of 1950 the Federal Maritime Board is independent of the Secretary of Commerce in the performance of the following functions: (1) All functions under the provisions of sections 14 to 20, inclusive, and sections 22 to 33, inclusive, of the Shipping Act, 1916, as amended [sections 812—817, 818, 819 and 821—832 of this title], including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons;

(2) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended [sections 843—848 of this title];

(3) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended [section 876 of this title], exclusive of subsection (1) (a) thereof;

(4) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212 (e) of the Merchant Marine Act, 1936 [section 1122 (e) of this title]; and

(5) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended [section 820 of this title], as relates to its functions under items (1) through (4), above.

(b) *Subsidy contracts.* Under Reorganization Plan No. 21 of 1950 the Federal Maritime Board is guided by the general policies of the Secretary of Commerce in performing the following functions: (1) The functions with respect to making, amending, and terminating construction (reconstruction or reconditioning) differential subsidy contracts, including contracts for the construction, reconstruction, or reconditioning of vessels and contracts for the sale of vessels to subsidy applicants or contracts to pay a differential subsidy and the cost of national defense features. In the exercise of this function the Federal Maritime Board investigates and determines the relative cost of construction of comparable vessels in the United States and foreign countries and the extent and character of aids and subsidies granted by foreign governments to their merchant marines;

(2) The functions with respect to making, amending, and terminating operating differential subsidy contracts and, subsequent to entering into an operating differential subsidy contract, making determinations with respect to employment and wage conditions, and taking action on readjustment of operating cost differentials and the sale, assignment, or transfer of the contract. In the exercise of this function the Federal Maritime Board investigates and determines the relative cost of operating vessels under the registry of the United States and under foreign registry, and the extent and character of aids and subsidies granted by foreign governments to their merchant marines;

(3) The functions with respect to investigating and reporting on relative construction and operating costs in the United States and foreign maritime countries, and the relative advantages of operating under United States or foreign registry, and on marine insurance, navigation laws, and vessel mortgages as authorized under section 12 of the Shipping Act, 1916 [section 811 of this title]; and

(4) The functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda as relates to its functions as set forth in items (1), (2), and (3), above.

(c) *Charters under the Merchant Ship Sales Act, 1946.* The Federal Maritime Board makes determinations, after public hearings, as to whether the bareboat charter of warbuilt dry cargo vessels owned by the United States is required in the public interest in any service then not adequately served and for which privately owned American-flag vessels are not available for charter by private operators on reasonable conditions and rates, and certifies its findings to the Secretary of Commerce together with any restrictions and conditions which it determines to be necessary or appropriate to protect the public interest in respect to such charters and to protect privately owned vessels against competition from Government vessels chartered by the Secretary of Commerce. All such charters are reviewed annually by the Federal Maritime Board for the purpose of making recommendations to the Secretary of Commerce as to whether conditions exist justifying the continuance of the charters. The functions of the Secretary of Commerce with respect to the chartering of vessels has been delegated to the Maritime Administrator.

(d) *War risk insurance.* Pursuant to Public Law 763, 81st Congress [sections 1281—1294 of this title], the Federal Maritime Board makes determinations of the fair and reasonable value of vessels insured under the provisions of Title XII of the Merchant Marine Act, 1936, as amended [said sections]. The Secretary of Commerce may not settle an insurance claim with respect to a vessel in an amount in excess of the vessel's fair and reasonable value as determined by the Federal Maritime Board.

(e) In carrying out its functions under paragraphs (a), (b), (c) and (d), above, the Federal Maritime Board adopts rules and regulations; makes reports and recommendations to Congress; subpoenas witnesses; administers oaths; takes evidence; requires the production of books, papers and documents as necessary; issues opinions; promulgates orders; engages in enforcement and other legal proceedings; and performs all functions formerly performable by the Maritime Commission, which have

been transferred to the Federal Maritime Board pursuant to Reorganization Plan No. 21 of 1950.

4. *Organization of the Maritime Administration*—(a) *Maritime Administrator.* The Chairman of the Federal Maritime Board is ex officio the Maritime Administrator. When serving as Maritime Administrator, he reports and is responsible to the Secretary of Commerce.

(b) *Deputy Maritime Administrator.* The Maritime Administrator is assisted in his duties by a Deputy Maritime Administrator, who is the Acting Maritime Administrator during the absence or disability of the Maritime Administrator and, unless the Secretary of Commerce designates another person, during a vacancy in the Office of Maritime Administrator. The Deputy Maritime Administrator is appointed by the Secretary of Commerce, after consultation with the Maritime Administrator. The Deputy Maritime Administrator at no time sits as a member of the Federal Maritime Board.

(c) *Organizational components.* The Maritime Administration has the following organizational components: (1) Office of the Maritime Administrator; (2) Staff Offices including the Office of the General Counsel, the Program Planning Office, the Budget Office, and the Personnel Office; (3) Division of Claims; (4) Office of Subsidy and Government Aid; (5) Office of Maritime Operations; (6) Office of Ship Construction; (7) Office of the Comptroller; and (8) Offices of the Coast Directors.

(d) *Use of officers and employees of the Federal Maritime Board.* Insofar as he deems desirable, the Maritime Administrator makes use of officers and employees of the Federal Maritime Board under his supervision as Chairman to perform activities for the Maritime Administration.

(5) *Functions of the Maritime Administrator.* The Maritime Administrator is responsible for the performance of all functions transferred to the Secretary of Commerce under Reorganization Plan No. 21 of 1950, subject to the limitations set forth in Department Order No. 116, as amended, with power of redelegation, and for the performance of activities for the Federal Maritime Board as determined desirable by the Chairman of the Federal Maritime Board.

(a) The Office of the Maritime Administrator directs the activities of the Maritime Administration and includes personnel who render staff services to the Maritime Administrator.

(b) The Office of the General Counsel serves as the law office of the Maritime Administration and Federal Maritime Board, renders legal advice and opinions to them, and represents them in any litigation in which either is interested. The Office of the General Counsel has the following divisions: Division of Contracts, Division of Legislation, and Division of Litigation.

(c) The Program Planning Office develops and recommends long-range merchant marine policy and programs, reviews existing policies and programs in the light of adopted long-range policy, and conducts economic studies connected with policy formulation for the Maritime Administrator and the Federal Maritime Board.

(d) The Budget Office develops and presents budgetary requests and justifications and allots and maintains budgetary control of appropriated funds for the Maritime Administration and the Federal Maritime Board.

(e) The Personnel Office administers the personnel functions of the Maritime Administration and the Federal Maritime Board related to employment and position classification, including recruitment, placement, separations, disciplinary actions, counseling and grievance appeal services, training and safety programs, and wage rate studies.

(f) The Division of Claims is responsible for analyzing and recommending the basis of settlement of claims in favor of or against the Maritime Administration arising out of the war-time operations of the former Maritime Commission and War Shipping Administration and other claims referred to it for processing prior to August 22, 1949.

(g) The Office of Subsidy and Government Aid is responsible for the processing of applications to the Federal Maritime Board and the Maritime Administration for subsidy or other government aid and the administration of government aid contracts after their execution, for the coordination of the work of other organizational components in connection therewith, and for the making of recommendations with respect to the policy relating to vessel chartering. The Office of Subsidy and Government Aid has the following divisions: Division of Construction Cost Comparison, Division of Contract Evaluation and Administration, Division of Operating Cost Comparison, and Division of Shipping Data.

(h) The Office of Maritime Operations is responsible for the conduct of activities relating to the charter, operation, repair, reconversion, betterment, reconditioning, and disposal of government-owned merchant vessels; the maintenance of reserve fleets; the training of seagoing personnel; the procurement and disposal of real and personal property; the maintenance or operation of warehouses, marine terminals and reserve shipyards; port development; and the rendering of office services. The Office of Maritime Operations has the following divisions: Division of General Services, Division of Maintenance and Repair, Division of Maritime Training, Division of Vessel Custody, and Division of Vessel Operations.

(i) The Office of Ship Construction is responsible for the conduct of activities of the Maritime Administration and the Federal Maritime Board relating to ship design and construction, and the rendering of technical direction to the Office of Maritime Operations with respect to the reconversion, betterment and reconditioning of Maritime Administration-owned vessels. The Office of Ship Construction has the following divisions: Division of Estimates, Division of Preliminary Design, Division of Production, and Division of Technical Development; and contains the Vessel Trial and Guarantee Survey Boards.

(j) The Office of the Comptroller is responsible for the accounting, auditing, and insurance activities of the Maritime Administration and the Federal Maritime Board. The Office of the Comptroller has the following divisions: Division of Accounts, Division of Audits, Division of Credits and Collections, and Division of Insurance.

(k) The Offices of the Atlantic, Gulf, and Pacific Coast Directors are responsible for maintaining general surveillance over the management of field offices of the various organizational components located on their respective coasts.

6. *Filing of applications and other formal documents.* All applications and other formal documents required to be filed with either the Federal Maritime Board or the Maritime Administration shall be filed with the Secretary's Office, Federal Maritime Board.

NATIONAL SHIPPING AUTHORITY AND ADDITIONAL FUNCTIONS OF MARITIME ADMINISTRATOR

The following is a statement of the Department of Commerce, 16 F. R. 2642, 2643, Mar. 23, 1951, amending the statement of such Department set out in 16 F. R. 44—46, Jan. 3, 1951 (also set out in note above):

The statement of organization and functions of the Federal Maritime Board and the Maritime Administration issued in 16 F. R. 44 [set out in note above] is amended by the addition of the following:

Establishment of the National Shipping Authority. There is established in the Maritime Administration a National Shipping Authority, headed by a Director responsible to the Maritime Administrator.

The National Shipping Authority shall perform such functions in connection with the formulation and execution of plans and programs for the operation, acquisition, and allocation of merchant vessels and such other duties as the Maritime Administrator, within the scope of his authority, may from time to time direct.

Functions of the Maritime Administrator. In addition to the functions contained in paragraph 5 of 16 F. R. 44, the Maritime Administrator shall perform the following functions:

(a) The functions conferred upon the Secretary of Commerce by Public Law 591, 81st Congress, 2d Session [note preceding section 1, and note under section 883, of this title; and sections 1735 note, 1738 and 1744 of Appendix to Title 50];

(b) The functions conferred upon the Secretary of Commerce by Public Law 763, 81st Congress, 2d Session [sections 1281—1294 of this title], except that the authority "to find that insurance adequate to the needs of the waterborne commerce of the United States cannot be

obtained on reasonable terms and conditions in companies authorized to do an insurance business in a State of the United States" is reserved to the Secretary;

(c) The functions conferred upon the Secretary by Public Law 911, 81st Congress, 2d Session [Second Supplemental Appropriation Act, 1951];

(d) The functions conferred upon the Secretary by Reorganization Plan No. 21 of 1950 [set out in note above] to take action with respect to the determination of essential trade routes and services or subsequent modifications;

(e) The functions conferred upon the Secretary by Reorganization Plan No. 21 of 1950 to establish policies of general application for the purchase, acquisition, construction, charter, and sale of vessels and for the administration of programs concerning operating subsidies, reserve funds and transfers to foreign ownership or registry, and charters to foreigners.

The Maritime Administrator may redelegate to officers and employees of the Maritime Administration the performance of particular functions herein assigned to the Maritime Administrator.

Effect on other notices. All orders, regulations, rulings, certificates, directives, and other actions heretofore issued or taken under the notices appearing at 15 F. R. 8739 and 16 F. R. 1130 and in effect immediately prior to the effective date of this notice shall remain in full force and effect until hereafter suspended, amended, or revoked under appropriate authority.

This notice amends the notice issued in 15 F. R. 3195, "Temporary Delegations of Authority under Reorganization Plan No. 21 of 1950."

Effective date. This notice is effective March 13, 1951.

APPOINTMENT OF PERSONNEL

The following is a legal opinion, in part, dated August 29, 1950, and prepared by the General Counsel of the Maritime Administration, with respect to the authority of the chairman of the Federal Maritime Board to make appointments of personnel under the Board and the extent of the authority of the Secretary of Commerce under 1950 Reorg. Plan No. 21, set out in note above, as to such personnel:

Sec. 103 of Reorganization Plan 21 of 1950 [set out in note above] transferred to the Chairman of the Federal Maritime Board "all functions of the Chairman of the United States Maritime Commission (including his functions under the provisions of Reorganization Plan No. 6 of 1949 [also set out in note above]) with respect to the functions transferred to the Board by the provisions of Sections 104 and 105" of Plan 21. Section 104 transferred to the Board the regulatory functions of the Maritime Commission and Section 105 transferred certain of the subsidy functions of the Commission, not including, however, the function of administering subsidy contracts.

Sec. 106 of Plan 21 provides for the status of the Board and of the Chairman and their relationship to the Secretary of Commerce. * * *.

In order to fully understand the intent of Plan 21, it is necessary to examine the status of the appointing authority of the Chairman of the Maritime Commission immediately prior to the transfer of functions under Plan 21. As set forth above, Section 103 of Plan 21 makes specific reference to the authority of the Chairman of the Commission under Plan 6 of 1949 as being transferred to the Chairman of the Board.

Reorganization Plan 6 was transmitted by the President to Congress on June 20, 1949. Its purpose as stated in the message of transmittal [immediately following such plan as such plan is set out in note under section 133z-15 of Title 5] was "to strengthen the administration of the United States Maritime Commission by making the Chairman the chief executive and administrative officer of the Commission and *vesting in him responsibility for the appointment of its personnel* and the supervision and direction of their activities." (Emphasis supplied.)

Section 2 of Plan 6 transferred from the Commission to the Chairman certain functions including the appointment of personnel (exclusive of "personnel employed regularly and full time" in the offices of other members) with the proviso that the Chairman would consult with other members before appointing the heads of major administration units. Section 1 of Plan 6 provided that in exercising certain functions the Chairman should be guided by policies of the Commission. This section significantly excepted from such requirement the authority transferred to the Chairman under Section 2 including the appointive authority. Thus the appointive authority (excluding only personnel in offices of Commission members) was exclusively and, except for the proviso relating to heads of major units, unconditionally vested in the Chairman of the Commission until Plan 21 took effect.

Plan 21 transferred all the functions of the Commission and of the Chairman of the Commission. As stated above, some of these functions went to the Federal Maritime Board (Secs. 104, 105). Others were transferred to the Chairman of the Board (Sec. 103). Functions not otherwise transferred went to the Secretary of Commerce (Sec. 204).

The functions transferred to the Board and to the Chairman relate to regulatory authority (to be exercised independently) and subsidy functions (to be exercised subject to the guidance of general policies established by the Secretary of Commerce). As Section 103 transferring functions to the Chairman relating to these subjects makes specific reference to the authority of the Chairman of the Commission under Plan 6, which included the appointment of personnel, it appears evident that so much of the appointive power as relates to personnel performing these functions passed to the Chairman of the Board to be exercised by him independently as to personnel performing regulatory functions and subject to the injunction of Sec. 106 (to be guided by the policies of the Secretary of Commerce) as to personnel performing services in connection with the subsidy functions performed by the Board.

This conclusion is reinforced by reference to a decision of the Attorney General to the Secretary of Commerce, dated May 13, 1940, construing somewhat similar provisions in a reorganization plan transferring to the Department certain functions of the Civil Aeronautics Authority [1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1234, set out in the Appendix to Title 5] * * *. Despite the specific mention of the personnel functions the Attorney General held that the appointive authority was in the Board. This decision was based upon reasoning recognizing the practical fact that independence in the exercise of the functions of the Board could not be achieved if the control of personnel and finances of the Board were in the Secretary of Commerce.

I have reached the conclusion that the appointive authority as to personnel engaged in regulatory and certain of the subsidy functions is vested in the Chairman, notwithstanding certain facts which might tend to indicate a different result.

Chief among these is the statement contained in the President's message transmitting Plan 21, as follows:

"In making the Chairman of the Federal Maritime Board the Maritime Administrator, the plan adopts an arrangement substantially similar to that which prevailed during the war, when the same individual served as Chairman of the Maritime Commission and head of the War Shipping Administration. This arrangement will have important advantages. It will facilitate cooperation between the Board and the Administration on matters of concern to both. Also, it will avoid dividing the personnel of the Maritime Commission, since the Chairman of the Board will supervise the personnel assisting it in the performance of its functions, as is now the case in the Maritime Commission, and in his capacity as Administrator he will have charge of the personnel carrying on the work of the Maritime Administration. The plan provides for the joint operation of the officers and employees under the Administrator and Chairman as a single body of personnel. The maintenance of a unified staff is essential for efficient and economical administration because many of the technical and professional personnel, such as ship designers and attorneys, now assist the Maritime Commission on problems of subsidy determination and also participate in the subsequent administration of subsidy agreements and in performing nonsubsidy functions.

"The inclusion of the new Board in the Department of Commerce will permit the use of the administrative services of the Department. More important, it will eliminate the necessity of splitting the personnel of the Maritime Commission between the Department and an outside agency. * * *".

A literal reading of portions of this statement might be used as a basis for argument that a single appointive authority was intended. This meaning cannot be given the statement, however, in view of the specific language of the Plan as previously discussed. It is more likely that the President had in mind the fact that the Plan seems to contemplate a delegation of authority from the Secretary to the Chairman-Administrator by providing in Sec. 204 that "The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan." Sec. 302 provides that the Chairman-Administrator shall make joint use of personnel.

Another argument against the conclusion stated could be based upon the fact that Plan 21 makes specific reference in transferring functions to the Board of certain titles and portions of the Merchant Marine Act, 1936, as amended [this chapter], without making any reference to Sec. 201 (e) of that Act [subsec. (e) of this section] which is the source of the appointive authority formerly vested in the Commission. This argument fails, however, when consideration is given to the fact that immediately prior to Plan 21 this authority was vested not in the Commission but in the Chairman of the Commission under Plan 6 and is included in the specific reference to Plan 6.

It is clear that both Plan 21 and the President's transmittal message contemplate the use of personnel to perform dual functions for the Board and for the Administrator. It is equally clear that the Plan itself does not contain provisions vesting in a *single appointive authority* the power to establish such a group of personnel. It is evident, therefore, that the President contemplated that this objective be achieved by the Chairman's voluntarily utilizing the services of employees appointed under the authority of the Secretary to perform services in connection with Board functions and, in his capacity as Administrator, utilizing the services of employees employed by him under the direct grant of authority in the Plan to perform duties assigned to him by the Secretary. Thus the Plan, although directing the joint use of personnel, intends that result to be accomplished through the use of the administrative discretion granted the Chairman-Administrator by Section 302 of the Plan to be exercised in the interest of economy and efficiency, and does not vest exclusive appointing authority either in the Secretary or the Chairman-Administrator.

§ 1111a. Administrative expenses; limitations.

After June 30, 1939, the Federal Maritime Commission and the Secretary of Commerce shall not incur any obligations for administrative expenses except pursuant to an annual appropriation specifically therefor or to authority to use appropriations or other funds otherwise available therefor. (June 25, 1938, ch. 681, title I, 52 Stat. 1119; 1950 Reorg. Plan No. 21, §§ 101, 104, 105, 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273—1277 1961 Reorg. Plan No. 7, § 304, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act, 1936, which comprises this chapter.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board and the Secretary of Commerce" were substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title. See, also, section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1111b. Repealed. Sept. 1, 1954, ch. 1208, title III, § 305 (g), 68 Stat. 1114.

Section, act Mar. 13, 1944, ch. 91, 58 Stat. 115, related to awards, and is now covered by chapter 45 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Sept. 1, 1954.

§ 1112. Operation of property by Secretary.

Notwithstanding any other provision of law, the Secretary of Commerce may, in accordance with good business methods and on such terms and conditions as he determines to effectuate the policy of this chapter, operate or lease any lands, docks, wharves, piers, or real property under his control, and all money received from such operation or lease shall be available for expenditure by the Secretary as provided in this chapter. The Secretary may, upon such terms and conditions as he may prescribe in accordance with sound business practice, make such extensions and accept such renewals of the notes and other evidences of indebtedness transferred to the Department of Commerce, as the successor to the United States Maritime Commission, and of the mortgages and other contracts securing the same, as he may deem necessary to carry out the objects of this chapter. (June 29, 1936, ch. 858, §§ 202, 905(e), 49 Stat. 1986; Aug. 26, 1937, ch. 822, § 1, 50 Stat. 839; June 23, 1938, ch. 600, § 1, 52 Stat. 953; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

CODIFICATION

First sentence providing that "All money, notes, bonds, mortgages, and securities of every kind, contracts and contract rights, lands, vessels, docks, wharves, piers, and property and interests of every kind, owned by the United States, and now controlled by the Department of Commerce as the successor to the powers and functions of the former United States Shipping Board, by virtue of the President's Executive order of June 10, 1933, are hereby transferred to the Commission" has been omitted from the Code as executed.

AMENDMENTS

1938—Act June 23, 1938, permitted extensions and renewals of notes, other evidences of indebtedness, and mortgages.

1937—Act Aug. 26, 1937, permitted the operation or leasing of lands, docks, wharves, piers or real property.

TRANSFER OF FUNCTIONS

"Secretary of Commerce", "Secretary", "he" and "his" were substituted for "Commission", "it" and "its" (which had reference to the United States Maritime Commission) and "to the Department of Commerce as the successor to the United States Maritime Commission" was inserted following "transferred" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244 (e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1113. United States Shipping Board Merchant Fleet Corporation; dissolution and transfer of property; disposition of pending suits; ratification of payments to employees.

CODIFICATION

Section, acts June 29, 1936, ch. 858, title II, § 203, 49 Stat. 1987; May 18, 1938, ch. 253, 52 Stat. 408, providing for dissolution and transfer of property of the United States Shipping Board Merchant Fleet Corporation, the disposition of pending suits and ratification of payments to employees, was omitted as executed and obsolete.

§ 1114. Transfer of powers; rules and orders.

(a) Transfer of powers and duties of Shipping Board and Maritime Commission.

All the functions, powers, and duties vested in the former United States Shipping Board by the Shipping Act, 1916, the Merchant Marine Act, 1920, the Merchant Marine Act, 1928, the Intercoastal Shipping Act, 1933, and amendments to those acts, and prior to the effective date of this chapter, vested in the Department of Commerce pursuant to section 12 of the President's Executive Order No. 6166 of June 10, 1933, and after the effective date of this chapter and before May 24, 1950 vested in the United States Maritime Commission pursuant to section 204 of act June 29, 1936, ch. 858, are transferred to the Federal Maritime Board or the Secretary of Commerce as provided by 1950 Reorganization Plan No. 21: *Provided, however,* That after June 29, 1936, no further construction loans shall be made under the provisions of section 870 of this title.

(b) Rules and regulations.

The Federal Maritime Board and the Secretary of Commerce are authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in it or him by this chapter.

(c) Enforcement of orders; penalties for violations.

The orders issued by the Federal Maritime Board and the Secretary of Commerce in the exercise of the powers transferred to it or him by this subchapter shall be enforced in the same manner as provided by law for enforcement of the orders issued by the former United States Shipping Board prior to the effective date of this chapter, and by the former United States Maritime Commission after the effective date of this chapter and before May 24, 1950, and violation of such orders shall subject the person or corporation guilty of such violation to the same penalties or punishment as was provided for violation of the orders of said Board. (June 29, 1936, ch. 858, §§ 204, 905(e), 49 Stat. 1987; June 23, 1938, ch. 600, § 41, 52 Stat. 964; 1950 Reorg. Plan No. 21, §§ 105 (5), 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1275—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

REFERENCES IN TEXT

Distribution of—

Shipping Act, 1916, see section 842 of this title.

Merchant Marine Act, 1920, see note under section 861 of this title.

Merchant Marine Act, 1928, see note under section 891s of this title.

Intercoastal Shipping Act, 1933, see section 848 of this title.

Section 870 of this title, referred to in subsec. (a), was repealed by act June 29, 1936, ch. 858, title IX, § 903(b), 49 Stat. 2016.

Ex. Ord. No. 6166, referred to in subsec. (a), is set out in note under section 901 of Title 5, Government Organization and Employees.

1950 Reorganization Plan No. 21, referred to in subsec. (a), is set out as a note under section 1111 of this title.

Section 204 of Act June 29, 1936, ch. 858, referred to in subsec. (a), has reference to this section as originally enacted.

Effective date of this chapter, referred to in subsecs. (a) and (c), occurred thirty days after a majority of the members of the former United States Maritime Commission had taken the oath of office as provided by section 1246 of this title.

The date, May 24, 1950, referred to in subsecs. (a) and (c), is the effective date of the 1950 Reorganization Plan No. 21, set out as a note under section 1111 of this title.

AMENDMENTS

1938—Subsec. (b). Act June 23, 1938, eliminated provisions which authorized the President to transfer to the Interstate Commerce Commission any or all regulatory powers, duties and functions of the United States Maritime Commission.

EFFECTIVE DATE

See section 1246 of this title.

TRANSFER OF FUNCTIONS

Functions under this section with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, transferred from the Federal Maritime Board to the Federal Maritime Commission by section 103(e) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, to the extent that they relate to functions transferred to the Commission by section 103(a—d) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of secion 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

Words "and after the effective date of this chapter and before May 24, 1950 vested in the former United States Maritime Commission pursuant to section 204 of Act June 29, 1936," were inserted following "Executive Order No. 6166 of June 10, 1933," and words "Federal Maritime Board or the Secretary of Commerce as provided by 1950 Reorganization Plan No. 21" were substituted for "United States Maritime Commission" in subsection (a); "Federal Maritime Board and the Secretary of Commerce" was substituted for "Commission" (which had reference to former United States Maritime Commission) in subsection (b); and "Federal Maritime Board and the Secretary of Commerce" was substituted for "United States Maritime Commission" and "and by the former United States Maritime Commission after the effective date of this chapter and before May 24, 1950" was inserted after "prior to the effective date of this chapter," in subsection (c), on the authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1151 of this title.

§ 1115. Discrimination at ports by carriers by water against other carriers.

Without limiting the power and authority otherwise vested in the Federal Maritime Commission and

the Secretary of Commerce, it shall be unlawful for any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it. (June 29, 1936, ch. 858, §§ 205, 905(e), 49 Stat. 1987; 1950 Reorg. Plan No. 21, §§ 101, 104, 105, 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

ABOLITION OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 163 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board and the Secretary of Commerce" were substituted for "Commission" (which had reference to the former United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title and act of July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 1116. Construction fund.

All sums of money in the construction loan fund created by section 870 of this title on the effective date of this chapter, together with the proceeds of all debts, accounts, choses in action, and the proceeds of all notes, mortgages, and other evidences of indebtedness, transferred to the Department of Commerce as the successor to the United States Maritime Commission, and all of the proceeds of sales of ships and surplus property heretofore or hereafter made, including proceeds of notes or other evidences of debt taken therefor and the interest thereon, and, notwithstanding any other provision of law, all money representing amounts of unclaimed wages, salvage awards and miscellaneous unclaimed items carried as liabilities on the books of the former United States Shipping Board Merchant Fleet Corporation and all money heretofore or hereafter received from the operation or leasing of lands, docks, wharves, piers, or real property shall be deposited in the Treasury of the United States and there maintained as a revolving fund, herein designated as the construction fund, and shall be available for expenditure by the Secretary of Commerce in carrying out the provisions of this chapter. All moneys received by the Department of Commerce under the provisions of this chapter shall be deposited in its construction fund, and all disbursements made by the Secretary under authority of this chapter shall be paid out of said fund, and, notwithstanding any other provision of law, all disbursements applicable to the money referred to in this section may be made by the Secretary out of said fund. Further appropriations by Congress to replenish said fund are authorized. (June 29, 1936, ch. 858, §§ 206, 905(e), 49 Stat. 1987; Aug. 26, 1937, ch. 822, § 2, 50 Stat. 839; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

REFERENCES IN TEXT

Section 870 of this title, referred to in the text, was repealed by act June 29, 1936, ch. 858, title IX, § 903 (b), 49 Stat. 2016.

Effective date of this chapter, referred to in text, occurred thirty days after a majority of the members of the former United States Maritime Commission had taken the oath of office as provided by section 1246 of this title.

EFFECTIVE DATE

Act Aug. 26, 1937, reenacting this section with changes, was declared to be effective as of June 29, 1936.

TRANSFER OF FUNCTIONS

"Department of Commerce as the successor to the United States Maritime Commission" was substituted for "Commission"; and "Secretary of Commerce", "Secretary" and "Department of Commerce" were substituted for "Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

LIMITATIONS ON CONSTRUCTION FUND

Acts July 30, 1947, ch. 359, title I, § 101, 61 Stat. 603, and June 30, 1948, ch. 775, § 101, 62 Stat. 1199, which were the Independent Offices Appropriation Act, 1948, and The Supplemental Independent Offices Appropriation Act, 1949, respectively, placed limitations on obligations from the construction fund established by this section.

REDUCTION OF CONTRACT AUTHORIZATIONS

Act May 29, 1945, ch. 136, 59 Stat. 226, provided: "That out of the current unexpended balance of appropriations heretofore made to the Maritime Commission under the head "Construction fund, United States Maritime Commission Act, June 24, 1936, revolving fund", the sum of $3,100,000,000 shall be carried to the surplus fund and be covered into the Treasury immediately upon the approval of this joint resolution: *Provided,* That the present contract authorization for ship construction and facilities incident thereto is hereby reduced by $4,265,000,000."

ADDITIONAL APPROPRIATIONS

Act Aug. 25, 1941, ch. 409, title III, 55 Stat. 682, appropriated an amount not to exceed $1,296,650,000 to enable the Commission to enter into further contracts for the construction of vessels, production and procurement of parts, equipment, plants, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1116a, 1242 of this title.

§ 1116a. Same; application to obligations against emergency ship construction fund.

On and after March 22, 1947, the construction fund established by section 1116 of this title shall be available for the payment of obligations previously incurred against the emergency ship construction fund. (Mar. 22, 1947, ch. 20, title II, § 201, 61 Stat. 17; 1950 Reorg. Plan No. 21, § 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1277.)

CODIFICATION

Words "United States Maritime Commission" preceding "construction fund" were deleted and words "established by section 1116 of this title" were inserted following "construction fund" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title. See Abolishment of Commission and Transfer of Functions note below.

Section was enacted as a part of the Urgent Deficiency Appropriation Act, 1947, and not as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan. No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

ABOLISHMENT OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

ABOLISHMENT OF UNITED STATES MARITIME COMMISSION

The United States Maritime Commission was abolished by 1950 Reorg. Plan No. 21, set out in note under section 1111 of this title, which transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, the Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of the Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the chairman of the Federal Maritime Board should, ex officio, be such Administrator.

§ 1117. Power to contract; audit of accounts; reports of departure of Secretary from provisions of chapter.

The Federal Maritime Commission and the Secretary of Commerce may enter into such contracts, upon behalf of the United States, and may make such disbursements as may, in its or his discretion, be necessary to carry on the activities authorized by this chapter, or to protect, preserve, or improve the collateral held by the Commission or Secretary to secure indebtedness, in the same manner that a private corporation may contract within the scope of the authority conferred by its charter. All the commission's and Secretary's financial transactions shall be audited in the General Accounting Office according to approved commercial practice as provided in the Act of March 20, 1922, ch. 104, 42 Stat. 444: *Provided,* That it shall be recognized that, because of the business activities authorized by this chapter, the accounting officers shall allow credit for all expenditures shown to be necessary because of the nature of such authorized activities, notwithstanding any existing statutory provision to the contrary. The Comptroller General shall report annually or oftener to Congress any departure by the Commission or Secretary from the provisions of this chapter. (June 29, 1936, ch. 858, §§ 207, 905(e), 49 Stat. 1988; June 23, 1938, ch. 600, § 2, 52 Stat. 954; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REFERENCES IN TEXT

The pertinent provisions of act March 20, 1922, to which reference is made in this section, provided as follows: "The Comptroller General of the United States is authorized and directed to cause an audit to be made of the financial transactions of the United States Shipping Board Emergency Fleet Corporation, in accordance with the usual methods of steamship or corporation accounting and under such rules and regulations as he shall prescribe. Such audit shall be effective commencing July 1, 1921, the date of the discontinuance of the audit required to be performed under the direction of the Secretary of the Treasury by the act approved July 1, 1918."

AMENDMENTS

1938—Act June 23, 1938, authorized disbursements, and provided for the protection, preservation, or improvement of collateral held to secure indebtedness.

ABOLITION OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board and the Secretary of Commerce", "Board or Secretary", "Board's and Secretary's", and "Board or Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the U.S. Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SUSPENSION OF HOURS OF LABOR PROVISIONS ON WORK COVERED BY MARITIME COMMISSION CONTRACTS

See act Oct. 10, 1940, ch. 838, 54 Stat. 1092, set out in note under former section 326 of Title 40, Public Buildings, Property, and Works.

CROSS REFERENCES

Advertisements for proposals for purchases and contracts for supplies or services, see section 5 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 119b of this title.

§ 1118. Reports to Congress.

The Federal Maritime Commission and the Secretary of Commerce shall, at the beginning of each regular session, make a report to Congress, which

shall include the results of its or his investigations, a summary of its or his transactions, its or his recommendations for legislation, a statement of all receipts under this chapter, and the purposes for which all expenditures were made. (June 29, 1936, ch. 858, §§ 208, 905(e), 49 Stat. 1988; 1950 Reorg. Plan No. 21, §§ 105(5), 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1275—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

Functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, transferred from the Federal Maritime Board to the Federal Maritime Commission by section 103(e) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, to the extent that they relate to functions transferred to the Commission by section 103(a—d) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board and the Secretary of Commerce" were substituted for "Commission" (which had reference to the United States Maritime Commission) and words "or his" were inserted following "its" wherever appearing, on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the U.S. Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1119. Appropriations.

(a) Except as provided in subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(b) Notwithstanding any other provision of this Act or any other law, there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for—

(1) acquisition, construction, or reconstruction of vessels;

(2) construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships;

(3) payment of obligations incurred for operating-differential subsidy;

(4) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations);

(5) reserve fleet expenses;

(6) maritime training at the Merchant Marine Academy at Kings Point, New York;

(7) financial assistance to State Marine Schools; and

(8) the Vessel Operations Revolving Fund;

only such sums as the Congress may specifically authorized by law: *Provided, however,* That the Congress hereby finds and declares that the national policy set forth in section 1101 of this title requires that there should be authorized and appropriated for fiscal years 1971 through 1980 such sums as may be necessary to construct 300 ships of such sizes, types and designs as the Secretary of Commerce may consider best suited to carry out the purposes and policy of this chapter. (June 29, 1936, ch. 858, § 209, 49 Stat. 1988; Aug. 26, 1937, ch. 822, § 3, 50 Stat. 839; Sept. 5, 1967, Pub. L. 90–81, 81 Stat. 193; Oct. 21, 1970, Pub. L. 91–469, § 2, 84 Stat 1018.)

CODIFICATION

Subsecs. (c) and (d) have been omitted as executed and obsolete.

Subsec. (c) related to availability, for all objects of expenditure under this chapter, of all appropriations and unexpended balances of appropriations in connection with then existing ocean-mail contracts entered into under former sections 891e—891r of this title, in connection with which the powers and duties with respect thereto had been transferred from the Postmaster General to the (former) U.S. Maritime Commission by former section 1144 of this title.

Subsec. (d) made funds available under former subsection (b) available for expenditures authorized by former U.S. Maritime Commission under former provisions in section 1111 of this title, as soon as a majority of the members of the U.S. Maritime Commission had taken the oath of office, notwithstanding section 1246 of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–469 authorized appropriations for construction of 300 ships for fiscal years 1971 through 1980.

1967—Subsec. (a). Pub. L. 90–81 inserted "Except as provided in subsection (b) of this section" at the beginning of the subsec.

Subsec. (b). Pub. L. 90–81 added subsec. (b). A prior subsec. (b), making available to the United States Maritime Commission all appropriations and unexpended balances of the United States Shipping Board Bureau and the United States Shipping Board Merchant Fleet Corporation, had been eliminated as executed and obsolete.

CROSS REFERENCES

Application of construction fund to obligations against the emergency ship construction fund, see section 1116a of this title.

§ 1119a. Same; emergency cargo ship construction.

For the purpose of providing as rapidly as possible cargo ships essential to the commerce and defense of the United States there is appropriated to the Department of Commerce, out of any money in the Treasury not otherwise appropriated, the sum of $313,500,000, to remain available until expended, which amount shall be additional to the $500,000 allocated from the Emergency Fund for the President in the Act of June 13, 1940, ch. 343, § 1, 55 Stat. 377, and $36,000,000 to be allocated during the fiscal year 1942 from funds available for the payment of obligations incurred for the purposes hereof

under the contract authorizations under such emergency fund for the President, the total of such sums, aggregating $350,000,000, to be known as the "Emergency Ship Construction Fund, Department of Commerce", which fund shall be available for the payment of said contract authorizations and for (1) the construction in the United States of ocean-going cargo vessels of such type, size, and speed as the Secretary of Commerce may determine to be useful in time of emergency for carrying on the commerce of the United States and to be capable of the most rapid construction; (2) the production and procurement of parts, equipment, material, and supplies for such ships; (3) the establishment, acquisition, construction, enlargement, or extension of plants or facilities, on land whether owned by the Government or otherwise owned (including the acquisition by purchase or condemnation of real property or any interest therein), to be used for the construction of ships or for the production of parts, equipment, supplies, or material therefor, and the maintenance, repair, operation (under lease or otherwise), and management of such plants and facilities; and (4) all administrative expenses in connection with the program provided herein including personal services at the seat of government and elsewhere: *Provided*, That the employment of personnel engaged in the maintenance, repair, operation, or management of plants or facilities shall be without regard to the civil service laws: *Provided further*, That no part of this appropriation shall be used to pay the salary or wages of any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from this appropriation shall be guilty of a felony and, upon conviction, shall be fined not more than $1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law. (Feb. 6, 1941, ch. 5, § 1, 55 Stat. 5; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions which permitted employment of personnel engaged in the maintenance, repair, operation, or management of plants or facilities without regard to the classification laws were omitted since the employees referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by former section 631a of Title 5. By Executive Order 8743, Apr. 25, 1941, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see chapter 51 and subchapter III of chapter 53 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 5103 of Title 5.

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Department of Commerce" and "Secretary of Commerce" were substituted for "United States Maritime Commission" and "Commission", respectively, on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

ADDITIONAL APPROPRIATIONS

Act Aug. 25, 1941, ch. 409, title III, 55 Stat. 682, appropriated an amount not to exceed $1,296,650,000 to enable the Commission to enter into further contracts for the construction of vessels, production and procurement of parts, equipment, plants, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1119b of this title.

§ 1119b. Same; application of other laws to section 1119a.

The provisions of section 1117 of this title and the Act of October 10, 1940, ch. 838, 54 Stat. 1092, shall apply to all the activities and functions which the Secretary of Commerce is authorized to perform under section 1119a of this title; and the Secretary is authorized to carry on the objects, activities, and functions provided for in section 1119a of this title, without regard to the provisions of section 733 of Title 33, section 529 of Title 31, and section 5 of Title 41; section 7 of the Act of May 27, 1930 (46 Stat. 391), relating to the purchase of prison-made goods; sections 270a to 270d of Title 40, requiring performance and other bonds on public works; and section 303b of Title 40, relating to the lease of Government property. (Feb. 6, 1941, ch. 5, § 2, 55 Stat. 6; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Oct. 31, 1951, ch. 654, § 3(12), 65 Stat. 708.)

REFERENCES IN TEXT

Act Oct. 10, 1940, referred to in the text, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section 7 of the act of May 27, 1930 (46 Stat. 391), referred to in the text, which was classified to former section 744g of Title 18, Criminal Code and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 4124 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

AMENDMENTS

1951—Act Oct. 31, 1951, struck out "and pay provision of law relating to the disposal of surplus Government property" formerly at end of section.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to

the Chairman thereof by 1949 Reorg. Plan. No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1120. Survey of existing merchant marine for creation of adequate American-owned fleet.

It shall be the duty of the Secretary of Commerce to make a survey of the American merchant marine, as it now exists, to determine what additions and replacements are required to carry forward the national policy declared in section 1101 of this title, and the Secretary of Commerce is directed to study, perfect, and adopt a long-range program for replacements and additions to the American merchant marine so that as soon as practicable the following objectives may be accomplished:

First, the creation of an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Secretary of Commerce is directed to cooperate closely with the Navy Department as to national-defense needs and the possible speedy adaptation of the merchant fleet to national-defense requirements.

Second, the ownership and the operation of such a merchant fleet by citizens of the United States insofar as may be practicable.

Third, the planning of vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils.

Fourth, the creation and maintenance of efficient shipbuilding and repair capacity in the United States with adequate numbers of skilled personnel to provide an adequate mobilization base. (June 29, 1936, ch. 858, §§ 210, 905(e), 49 Stat. 1989; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939 § 21, 66 Stat. 765; Oct. 21, 1970, Pub. L. 91–469, §§ 3, 35(a), 84 Stat. 1018, 1035.)

AMENDMENTS

1970—Pub. L. 91–469, § 35(a), substituted "Secretary of Commerce" for "Commission", twice in introductory par. and once in par. reading "First".

Par. First. Pub. L. 91–469, § 3(1), struck out from par. reading "First" the words "on all routes" following "shipping service".

Par. Fourth. Pub. L. 91–469, § 3(2), added par. reading "Fourth".

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1191 of this title.

§ 1121. Investigations, studies, records, etc.

The Secretary of Commerce is authorized and directed to investigate, determine, and keep current records of—

(a) Suitable ocean routes and lines to foreign ports; vessels and costs of operation.

The ocean services, routes, and lines from ports in the United States, or in a Territory, district, or possession thereof, to foreign markets, which are, or may be, determined by the Secretary of Commerce to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching his determination the Secretary of Commerce shall consider and give due weight to the cost of maintaining each of such steamship lines, the probability that any such line cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent business man would consider when dealing with his own business, with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the United States, to the national defense, and to other national requirements;

(b) Bulk cargo carrying services.

The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by United States-flag vessels whether or not operating on particular services, routes, or lines;

(c) Vessels required in proposed routes.

The type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service, or which should be employed to provide the bulk cargo carrying services necessary to the promotion, maintenance, and expansion of the foreign commerce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route, or line;

(d) Cost of construction in United States and abroad.

The relative cost of construction of comparable vessels in the United States and in foreign countries;

(e) Relative cost of operation under laws of United States and foreign countries.

The relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws, rules, and regulations of the United States and under those of the foreign countries whose vessels are substantial competitors of any such American vessel; and

(f) Foreign subsidies.

The extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine;

(g) Shipyards.

The number, location, and efficiency of the shipyards existing on June 29, 1936, or thereafter built in the United States;

(h) Laws applicable to aircraft.

To investigate and determine what provisions of this chapter and other Acts relating to shipping should be made applicable to aircraft engaged in foreign commerce in order to further the policy expressed in this chapter, and to recommend appropriate legislation to this end;

(i) Transportation to foreign ports of cotton, coal, lumber, and cement.

The advisability of enactment of suitable legislation authorizing the Secretary of Commerce in an economic or commercial emergency, to aid the farmers and cotton, coal, lumber, and cement producers in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary of Commerce, until such time as the Secretary of Commerce shall deem such special rate reduction and operation unnecessary for the benefit of the American farmers and such producers;

(j) New designs of vessels; intercoastal and inland water transportation.

New designs, new methods of construction, and new types of equipment for vessels; the possibilities of promoting the carrying of American foreign trade in American vessels; and intercoastal and inland water transportation, including their relation to transportation by land and air. (June 29, 1936, ch. 858, §§ 211, 905(e), 49 Stat. 1989; 1950 Reorg. Plan No. 21, §§ 105(2), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1275—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91-469, §§ 4, 5, 35(a), (b), 84 Stat. 1018, 1035.)

CODIFICATION

In the original, subsections (c)—(f) and (g)—(l) were designated (f)—(l) and (c)—(e), respectively, all of this section having related at the time of enactment to the duty of the United States Maritime Commission to perform the functions enumerated. They were redesignated and the section rearranged to conform with the transfers of functions under 1950 Reorg. Plan No. 21 described in note below. Functions exercised by the Federal Maritime Board under 1950 Reorg. Plan No. 21 were transferred to the Secretary of Commerce by 1961 Reorg. Plan No. 7. See note below.

AMENDMENTS

1970—Pub. L. 91-469, § 35(a) substituted "Secretary of Commerce" for "Commission", once in introductory par., twice in subsec. (a), and thrice in subsec. (i), formerly designated (e).

Subsec. (a). Pub. L. 91-469, §§ 4(1), 35(b), required consideration of the benefit the maintenance of any steamship line may afford to other national requirements and submitted "his" for "its" preceding "determination", respectively.

Subsec. (b). Pub. L. 91-469, § 4(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c) Pub. L. 91-649, § 4(2), (4), (5), redesignated former subsec. (b) as (c), inserted "method of propulsion" following "speed", and required that the various requirements of the vessels should be employed to provide bulk cargo carrying services, necessary to the promotion, maintenance, and expansion of the foreign commerce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route, or line, respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 91-469, § 4(2), redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 91-469, §§ 4(2), 5, redesignated former subsec. (d) as (e) and struck out "in particular services, routes, and lines" following "comparable vessels" and substituted "American vessel" for "American service route, or line", respectively. Former subsec. (e) redesignated (f).

Subsecs. (f)-(j). Pub. L. 91-469, § 4(2), redesignated former subsecs. (e)-(i) as (f)-(j), respectively.

ABOLITION OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

Reference to "Federal Maritime Board" has been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Secretary of Commerce", "Secretary" and "Federal Maritime Board" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1125, 1204, 1222, of this title.

§ 1122. Maritime problems; cooperation with others; discriminatory charges on exports; cargo carriage; recommendations.

The Commission is authorized and directed—

(a) Study of maritime problems.

To study all maritime problems arising in the carrying out of the policy set forth in subchapter I of this chapter;

(b) Inducing preferences for American vessels; construction of super-liners.

To study, and to cooperate with vessel owners in devising means by which—

(1) the importers and exporters of the United States can be induced to give preference to vessels under United States registry; and

(2) there may be constructed by or with the aid of the United States express-liner or superliner vessels comparable with those of other nations, especially with a view to their use in national emergency, and the use in connection with or in lieu of such vessels of transoceanic aircraft service;

(c) Collaboration with owners and builders.

To collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits accru-

ing from standardized production where practicable and desirable;

(d) Liaison with other agencies and trade organizations.

To establish and maintain liaison with such other boards, commissions, independent establishments, and departments of the United States Government, and with such representative trade organizations throughout the United States as may be concerned, directly or indirectly, with any movement of commodities in the water-borne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of United States registry in the shipment of such commodities;

(e) Investigation of discriminatory charges, etc., against exports.

To investigate, under the regulatory powers transferred to it by this chapter, any and all discriminatory rates, charges, classifications, and practices whereby exporters and shippers of cargo originating in the United States are required by any common carrier by water in the foreign trade of the United States to pay a higher rate from any United States port to a foreign port than the rate charged by such carrier on similar cargo from such foreign port to such United States port, and recommend to Congress measures by which such discrimination may be corrected; and

(f) Development and implementation of new methods of cargo carriage; preferences for cargo containers.

To study means and methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States, and to study the economic and technological aspects of the use of cargo containers as a method of carrying out the declaration of policy set forth in subchapter I of this chapter, and in carrying out the provisions of this subsection and such policy the United States shall not give preference as between carriers upon the basis of length, height, or width of cargo containers or length, height, or width of cargo container cells and this requirement shall be applicable to all existing container vessels and any container vessel to be constructed or rebuilt.

(g) Recommendations for further legislation.

To make recommendations to Congress, from time to time, for such further legislation as he deems necessary better to effectuate the purpose and policy of this chapter. (June 29, 1936, ch. 858, §§ 212, 905(e), 49 Stat. 1990; 1950 Reorg. Plan No. 21, §§ 104(4), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Mar. 16, 1968, Pub. L. 90–268, § 1, 82 Stat. 49.)

AMENDMENTS

1968—Subsec. (f). Pub. L. 90–268 added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 90–268 redesignated former subsec. (f) as (g).

TRANSFER OF FUNCTIONS

Functions under subsec. (e) of this section with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, vested in the Federal Maritime Board under the provisions of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, transferred to the Federal Maritime Commission by section 103(d) of 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title, Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

Functions of the United States Maritime Commission under subsecs. (a)—(d) and (g) (formerly (f)), and (e) were transferred to the Secretary of Commerce and Federal Maritime Board, respectively, on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

"Secretary of Commerce" and "Federal Maritime Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on the authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman of that Commission by 1949 Reorg. Plan No. 6 eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1122a. Vessel utilization and performance reports; filing; civil penalty; lien upon vessel; remission or mitigation of penalty.

The operator of a vessel in waterborne foreign commerce of the United States shall file at such times and in such manner as the Secretary of Commerce may prescribe by regulations, such report, account, record, or memorandum relating to the utilization and performance of such vessel in commerce of the United States, as the Secretary may determine to be necessary or desirable in order to carry out the purposes and provisions of this chapter. Such report, account, record, or memorandum shall be signed and verified in accordance with regulations prescribed by the Secretary. An operator who does not file the report, account, record, or memorandum as required by this section and the regulations issued hereunder, shall be liable to the United States in a penalty of $50 for each day of such violation. The amount of any penalty imposed for any violation of this section upon the operator of any vessel shall constitute a lien upon the vessel involved in the violation, and such vessel may be libeled therefor in the district court of the United States for the district in which it may be found. The Secretary of Commerce may, in his discretion, remit or mitigate any penalty imposed under this section on such terms as he may deem proper. (June 29, 1936, ch. 858, § 212(A), as added June 25, 1956, ch. 437, 70 Stat. 332.)

§ 1122b. Mobile trade fairs.

(a) Use of United States flag vessels and aircraft insofar as practicable.

The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs which are designed to show and sell the products of United States business and agriculture at

foreign ports and at other commercial centers throughout the world where the operator or operators of the mobile trade fairs use insofar as practicable United States flag vessels and aircraft in the transportation of their exhibits.

(b) Technical and financial assistance; exceptions.

The Secretary of Commerce is authorize to provide to the operator or operators of such mobile trade fairs technical assistance and support as well as financial assistance for the purpose of defraying certain expenses incurred abroad (other than the cost of transportation on foreign-flag vessels and aircraft), when the Secretary determines that such operations provide an economical and effective means of promoting export sales.

(c) Authorization of appropriations; use of foreign currencies.

There is authorized to be appropriated not to exceed $500,000 per fiscal year for each of the six fiscal years during the period beginning July 1, 1962, and ending June 30, 1968, and not to exceed $166,000 for the fiscal year ending June 30, 1969. In addition to such appropriated sums, the President shall make maximum use of foreign curriencies owned by or owed to the United States to carry out the purposes of this section.

(d) Report to Congress.

The Secretary of Commerce shall submit annually to the Congress a report on his activities under this chapter. (June 29, 1936, ch. 858, § 212(B), as added Oct. 18, 1962, Pub. L. 87–839, § 1, 76 Stat. 1074, and amended July 7, 1965, Pub. L. 89–66, 79 Stat. 211; July 27, 1968, Pub. L. 90–434, 82 Stat. 449.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–434 substituted "use insofar as practicable" for "exclusively use".

Subsec. (b). Pub. L. 90–434 added "(other than the cost of transportation on foreign-flag vessels and aircraft)," following "expenses incurred abroad".

Subsec. (c). Pub. L. 90–434 authorized appropriation of not to exceed $166,000 for the fiscal year ending June 30, 1969.

1965—Subsec. (c). Pub. L. 89–66 substituted "six" and "June 30, 1968" for "three" and "June 30, 1965", respectively.

§ 1123. Obsolete tonnage; tramp service; relative costs at yards.

The Secretary of Commerce shall make studies of and make reports to Congress on—

(a) Removal of obsolete tonnage.

The scrapping or removal from service of old or obsolete merchant tonnage owned by the United States or in use in the merchant marine;

(b) Tramp shipping; participation in by Americans.

Tramp shipping service and the advisability of citizens of the United States participating in such service with vessels under United States registry.

(c) Relative cost of construction at different yards; equalization.

The relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the United States, together with recommendations as to how such shipyards may compete for work on an equalized basis; reports under this paragraph shall be made annually on the first day of July of each year. (June 29, 1936, ch. 858, §§ 213, 905(e), 49 Stat. 1991; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Oct. 24, 1962, Pub. L. 87–877, § 2 (c), (d), 76 Stat. 1201.)

AMENDMENTS

1962—Pub. L. 87–877 substituted "reports to Congress" for "a report to Congress as soon as practicable on", in the text preceding par. (a), and inserted "; reports under this paragraph shall be made annually on the first day of July of each year" in par. (c).

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See not set out under section 1111 of this title.

§ 1124. Witnesses.

(a) Summoning; oaths; production of books and papers; fees.

For the purpose of any investigation which, in the opinion of the Federal Maritime Commission or the Secretary of Commerce, is necessary and proper in carrying out the provisions of this chapter, any member of the Commission or any officer or employee thereof designated by it, or the Secretary, is empowered to subpena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers, or other documents which are relevant or material to the matter under investigation. Such attendance of witnesses and the production of such books, papers, or other documents may be required from any place in the United States or any Territory, district, or possession thereof at any designated place of hearing. Witnesses summoned before the Commission or the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) Refusal to obey subpena; court orders; contempt.

Upon failure of any person to obey a subpena issued by the Commission or the Secretary, it or he may invoke the aid of any District Court of the United States within the jurisdiction in which such person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Commission, or member, officer, or employee designated by the Commission, or the Secretary, there to produce books, papers, or any other documents, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Any process in any such case may be served in the judicial district wherein such person resides or wherever he may be found. (June 29, 1936, ch. 858, §§ 214, 905(e), 49 Stat., 1991; June 23, 1938, ch. 600, § 3, 52 Stat. 954; 1950 Reorg. Plan No. 21, §§ 105(5), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1275—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765;

1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 15, 1970, Pub. L. 91–452, title II, § 241, 84 Stat. 930.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–452 struck out subsec. (c) which related to the immunity from prosecution of any person compelled to testify or produce evidence, document or otherwise, after claiming his privilege against self-incrimination.

1938—Subsec. (a). Act June 23, 1938, eliminated words "within the Federal judicial district in which the witness resides" which followed "place of hearing".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

Functions under this section with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, transferred from the Federal Maritime Board to the Federal Maritime Commission by section 103(e) of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, to the extent that they relate to functions transferred to the Commission by section 103(a—d) of 1961 Reorg. Plan No. 7. Section 104 of 1961 Reorg. Plan No. 7 transferred to the Chairman of the Federal Maritime Commission the functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of 1949 Reorg. Plan No. 6, set out as a note under section 1111 of this title, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7, and the functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce", "Board or the Secretary" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) and "or the Secretary" was inserted following "designated by it" in subsection (a), "designated by the Board" in subsection (b) and "or any member or officer or employee thereof," in subsection (c), on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out in as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1125. Acquisition of vessels.

The Secretary of Commerce is authorized to acquire by purchase or otherwise such vessels constructed in the United States as he may deem necessary to establish, maintain, improve, or effect replacements upon any service, route, or line in the foreign commerce of the United States determined to be essential under section 1121 of this title, and to pay for the same out of its construction fund: *Provided,* That the price paid therefor shall be based upon a fair and reasonable valuation, but it shall not exceed by more than 5 per centum the cost of such vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Commerce) plus the actual cost previously expended thereon for reconditioning less depreciation based upon a twenty-five year life expectancy of the vessel. No such vessel shall be acquired by the Secretary of Commerce unless the Secretary of the Navy has certified to the Secretary of Commerce that such vessel is suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States in time of war or national emergency. Every vessel acquired under authority of this section that is not documented under the laws of the United States at the time of its acquisition shall be so documented as soon as practicable. (June 29, 1936, ch. 858, §§ 215, 905(e), as added June 23, 1938, ch. 600, § 4, 52 Stat. 954, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216.)

AMENDMENTS

1960—Pub. L. 86–518 substituted "twenty-five year life expectancy" for "twenty-year life expectancy."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(a) of Pub. L. 86–518 provided that: "The amendments made by this Act [to this section and sections 1152, 1153, 1156, 1157, 1159, 1160, 1175, 1177, 1181, 1195, 1204, 1274, 1276 and 1276a of this title, and section 1737 of Title 50, Appendix, War and National Defense] shall apply only to vessels delivered by the shipbuilder on or after January 1, 1946, and with respect to such vessels shall become effective on January 1, 1960. With respect to vessels delivered by the shipbuilder before January 1, 1946, the provisions of the Merchant Marine Act, 1936 [this chapter], existing immediately before the date of enactment of this Act [June 12, 1960] shall continue in effect."

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Commission" (which had reference to United States Maritime Commission) on the authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

Section 8(b) of Pub. L. 86–518 provided that: "With respect to vessels delivered by the shipbuilder on or after January 1, 1946, and before January 1, 1960, depreciation under sections 215, 502(g), 507, 510(d), 607(b),

611(c), 705, 714, and 1107(4) of the Merchant Marine Act, 1936 [this section and sections 1152(g), 1157, 1160 (d), 1177(b), 1181(c), 1195, 1204 and 1276a(4) of this title], shall be taken (unless a contract which is in effect on January 1, 1960, otherwise provides) for the period prior to January 1, 1960, at the rate provided by the Merchant Marine Act, 1936 [this chapter], as it existed immediately prior to the amendments made by this Act, and for the period after January 1, 1960, such depreciation shall be taken on the basis of the remaining years of a useful life of twenty-five years unless the vessel is reconstructed or reconditioned in which event such depreciation, from the time of such reconstruction or reconditioning, shall be taken on the basis of the remaining years of a useful life of the vessel determined jointly by the Secretary of Commerce and the Secretary of the Treasury."

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960; AMENDMENT OF CONTRACT DEALING WITH VESSELS HAVING EXTENDED LIFE

Section 8(c) of Pub. L. 86–518, as amended by Pub. L. 88–225, Dec. 23, 1963, 77 Stat. 469, provided that: "Any contract (including but not limited to mortgage insurance contracts), commitment to insure a mortgage under title XI of the Merchant Marine Act, 1936 [subchapter XI of this chapter], or mortgage, between any person and the United States or any agency thereof, or any mortgage insurance contract under title XI [subchapter XI of this chapter], which was entered into prior to the date of enactment of this Act [June 12, 1960] and which would be affected if the provisions of the amendments made by this Act [to this section and sections 1152, 1153, 1156, 1157, 1159, 1160, 1175, 1177, 1181, 1195, 1204, 1274, 1276, and 1276a of this title, and section 1737 of Title 50, Appendix, War and National Defense] were applicable thereto, may, at the request of such person agreed to by any third parties in interest, or at the request of the mortgagor agreed to by the mortgagee in the case of such a mortgage insurance contract, made within one hundred and eighty days after such date of enactment [June 12, 1960] to the agency of the United States holding such contract, be revised to be in accordance with the law as amended by this Act, with respect to such of the vessels covered thereby as may be designated by the applicant. Any such revision shall provide with respect to the amendments to sections 215, 502(g), 507, 510(d), 607(b), 611(c), 705, 714, and 1107(4) of the Merchant Marine Act, 1936 [this section and sections 1152(g), 1157, 1160(d), 1177(b), 1181(c), 1195, 1204, and 1276a(4) of this title], that depreciation for the period prior to January 1, 1960, shall be taken at the rate provided by the Merchant Marine Act, 1936, prior to the amendments made by this Act, and that the remaining depreciation shall be taken for the period beginning January 1, 1960, on the basis of the remaining years of a useful life of twenty-five years, unless the vessel has been reconstructed or reconditioned, in which event such depreciation from the time of such reconstruction or reconditioning shall be taken on the basis of the remaining years of a useful life of the vessel determined jointly by the Secretary of Commerce and the Secretary of the Treasury. Any such revision shall provide with respect to any remaining unpaid debts that such unpaid debts shall be paid in equal annual installments over the remaining years of a useful life of twenty-five years. Provisions in such contracts affecting vessels covered by this Act providing for refund of construction-differential subsidy for domestic operations under section 506 of the Merchant Marine Act, 1936 [section 1156 of this title], and costs of national defense features for commercial use shall be amended so that for such refund payments made for the period after December 31, 1959, the base upon which such refund payments are computed annually thereafter shall be the undepreciated amount of subsidy or the national defense feature, as the case may be, as at December 31, 1959, divided by the years of life of the vessels as provided under this Act, remaining after December 31, 1959."

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Section 9 of Pub. L. 86–518 provided that: "Nothing in any amendment made by this Act [to this section and sections 1152, 1153, 1156, 1157, 1159, 1160, 1175, 1177, 1181, 1195, 1204, 1274, 1276, and 1276a of this title, and section 1737 of Title 50, Appendix, War and National Defense] shall operate or be interpreted to change from twenty to twenty-five years the provisions of the Merchant Marine Act, 1936, as amended [this chapter], relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1152 of this title.

§ 1125a. Construction, repair, etc., of vessels for government agencies.

The Secretary of Commerce is authorized to construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the Government, to the extent that such other department or agency is authorized by law to do so for its own account, and any obligations heretofore or hereafter incurred by the Secretary for any of the aforesaid purposes shall not diminish or otherwise affect any contract authorization granted to the Secretary: *Provided,* The obligations incurred or the expenditures made are charged against and, to the amount of such obligation or expenditure, diminish the existing appropriation or contract authorization of such department or agency. (Feb. 6, 1941, ch. 5, § 4, 55 Stat. 6; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1126. Training of Merchant Marine personnel.

(a) United States Maritime Service; number of trainee enrollees; compensation and allowances; curriculum; period of training; rank; uniforms.

The Secretary of Commerce is authorized and directed, under such rules and regulations as he may prescribe, to establish and maintain the United States Maritime Service as a voluntary organization for the training of citizens of the United States to serve as licensed and unlicensed personnel on American merchant vessels. The Secretary is authorized to determine the number of persons to be enrolled for training and reserve purposes in the said Service, to fix the rates of pay and allowances of such persons, and to prescribe such courses and periods of training as, in his discretion, are necessary to maintain a trained and efficient merchant marine personnel. The ranks, grades, and ratings for personnel of the said Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard. The Secretary is

authorized to prescribe, by rules and regulations, the uniform of the Service and rules governing the wearing and furnishing of such uniform of persons in the Service.

(b) Merchant Marine Academy; maintenance; training; appointments; allowances; definitions.

(1) The Secretary of Commerce shall maintain a Merchant Marine Academy at Kings Point, New York, for the instruction and preparation for service in the merchant marine of selected persons as officers thereof. Competitive examinations shall be held annually among those persons nominated as candidates to the Academy by Senators and Representatives, and by the Governors of the Canal Zone, Guam, American Samoa, and the Virgin Islands, and the Commissioner of the District of Columbia. The number of vacancies allocated to each State shall be proportioned to the representation in Congress from that State; but two vacancies shall be allocated each year to the Canal Zone, to be filled by qualified candidates nominated by the Governor of the Canal Zone from among the sons of residents of the Canal Zone and the sons of personnel of the United States Government and the Panama Canal Company residing in the Republic of Panama, one vacancy each shall be allocated each year to Guam, American Samoa, and the Virgin Islands, to be filled by qualified candidates nominated by the Governors of Guam, American Samoa, and the Virgin Islands, and four vacancies shall be allocated each year to the District of Columbia, to be filled by qualified candidates nominated by the Commissioner thereof: *Provided,* That a candidate nominated by the Governor of American Samoa shall not be denied admission by reason of his being a national but not a citizen of the United States: *Provided further,* That the foregoing proviso shall not be construed to permit any such person who is a national but not a citizen of the United States to be entitled to any office or position in the United States merchant marine by reason of his graduation from the Academy until such person shall have become a citizen. Appointments from each State shall be made by the Secretary of Commerce from among qualified candidates nominated from that State in the order of merit established by the examinations. In case vacancies remain after the appointments under the preceding sentence have been made, the Secretary of Commerce shall fill them by appointments from qualified candidates from other States.

(2) In connection with such instruction and as a part thereof, the Secretary of Commerce is authorized to provide for training of merchant marine cadets on Government-owned and subsidized vessels and, in cooperation with other governmental and private agencies, on other vessels, and, for instructional purposes only, in shipyards, plants, and industrial and educational organizations under rules and regulations prescribed by the Secretary of Commerce and upon such terms as the Secretary of Commerce may arrange, and expenditures incident to such training are authorized.

(3) Cadets appointed to the United States Merchant Marine Academy may be appointed by the Secretary of the Navy as Reserve midshipmen in the United States Navy and may be commissioned as Reserve ensigns in the United States Navy upon graduation from the Academy.

(4) Cadets at the United States Merchant Marine Academy shall receive allowances for all required uniforms and textbooks as prescribed by rules and regulations under this chapter, and to transportation, including reimbursement of traveling expenses, while traveling under orders as a cadet.

(5) (a) "Representative" as used in this chapter shall include the Resident Commissioner from the Commonwealth of Puerto Rico.

(b) "State" as used in this chapter shall include the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, and the Virgin Islands.

(c) Extension and correspondence courses; authorization of purchases.

The Secretary of Commerce is authorized to prescribe, conduct, and supervise such extension and correspondence courses as he may deem necessary to supplement other training facilities, and to make such courses available, under such rules and regulations and upon such terms as he may prescribe, to the licensed and unlicensed personnel of the merchant marine, and to cadets and cadet officers, who shall make application therefor. The Secretary is further authorized to print, publish, and purchase suitable textbooks, equipment, and supplies required for such courses, and to employ persons, firms, and corporations on a contract or fee basis (without regard to the provisions of section 5 of Title 41), for the performance of special services deemed necessary by the Secretary in the preparation and editing of such textbooks and other aids to instruction, and in the supervision and administration of such courses.

(d) Co-operation of governmental agencies.

The Secretary of Commerce, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section, as amended.

(e) Faculty; compensation.

To effectuate the purpose of this section, the Secretary of Commerce is authorized to employ professors, lecturers, and instructors and to compensate them without regard to chapter 51 and subchapter III of chapter 53 of Title 5.

(f) Administrative enrollees; civil service status; compensation; application of laws affecting civilian employees of Government; exceptions and conditions; compensation; leave and service credit; travel expenses and health benefits restricted.

On such date as may be fixed by the Civil Service Commission with the approval of the Secretary of Commerce, not later than one year from July 20, 1961, persons then serving as administrative enrollees shall be brought into the competitive civil service or excepted civil service in accordance with the Civil Service Act and rules, and shall thereafter be compensated in accordance with chapter 51 and

subchapter III of chapter 53 of Title 5, except as otherwise authorized by subsection (e) of this section or other provisions of law, and shall be subject to other laws of general applicability to civilian employees of the United States, subject to the following exceptions and conditions, notwithstanding any other provisions of law:

(1) The rate of basic compensation of any person serving as administrative enrollee on the date immediately preceding the date specified in the first sentence of this subsection shall upon conversion provided for in this subsection be fixed at a rate which is not less than the combined basic pay and quarters and subsistence allowances received immediately preceding conversion, or the value of such allowances when furnished the person in kind at the rate and in the amounts theretofore authorized by regulation for such allowances. In the case of any such person whose combined basic pay and quarters and subsistence allowances, or value thereof when furnished in kind, exceeds the entrance rate of the grade or level in which his position is placed, the basic compensation of such person shall be fixed at that step in the grade or level which is equal to, or if none be equal, which represents the next higher regular or longevity step or level over the person's combined pay and allowances, as specified above, received immediately preceding the date of conversion. In any case in which no such rate exists in the grade of his position, his rate of basic compensation shall be fixed at the next regular salary rate which is not less than his combined basic pay and quarters and subsistence allowances, or value thereof when furnished in kind. For the purposes of determining eligibility for step increases following conversion, the basic compensation as an administrative enrollee prior to conversion shall be considered as the total amount or value of basic pay, subsistence and quarters allowances. Any adjustment in compensation required by this subsection shall not be considered to be an equivalent increase in compensation for the purpose of a periodic step increase, nor an increase in grade or rate of basic compensation for the purpose of a longevity step increase.

(2) The rate of basic compensation authorized by this paragraph shall continue until the person is separated from his position or receives a higher rate of basic compensation by operation of law or regulation.

(3) Any person who, as a result of the action required under the first sentence of this subsection, becomes subject to the Annual and Sick Leave Act of 1951, as amended, shall be credited under that Act with all annual leave remaining to his credit as an administrative enrollee, at the rate of five-sevenths of a day of leave chargeable under the Act (section 2064 of Title 5) for each calendar day of leave remaining to the credit of the enrollee, without regard to the limitations on maximum leave accumulation provided by the Act, and shall be credited with thirteen days of sick leave in addition to any leave recredit to which the employee may otherwise be entitled.

(4) Active service of any administrative enrollee performed prior to the date specified in the first sentence of this subsection shall be considered creditable as civilian employment in the executive branch of the Federal Government for all purposes, except that in computing length of service for the purpose of subchapter III of chapter 53 of Title 5, continuous service immediately preceding the date established under the first sentence of this subsection shall be counted either (1) toward one step increase under section 1121 of Title 5, or (2) toward one longevity step increase under section 1123 of Title 5, as the case may be.

(5) Persons converted from their status as administrative enrollees to positions by or pursuant to this subsection shall not be entitled, upon conversion or subsequent separation from such position, to payment of travel and transportation expenses which otherwise may be authorized under the joint travel regulations on separation from the United States Maritime Service; nor shall such persons upon conversion to positions by or pursuant to this subsection be entitled to free medical, dental, surgical and hospital care under section 249(a)(6) of Title 42. (June 29, 1936, ch. 858, §§ 216, 905(e), as added June 23, 1938, ch. 600, § 44, 52 Stat. 965, and amended Aug. 4, 1939, ch. 417, § 5, 53 Stat. 1182; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Feb. 20, 1956, ch. 64, 70 Stat. 25; Feb. 20, 1958, Pub. L. 85-331, § 1, 72 Stat. 16; July 20, 1961, Pub. L. 87-93, 75 Stat. 212; Sept. 6, 1961, Pub. L. 87-199, 75 Stat. 468; Sept. 6, 1961, Pub. L. 87-208, 75 Stat. 480; Oct. 2, 1964, Pub. L. 88-611, § 4(a)(3), 78 Stat. 991.)

REFERENCES IN TEXT

Reference to the Delegates to the House of Representatives from Alaska and Hawaii and to the Territories of Alaska and Hawaii in subsec. (b)(5) have been eliminated as unnecessary in view of the admission of Alaska and Hawaii as States into the Union. See note below.

Civil Service Act, referred to in subsec. (f), is classified generally to Title 5, Government Organization and Employees.

The Annual and Sick Leave Act of 1951, as amended, referred to in subsec. (f)(3), is now covered by section 6301 et seq. of Title 5.

The Act (section 2064 of Title 5), referred to in subsec. (f)(3), is now covered by section 6302 et seq. of Title 5.

Sections 1121 and 1123 of Title 5, referred to in subsec. (f)(4), are now covered by section 5335 et seq. of Title 5.

AMENDMENTS

1964—Subsec. (g). Pub. L. 88-611 repealed subsec. (g) which provided for acceptance of gifts and bequests of personal property, a general gift fund, the tax status of gifts, and investment and reinvestment of moneys.

1961—Subsec. (a). Pub. L. 87-93, § 1(1), provided for enrollment for training and reserve purposes, authorized the Secretary to fix the rate of allowances and to prescribe the uniform of the Service and personnel and eliminated provision for employment of instructors on a contract or fee basis, now incorporated in subsec. (e) of this section.

Subsec. (b)(1). Pub. L. 87-199 provided that United States nationals from American Samoa were not to be denied admission to the Academy for not being citizens, and that citizenship remained a prerequisite to being entitled to office in the merchant marine.

Subsecs. (e), (f). Pub. L. 87-93, § 1(2), added subsecs. (e) and (f).

Subsec. (g). Pub. L. 87-208 added subsec. (g).

1958—Subsec. (b)(1). Pub. L. 85-331, § 1(1), allocation each year of two vacancies to the Canal Zone, one vacancy each to Guam, American Samoa, and the Virgin Islands, and four vacancies to the District of Columbia, and permitted candidates nominated by the Governors of the

Canal Zone, Guam, American Samoa, and the Virgin Islands and the Commissioners of the District of Columbia, to take the competitive examinations.

Subsec. (b)(5)(b). Pub. L. 85-331, § 1(2), included the District of Columbia, the Canal Zone, Guam, American Samoa, and the Virgin Islands.

1956—Subsec. (b). Act Feb. 20, 1956, provided for a permanent Merchant Marine Academy, prescribed the manner of appointment of cadets, authorized appointments to the United States Navy as Reserve midshipmen and as Reserve ensigns, and provided for allowances.

1939—Subsec. (c). Act Aug. 4, 1939, redesignated former subsec. (c) as (d).

TRANSFER OF FUNCTIONS

References to the Board of Commissioners of the District of Columbia have been changed to the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, which transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See also, effective date note under such plan.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

State and Territorial maritime academies or colleges, detailing of officers, see section 1386 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1386 of this title.

§ 1126a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, acts May 25, 1933, ch. 37, 48 Stat. 73; July 8, 1937, ch. 441, 50 Stat. 477; Aug. 9, 1946, ch. 932, 60 Stat. 968; Aug. 4, 1949, ch. 393, § 13, 63 Stat. 559; Aug. 18, 1949, ch. 476, 63 Stat. 614, authorized the issuance of a bachelor of science degree on graduation from United States Merchant Marine Academy, and is now covered by section 1126a-1 of this title, and note thereunder.

§ 1126a-1. Bachelor of science degree on graduation from United States Merchant Marine Academy.

Under conditions prescribed by the Secretary of Commerce, the Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science upon graduates of the Academy. (Aug. 10, 1956, ch. 1041, § 34, 70A Stat. 634.)

DEGREES FOR PERSONS WHO GRADUATED BEFORE ACCREDITING OF MERCHANT MARINE ACADEMY

Section 35 of act Aug. 10, 1956, provided in part that, under conditions prescribed by the Secretary of Commerce, the Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science upon living graduates of the Academy who were graduated before the date of accrediting of the Academy and who have met the requirements of the Academy for that degree.

§ 1126b. Admission of persons from other American republics to United States Merchant Marine Academy.

The Secretary of Commerce is authorized to permit, upon designation of the President of the United States, not exceeding twelve persons at a time from the American republics (other than the United States) to receive instruction in the United States Merchant Marine Cadet Corps and at the United States Merchant Marine Academy at Kings Point, New York. Not more than two persons from any of such republics shall receive instruction under authority of this section at the same time. The persons receiving instruction under authority of this section shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Secretary, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadet-midshipmen at the Merchant Marine Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States Merchant Marine by reason of their graduation from the Merchant Marine Academy. (Aug. 9, 1946, ch. 928, 60 Stat. 961; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Chairman of the United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of Commerce of authority vested in the President by this section, see Ex. Ord. No. 10661, Feb. 27, 1956, 21 F. R. 1315, set out as a note under section 301 of Title 3, The President.

§ 1126b-1. Admission of persons from the Trust Territory of the Pacific Islands to United States Merchant Marine Academy.

The Secretary of Commerce is authorized to permit, upon designation of the Secretary of Interior, not to exceed four persons at a time from the Trust Territory of the Pacific Islands to receive instruction in the United States Merchant Marine Cadet

Corps and at the United States Merchant Marine Academy at Kings Point, New York. The persons receiving instruction under authority of this section shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and subject to such exceptions as shall be jointly agreed upon by the Secretary of Commerce and the Secretary of Interior, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Merchant Marine Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States merchant marine by reason of their graduation from the Merchant Marine Academy. (Pub. L. 87–244, Sept. 14, 1961, 75 Stat. 514.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

§ 1126c. Board of Visitors for the United States Merchant Marine Academy.

There shall be appointed in the month immediately following May 11, 1944, and in January of each year thereafter, a Board of Visitors to visit the United States Merchant Marine Academy, which shall consist of two Senators and three Members of the House of Representatives, appointed by the chairman of the committees of the Senate and the House of Representatives, respectively, having cognizance of legislation pertaining to the United States Merchant Marine Academy, the chairmen of said committees being ex officio members of the Board, and of one Senator and two Members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively: *Provided,* That whenever a member or an ex officia member is unable to attend the annual meeting as provided in paragraph (b) of this section another Member may be appointed in his stead in the manner as herein provided but without restriction as to month of appointment.

(b)[1] Such Board shall visit the United States Merchant Marine Academy annually on a date to be fixed by the Secretary of Commerce. Each member of the Board shall be reimbursed under Government travel regulations for the actual expense incurred by him while engaged upon duties as a member of such Board. (May 11, 1944, ch. 194, 58 Stat. 220; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Chairman of the United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

[1] So in original. The first paragraph was not designated "(a)".

§ 1126d. Advisory Board of Merchant Marine Academy.

The Secretary of Commerce may appoint an advisory board to the United States Merchant Marine Academy consisting of not more than seven persons of distinction in education and other fields relating to the purposes of the academy, who shall serve without pay. Members of the advisory board shall be appointed for terms of not to exceed three years and may be reappointed. The Secretary of Commerce shall, in June of each year, appoint one of the members to serve as chairman. The members so appointed shall visit the academy at least once during the academic year on the call of the chairman and may convene once each year in Washington, at the call of the Maritime Administrator, for the purpose of examining the course of instruction and the management of the academy and advising the Maritime Administrator, with a copy of such advice to the superintendent, relative thereto. The expenses of the board while engaged in these duties, including the expense of travel, shall be defrayed under Government travel regulations from any appropriation for the authorized work of the Maritime Administration. (July 22, 1947, ch. 290, 61 Stat. 401; July 11, 1956, ch. 564, 70 Stat. 524.)

AMENDMENTS

1956—Act July 11, 1956, amended section generally to authorize the Secretary of Commerce, instead of the United States Maritime Commission, to appoint the board, to change the designation of the board from an academic advisory board of the Academy to an advisory board to the Academy, to provide that the members of the board should be persons of distinction in education and other fields relating to the purposes of the Academy, to prescribe a 3-year term of office, to permit reappointment, and to provide for a chairman, to permit the board to convene at least once each year in Washington, at the call of the Maritime Administrator, and to authorize the board to examine the management of the Academy.

§ 1127. Repealed. Pub. L. 86–360, Sept. 22, 1959, 73 Stat. 643.

Section, act June 29, 1936, ch. 858, § 217, as added Mar. 14, 1942, ch. 186, 56 Stat. 171, and amended Aug. 30, 1954, ch. 10.76, § 1(9), 68 Stat. 967, related to coordination of forwarding and similar servicing of waterborne export and import foreign commerce.

SUBDIVISION.—INSURANCE

§§ 1128 to 1128e. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section 1128, act June 29, 1936, ch. 858, § 221, as added June 29, 1940, ch. 447, 54 Stat. 689, and amended Apr. 11, 1942, ch. 240, 56 Stat. 214, related to the authority of the United States Maritime Commission to provide marine and war-risk insurance, duration of such authority, reports, and an insurance fund.

Section 1128a, act June 29, 1936, ch. 858, § 222, as added June 29, 1940, ch. 447, 54 Stat. 690, and amended Mar. 6, 1942, ch. 154, 56 Stat. 140; Apr. 11, 1942, ch. 240, 56 Stat. 214; Mar. 24, 1943, ch. 26, § 2 (a), 57 Stat. 47, related to authority of United States Maritime Commission to insure against loss or damage by risks of war, persons, property and certain insurable interests.

Section 1128b, act June 29, 1936, ch. 858, § 223, as added June 29, 1940, ch. 447, 54 Stat. 690, and amended Apr. 11, 1942, ch. 240, 56 Stat. 215; Mar. 24, 1943, ch. 26, § (e), 57 Stat. 50, related to reinsurance, prohibition against fees to brokers, and rates.

Section 1128c, act June 29, 1936, ch. 858, § 224, as added June 29, 1940, ch. 447, 54 Stat. 690, and amended Apr. 11, 1942, ch. 240, 56 Stat. 215; Mar. 24, 1943, ch. 26, § 3 (f), 57 Stat. 50, related to insurance of government departments and agencies.

Section 1128d, act June 29, 1936, ch. 858, § 225, as added June 29, 1940, ch. 447, 54 Stat. 690, and amended Apr. 11, 1942, ch. 240, 56 Stat. 215; Mar. 24, 1943, ch. 26, § 3 (g), 57 Stat. 50, related to actions on claims for losses and jurisdiction of courts.

Section 1128e, act June 29, 1936, ch. 858, § 226, as added June 29, 1940, ch. 447, 54 Stat. 691, and amended Apr. 11, 1942, ch. 240, 56 Stat. 216; Mar. 24, 1943, ch. 26, § 3 (h), 57 Stat. 51; Apr. 24, 1944, ch. 178, § 1, 58 Stat. 216, related to general administrative provisions, suspension of statute of limitations and definitions.

The repealing act provided that section 1 of act Apr. 24, 1944, ch. 178, 58 Stat. 216, which added second sentence to former section 1128e (a) of this title, was repealed, "except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than two years after the date of enactment of this joint resolution [July 25, 1947]."

For present provisions on war risk insurance, see section 1281 et seq. of this title.

§ 1128e-1. Compromise or settlement of claims after expiration of time for filing.

CODIFICATION

Section, act Apr. 24, 1944, ch. 178, § 2, 58 Stat. 216, which related to compromise or settlement, by the Administrator of the War Shipping Administration, of claims after expiration of time for filing, has been omitted from Code in view of termination of War Shipping Administration on Sept. 1, 1946. See note under former section 1291 of Title 50, Appendix, War and National Defense.

§§ 1128f to 1128h. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section 1128f, act June 29, 1936, ch. 858, § 227, as added June 29, 1940, ch. 447, 54 Stat. 691, and amended Apr. 11, 1942, ch. 240, 56 Stat. 216, related to effect of former sections 1128—1128h of this title on seamen's rights under existing laws.

Section 1128g, act June 29, 1936, ch. 858, § 228, as added June 29, 1940, ch. 447, 54 Stat. 691, and amended Apr. 11, 1942, ch. 240, 56 Stat. 217, vested United States Maritime Commission's authority in Administrator of War Shipping Administration.

Section 1128h, act June 29, 1936, ch. 858, § 229, as added Mar. 24, 1943, ch. 26, § 3(i), 57 Stat. 51, authorized War Shipping Administration to insure directly or to reinsure.

For present provisions on war risk insurance, see section 1281 et seq. of this title.

SUBCHAPTER III.—AMERICAN SEAMEN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1176 of this title.

§ 1131. Manning and wage scales; subsidy contracts.

(a) Investigation of wages and working conditions; establishment of wage and manning scales; incorporation in subsidy contracts.

The Secretary of Commerce is authorized and directed to investigate the employment and wage conditions in ocean-going shipping and, after making such investigation and after appropriate hearings, to incorporate in the contracts authorized under subchapters VI and VII of this chapter minimum manning scales and minimum wage scales, and minimum working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy. After such minimum manning and wage scales, and working conditions shall have been adopted by Secretary, no change shall be made therein by the Secretary except upon public notice of the hearing to be had, and a hearing by the Secretary of all interested parties, under such rules as the Secretary shall prescribe. The duly elected representatives of the organizations certified as the proper collective bargaining agencies shall have the right to represent the employees who are members of their organizations at any such hearings. Every contractor receiving an operating-differential subsidy shall post and keep posted in a conspicuous place on each such vessel operated by such contractor a printed copy of the minimum manning and wage scales, and working conditions prescribed by his contract and applicable to such vessel: *Provided, however,* That any increase in the operating expenses of the subsidized vessel occasioned by any change in the wage or manning scales or working conditions as provided in this section shall be added to the operating-differential subsidy previously authorized for the vessel.

(b) Subsidy contracts; provisions relative to officers and crew.

Every contract executed under authority of subchapters VI and VII or this chapter shall require—

(1) Insofar as is practicable, officers' living quarters shall be kept separate and apart from those furnished for members of the crew;

(2) Licensed officers and unlicensed members of the crew shall be entitled to make complaints or recommendations to the Secretary of Commerce providing they file such complaint or recommendation directly with the Secretary, or with their immediate superior officer who shall be required to forward such complaint or recommendation with his remarks to the Secretary, or with the authorized representatives of the respective collective bargaining agencies;

(3) Licensed officers who are members of the United States Naval Reserve shall wear on their uniforms such special distinguishing insignia as may be approved by the Secretary of the Navy; officers being those men serving under licenses issued by the Bureau of Marine Inspection and Navigation or the Coast Guard;

(4) The uniform stripes, decoration, or other insignia shall be of gold braid or woven gold or silver material, to be worn by officers, and no member of the ship's crew other than licensed officers shall be allowed to wear any uniform with such officer's identifying insignia;

(5) No discrimination shall be practiced against licensed officers, who are otherwise qualified, because of their failure to qualify as members of the United States Naval Reserve.

(June 29, 1936, ch. 858, §§ 301, 905(e), 49 Stat. 1992; June 23, 1938, ch. 600, §§ 5, 6, 52 Stat. 954, 955; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1938—Subsec. (a). Act June 23, 1938, § 5, substituted "minimum working conditions" for "reasonable working conditions," eliminated provisions which required a formal complaint before any change in scales or working conditions, and permitted representatives of organizations certified as the proper collective bargaining agencies to represent employees at hearings.

Subsec. (b). Act June 23, 1938, § 6, eliminated provisions which permitted complaints and recommendations

to be made to the Coast Guard or the Department of Labor, and which required licensed officers to take their meals in the main dining salon of the vessel.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Federal Maritime Board", "Board", "Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

Phrase "or the Coast Guard" was inserted in subsec. (b) (3) on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1173 of this title.

§ 1132. Citizenship of officers and crew.

(a) Vessels documented under laws of United States.

All licensed officers of vessels documented under the laws of the United States, as now required by law, shall be citizens of the United States, native-born or completely naturalized; and upon each departure from the United States of a cargo vessel in respect of which a construction or operating subsidy has been granted all of the crew (crew including all employees of the ship) shall be citizens of the United States, native-born or completely naturalized.

(b) Passenger vessels granted subsidies.

For a period of one year after the effective date of this chapter upon each departure from the United States of a passenger vessel in respect of which a construction or operation subsidy has been granted, all licensed officers shall be citizens of the United States as defined above, and no less than 80 per centum of the crew (crew including all employees of the ship other than officers) shall be citizens of the United States, native-born or completely naturalized, and thereafter the percentage of citizens, as above defined, shall be increased 5 per centum per annum until 90 per centum of the entire crew, including all licensed officers of any such vessel, shall be citizens of the United States, native-born or completely naturalized.

(c) Aliens; conditions of employment.

Any member of the crew, not required by this section to be a citizen of the United States, may be an alien only if he is in possession of a valid declaration of intention to become a citizen of the United States, or other evidence of legal admission to the United States for permanent residence. Such alien, as above defined, may be employed only in the steward's department on passenger vessels.

(d) Filling vacancies while on foreign voyage.

If any such vessel (as above defined) while on a foreign voyage is for any reason deprived of the services of any employee below the grade of master, his place or a vacancy caused by the promotion of another to his place may be supplied by a person other than defined in subsections (a) and (b) of this section, until the first return of such vessel to a port in the United States.

(e) Penalty for violations.

The owner, agent, or officer of any such vessel who knowingly employs any person in violation of the provisions of this chapter shall, upon conviction thereof, be fined $50 for each person so employed.

(f) Enforcement; effective date; repeal of other laws.

This section shall be enforced by the Commandant of the Coast Guard, for the purpose of carrying out the provisions of this section, and shall take effect ninety days after June 29, 1936.

(g) Membership of officers in United States Naval Reserve.

All of the deck and engineer officers employed on vessels on which an operating-differential subsidy is paid under authority of subchapter VI of this chapter, or employed on the vessels of the Department of Commerce, after one year after June 29, 1936, shall, if eligible, be members of the United States Naval Reserve.

(h) Suspension of section during emergency.

During a national emergency as proclaimed by the President he may, in his discretion, suspend any or all of the provisions of this section. (June 29, 1936, ch. 858, §§ 302, 905(e), 49 Stat. 1992; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; 1950 Reorg. Plan No. 21, §§ 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

EFFECTIVE DATE

See subsec. (f) of this section and section 1246 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

"Vessels of the Department of Commerce" was substituted for "Commission's vessels" (which had reference to United States Maritime Commission), in the text of subsec. (g), on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title,

and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067. See note set out under section 1111 of this title.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" in subsec. (f) on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (h) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SUBCHAPTER IV.—OCEAN MAIL CONTRACTS

§§ 1141 to 1144. Omitted.

CODIFICATION

Sections 1141 to 1144, which related to termination and settlement of ocean mail contracts existing when this chapter became effective, were omitted as executed and obsolete.

Section 1141, act June 29, 1936, ch. 858, § 401, 49 Stat. 1993, related to termination of ocean mail contracts, made prior to June 29, 1936, by June 30, 1937.

Section 1142, acts June 29, 1936, ch. 858, § 402, 49 Stat. 1993; June 1, 1938, ch. 311, 52 Stat. 606; June 23, 1938, ch. 600, § 7, 52 Stat. 955, related to adjustment of rights under terminated contracts.

Section 1143, act June 29, 1936, ch. 858, § 403, 49 Stat. 1994, related to credit of sum payable to contractor on loans and mortgage notes.

Section 1144, act June 29, 1936, ch. 858, § 404, 49 Stat. 1995, transferred powers under then existing ocean mail contracts from Postmaster General to United States Maritime Commission.

§ 1145. Repealed. Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 725, eff. Sept. 1, 1960.

Section, act June 29, 1936, ch. 858, § 405, 49 Stat. 1995, related to the carriage of United States mails on vessels and to the transportation of Postal Service employees on mail-carrying vessels without charge when on duty.

SUBCHAPTER V.—CONSTRUCTION-DIFFERENTIAL SUBSIDY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1152, 1153, 1161, 1191, 1193, 1204, 1212, 1274 of this title; title 50 App. section 1742.

§ 1151. Subsidy authorized for vessels to be operated in foreign trade.

(a) Application for subsidy for construction; conditions precedent to granting.

Any proposed ship purchaser who is a citizen of the United States or any shipyard of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be used in the foreign commerce of the United States. No such application shall be approved by the Secretary of Commerce unless he determines that (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency; (2) if the applicant is the proposed ship purchaser, the applicant possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the proposed new vessel, and (3) the granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policy of this chapter. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price shall not restrict the lawful or proper use or operation of the vessel except to the extent expressly required by law. The Secretary of Commerce may give preferred consideration to applications that will tend to reduce construction-differential subsidies and that propose the construction of ships of higher transport capability and productivity.

(b) Submission of plans to Navy Department; certification of approval.

The Secretary of Commerce shall submit the plans and specifications for the proposed vessel to the Navy Department for examination thereof and suggestions for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans and specifications as submitted, or as modified, in accordance with the provisions of this subsection, he shall certify such approval to the Secretary of Commerce.

(c) Application for subsidy for reconstruction or reconditioning; conditions precedent to granting; contracts.

Any citizen of the United States or any shipyard of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in reconstructing or reconditioning any vessel that is to be used in the foreign commerce of the United States. If the Secretary of Commerce in the exercise of his discretion, shall determine that the granting of the financial aid applied for is reasonably calculated to carry out effectively the purposes and policy of this chapter, the Secretary of Commerce may approve such application and enter into a contract or contracts with the applicant therefor providing for the payment by the United States of a construction-differential subsidy that is to be ascertained, determined, controlled, granted, and paid, subject to all the applicable conditions and limitations of this subchapter and under such further conditions and limitations as may be prescribed in the rules and regulations of the Secretary of Commerce has adopted as provided in section 1114 (b) of this title; but the financial aid authorized by this subsection shall be extended to reconstruction or reconditioning only in exceptional cases and after a thorough study and a formal determination by the Secretary of Commerce that the proposed reconstruction or reconditioning is consistent with the purposes and policy of this chapter. (June 29, 1936, ch. 858, §§ 501, 905(e), 49 Stat. 1995; June 23, 1938, ch. 600, § 8, 52 Stat. 955; 1950 Reorg. Plan No. 21, §§ 105 (1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, §§ 1, 2, 21, 66 Stat. 760, 765; 1961 Reorg.

Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 6, 35(a), (c), (d), 84 Stat. 1019, 1035; Dec. 31, 1970, Pub. L. 91–603, § 4(a), 84 Stat. 1675.)

AMENDMENTS

1970—Pub. L. 91–469, § 35(a), substituted "Secretary of Commerce" for "Commission", twice in subsecs. (a) and (b) and five times in subsec. (c).

Subsec. (a). Pub. L. 91–603 substituted "for the operation and maintenance of" for "to enable it to operate and maintain" in cl. (2).

Pub. L. 91–469, §§ 6(1), 35(c), substituted "Any proposed ship purchaser who is a citizen of the United States or any shipyard of the United States" for "Any citizen of the United States", inserted in subd. (2) the introductory words "if the applicant is the proposed ship purchaser," struck out of subd. (3) "to replace wornout or obsolete tonnage with new and modern ships, or otherwise" following "reasonably calculated", and authorized the Secretary of Commerce to give preferred consideration to applications that will tend to reduce construction-differential subsidies and that propose the construction of ships of high transport capability and productivity; and substituted "he" for "it" preceding "determines", respectively.

Subsec. (c). Pub. L. 91–469, §§ 6(2), 35(d), inserted "or any shipyard of the United States" following "Any citizen of the United States" and substituted "his" for "its" preceding "discretion", respectively.

1952—Subsecs. (a) and (c). Act July 17, 1952, §§ 1, 2, eliminated requirements as to essentiality of the service, route, or line to be served by the vessel and provided that the lawful or proper use of the vessel may not be restricted.

1938—Subsec. (c). Act June 23, 1938, inserted reference to section 1114(b).

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

COMMISSION ON AMERICAN SHIPBUILDING

Pub. L. 91–469, § 41, Oct. 21, 1970, 84 Stat. 1037, provided that:

"(1) [Establishment; membership; appointment; term; Chairman] There is hereby established a commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of seven members appointed by the President. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman.

"(2) [Compensation; travel expenses] Members of the Commission who are not full-time employees of the United States Government shall each be entitled to receive the per diem equivalent of the rate authorized for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(3) [Meetings] The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

"(4) [Executive Director; appointment; compensation] The Commission may appoint an Executive Director without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall fix his compensation without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(5) [Personnel; appointment; compensation] The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject (except as provided in paragraph (4) hereof) to the civil service laws and classification laws.

"(6) [Experts and consultants; procurement; compensation; travel expenses] The Commission may procure, in accordance with the provisions of section 3109 of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at the rate to be fixed by the Commission, but not in excess of the per diem equivalent of the rate authorized for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(7) [American shipbuilding industry status; review; recommendations] The Commission shall review the status of the American shipbuilding industry, its problems and its progress toward increasing its productivity and reducing production costs. The Commission shall determine whether the American shipbuilding industry can achieve a level of productivity by the fiscal year 1976 such that the construction-differential subsidy payable under title V of the Merchant Marine Act, 1936, will not exceeed 35 per centum of the United States construction cost. The Commission shall recommend a course of action which should be taken on the part of Government and industry to improve the competitive situation of the United States shipbuilding industry in world shipbuilding markets and if the Commission shall determine that the construction-differential subsidy cannot be reduced to 35 per centum of the United States cost it shall recommend alternatives to the ship construction program then in effect.

"(8) [Report to President and Congress; termination] The Commission shall not later than three years after the date of enactment of this Act or such earlier dates as shall be required by section 502(b) of the Merchant Marine Act, 1936, submit a comprehensive report of its findings and recommendations to the President and to the Congress, and sixty days thereafter shall cease to exist.

"(9) [Appropriations authorization] There are hereby authorized to be appropriated such amounts as may be necessary to permit the Commission to carry out its responsibilities under this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1173 of this title.

§ 1152. Construction of vessels; bids; subsidies.

(a) Approval of bids; contract with bidder; acceptance of negotiated price; shipyard records, availability; contract with applicant or qualified citizen for purchase of vessel.

If the Secretary of the Navy certifies his approval under section 1151(b) of this title, and the Secretary of Commerce approves the application, he may secure bids for the construction of the proposed vessel according to the approved plans and specifications. If the bid of the shipbuilder who is the lowest responsible bidder is determined by the Secretary of Commerce to be fair and reasonable, the Secretary

of Commerce may approve such bid, and if such approved bid is accepted by the proposed shipbuilder, the Secretary of Commerce is authorized to enter into a contract with the successful bidder for the construction, outfitting, and equipment of the proposed vessel, and for the payment by the Secretary of Commerce to the shipbuilder, on terms to be agreed upon in the contract, of the contract price of the vessel, out of the construction fund hereinbefore referred to, or out of other available funds. Notwithstanding the provisions of the first sentence of section 1155 of this title with respect to competitive bidding, the Secretary of Commerce is authorized, at any time prior to June 30, 1973, to accept a price for the construction of the ship which has been negotiated between a shipyard and proposed ship purchaser if (i) the negotiated price will result in a construction-differential subsidy that is equal to or less than 45 per centum in fiscal 1971, 43 per centum in fiscal 1972, and 41 per centum in fiscal 1973; (ii) the proposed ship purchaser and the shipyard submit backup cost details and evidence that the negotiated price is fair and reasonable; (iii) the Secretary of Commerce finds that the negotiated price is fair and reasonable; and (iv) the shipyard agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment have access to and the right to examine any pertinent books, documents, papers, and records of the shipyard or any of its subcontractors related to the negotiation or performance of any contract or subcontract negotiated under this subsection and will include in its subcontracts a provision to that effect. Concurrently with entering into such contract with the shipbuilder, the Secretary of Commerce is authorized to enter into a contract for the sale of such vessel upon its completion, to the applicant if he is the proposed ship purchaser and if not to another citizen of the United States, if the Secretary of Commerce determines that such citizen possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the vessel at a price corresponding to the estimated cost, as determined by the Secretary of Commerce pursuant to the provisions of this chapter, of building such vessel in a foreign shipyard.

(b) Basis for fixing subsidy; cost of construction in foreign yards; annual recomputation and publication of foreign cost; limitation on construction differential; report on American shipbuilding industry.

The amount of reduction in selling price which is herein termed "construction differential subsidy" shall equal, but not exceed, the excess of the bid of the shipbuilder constructing the proposed vessel (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel if it were constructed under similar plans and specifications (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed. The Secretary of Commerce shall recompute such estimated foreign cost annually unless, in the opinion of the Secretary, there has been a significant change in shipbuilding market conditions. The Secretary shall publish notice of his intention to compute or recompute such estimated foreign cost and shall give interested persons, including but not limited to shipyards and shipowners and associations thereof, an opportunity to file written statements. The Secretary's consideration shall include, but not be limited to, all relevant matter so filed, and his determination shall include or be accompanied by a concise explanation of the basis of his determination. The construction differential approved and paid by the Secretary shall not exceed 55 per centum of the construction cost of the vessel, except that in the case of reconstruction or reconditioning of a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in section 1153 of this title, the construction differential approved and paid shall not exceed 60 per centum of the reconstruction or reconditioning cost (excluding the cost of national defense features as above provided): *Provided, however,* That after June 30, 1970, the construction differential approved by the Secretary shall not exceed in the case of the construction, reconstruction or reconditioning of any vessel 50 per centum of such cost. When the Secretary finds that the construction differential exceeds the following percentages: in fiscal year 1971, 45 per centum; in fiscal year 1972, 43 per centum; in fiscal year 1973, 41 per centum; in fiscal year 1974, 39 per centum; in fiscal year 1975, 37 per centum; in fiscal year 1976 and thereafter, 35 per centum, the Secretary may negotiate with any bidder, whether or not such bidder is the lowest bidder, and contract with such bidder, notwithstanding the provisions of the first sentence of section 1155 of this title with respect to competitive bidding, to construct, reconstruct, or recondition such vessel in a domestic shipyard at a cost which will reduce the construction differential to such applicable percentage or as close thereto as possible, or less. Commencing with the fiscal year 1972 no construction contract requiring a construction-differential in excess of the applicable percentages set forth in the preceding sentence shall be entered into unless the Secretary shall have given due consideration to the likelihood that the above percentages will not be attained and that the commitment to the ship construction program may not be continued. If the Secretary of Commerce enters into such a contract, he shall notify the Commission on American Shipbuilding of such contract and the Commission on American Shipbuilding shall, not later than six months after such notification, submit its report on the American shipbuilding industry. In the event that the Secretary has reason to believe that the bidding in any instance is collusive, he shall report all of the evidence on which he acted (1) to the Attorney General of the United States, and (2) to the President of the Senate and to the Speaker of the House of Representatives if the Congress shall

be in session or if the Congress shall not be in session, then to the Secretary of the Senate and Clerk of the House, respectively.

(c) Terms of sale of vessel to purchaser.

In such contract of sale between the purchaser and the Secretary of Commerce, the purchaser shall be required to make cash payments to the Secretary of Commerce of not less than 25 per centum of the price at which the vessel is sold to the purchaser. The cash payments shall be made at the time and in the same proportion as provided for the payments on account of the construction cost in the contract between the shipbuilder and the Secretary of Commerce. The purchaser shall pay, not less frequently than annually, interest on those portions of the Secretary of Commerce's payments as made to the shipbuilder which are chargeable to the purchaser's portion of the price of the vessel (after deduction of the purchaser's cash payments) at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs. The balance of such purchase price shall be paid by the purchaser, within twenty-five years after delivery of the vessel and in not to exceed twenty-five equal annual installments, the first of which shall be payable one year after the delivery of the vessel by the Secretary of Commerce to the purchaser. Interest at the rate per annum applicable to payments that are chargeable to the purchaser's portion of the price of the vessel shall be paid on all such installments of the purchase price remaining unpaid.

(d) Repealed. Pub. L. 87-877, § 2(a), Oct. 24, 1962, 76 Stat. 1200.

(e) Construction in navy yards; sales to citizens; terms.

If no bids are received for the construction, outfitting, or equipping of such vessel, or if it appears to the Secretary of Commerce that the bids received from privately owned shipyards of the United States are collusive, excessive, or unreasonable, and if a citizen of the United States agrees to purchase said vessel as provided in this section, then, to provide employment for citizens of the United States, the Secretary of Commerce may have such vessel constructed, outfitted, or equipped at not in excess of the actual cost thereof in a navy yard of the United States under such regulations as may be promulgated by the Secretary of the Navy and the Secretary of Commerce. In such event the Secretary of Commerce is authorized to pay for any such vessel so constructed from his construction fund. The Secretary of Commerce is authorized to sell any vessel so constructed, outfitted, or equipped in a navy yard to a citizen of the United States for the fair and reasonable value thereof, but at not less than the cost thereof less the equivalent to the construction differential subsidy determined as provided by subsection (b) of this section, such sale to be in accordance with all the provisions of this subchapter.

(f) Survey of shipbuilding capability; correction of inadequacies; reimbursement of certain vessel construction and delivery expenses.

The Secretary of Commerce, with the advice of and in coordination with the Secretary of the Navy, shall at least once each year, as required for purposes of this chapter, survey the existing privately owned shipyards capable of merchant ship construction, or review available data on such shipyards if deemed adequate, to determine whether their capabilities for merchant ship construction, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for purposes of national defense and national emergency. The Secretary of Commerce, in connection with ship construction, reconstruction, reconditioning, or remodeling under this subchapter and subchapter VII of this chapter, upon a basis of a finding that the award of the proposed construction, reconstruction, reconditioning, or remodeling work will remedy an existing or impending inadequacy in such mobilization base as to the capabilities and capacities of a shipyard or shipyards at a strategic point, and after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards, may allocate such construction, reconstruction, reconditioning, or remodeling to such yard or yards in such manner as he may determine to be fair, just, and reasonable to all sections of the country, subject to the provisions of this subsection. In the allocation of construction work to such yards as herein provided, the Secretary of Commerce may, after first obtaining competitive bids for such work in compliance with the provisions of this chapter, negotiate with the bidders and with other shipbuilders concering the terms and conditions of any contract for such work, and is authorized to enter into such contract at a price deemed by the Secretary of Commerce to be fair and reasonable. Any contract entered into by the Secretary of Commerce under the provisions of this subsection shall be subject to all of the terms and conditions of this chapter, excepting those pertaining to the awarding of contracts to the lowest bidder which are inconsistent with the provisions of this subsection. In the event that a contract is made providing for a price in excess of the lowest responsible bid which otherwise would be accepted, such excess shall be paid by the Secretary of Commerce as a part of the cost of national defense, and shall not be considered as a part of the construction-differential subsidy. In the event that a contract is made providing for a price lower than the lowest responsible bid which otherwise would be accepted, the construction-differential subsidy shall be computed on the contract price in lieu of such bid.

If, as a result of allocation under this subsection, the purchaser incurs expenses for inspection and supervision of the vessel during construction and for the delivery voyage of the vessel in excess of the estimated expenses for the same services that he would have incurred if the vessel had been constructed by the lowest responsible bidder the Secre-

tary of Commerce (with respect to construction under this subchapter, except section 1159 of this title) shall reimburse the purchaser for such excess, less one-half of any gross income the purchaser receives that is allocable to the delivery voyage minus one-half of the extra expenses incurred to produce such gross income, and such reimbursement shall not be considered part of the construction-differential subsidy: *Provided,* That no interest shall be paid on any refund authorized under this chapter. If the vessel is constructed under section 1159 of this title the Secretary of Commerce shall reduce the price of the vessel by such excess, less one-half of any gross income (minus one-half of the extra expenses incurred to produce such gross income) the purchaser receives that is allocable to the delivery voyage. In the case of a vessel that is not to receive operating-differential subsidy, the delivery voyage shall be deemed terminated at the port where the vessel begins loading. In the case of a vessel that is to receive operating-differential subsidy, the delivery voyage shall be deemed terminated when the vessel begins loading at a United States port in an essential service. In either case, however, the vessel owner shall not be compensated for excess vessel delivery costs in an amount greater than the expenses that would have been incurred in delivering the vessel from the shipyard at which it was built to the shipyard of the lowest responsible bidder. If as a result of such allocation, the expenses the purchaser incurs with respect to such services are less than the expenses he would have incurred for such services if the vessel had been constructed by the lowest responsible bidder, the purchaser shall pay to the Secretary of Commerce an amount equal to such reduction and, if the vessel was built with the aid of construction-differential subsidy, such payment shall not be considered a reduction of the construction-differential subsidy.

(g) Sale of vessels acquired by Secretary.

Upon the application of any citizen of the United States to purchase any vessel acquired by the Secretary of Commerce under the provisions of section 1125 of this title, the Secretary of Commerce is authorized to sell such vessel to the applicant for the fair and reasonable value thereof, but at not less than the cost thereof to the Secretary of Commerce less depreciation at the rate of 4 per centum per annum from the date of completion, excluding the cost of national-defense features added by the Secretary of Commerce, less the equivalent of any applicable construction-differential subsidy as provided by subsection (b) of this section, such sale to be in accordance with all the provisions of this subchapter. Such vessel shall thereupon be eligible for an operating-differential subsidy under subchapter VI of this chapter, notwithstanding the provisions of section 1171 (a) (1), and section 1180 (1) of this title, or any other provision of law. (June 29, 1936, ch. 858, §§ 502, 905(e), 49 Stat. 1996; June 23, 1938, ch. 600, §§ 9—14, 52 Stat. 955—957; Aug. 4, 1939, ch. 417, § 6, 53 Stat. 1183; 1950 Reorg. Plan No. 21, §§ 102(d), 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; July 26, 1956, ch. 737, 70 Stat. 657; June 12, 1960, Pub. L. 86–518, §§ 1, 2, 74 Stat. 216; July 7, 1960, Pub. L. 86–607, § 1, 74 Stat. 362; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 24, 1962, Pub. L. 87–877, §§ 1, 2,(a), (e), (f), 76 Stat. 1200, 1201; July 11, 1964, Pub. L. 88–370, 78 Stat 313; Aug. 10, 1964, Pub. L. 88–410, § 1, 78 Stat. 385; Aug. 14, 1965, Pub. L. 89–127, 79 Stat. 519; Sept. 19, 1966, Pub. L. 89–589, 80 Stat. 811; Oct. 12, 1968, Pub. L. 90–572, 82 Stat. 1004; July 8, 1969, Pub. L. 91–40, 83 Stat. 44; Oct. 21, 1970, Pub. L. 91–469, §§ 7, 35(a), (e)—(g), 84 Stat. 1019, 1035, 1036; Dec. 31, 1970, Pub. L. 91–603, § 4 (b), 84 Stat. 1675.)

AMENDMENTS

1970—Pub. L. 91–469, § 35(a), substituted "Secretary of Commerce" for "Commission", six times in subsec. (a), four times in subsec. (c), five times in subsec. (e), four times in subsec. (f) in the sentences commencing "In the allocation", "Any contract entered into", and "In the event", and four times in subsec. (g).

Subsec. (a). Pub. L. 91–603 substituted "for the operation and maintenance of" for "to enable it to operate and maintain."

Pub. L. 91–469, §§ 7(1), 35(e), struck out of the first sentence ", on behalf of the applicant," following "may secure", substituted in the second sentence "proposed ship purchaser, the Secretary of Commerce" for "applicant, the Commission", inserted conditions precedent to acceptance of negotiated price for ship construction in fiscal years 1971, 1972, and 1973, including availability of shipyard records in connection therewith, substituted in the last sentence "for the sale" for "with the applicant for the purchase by him" preceding "of such vessel", and authorized sale of vessel upon its completion to the applicant if he is the proposed ship purchaser and if not to another citizen, if the Secretary determines that such citizen possesses the necessary qualifications to enable it to operate and maintain the vessel; and substituted "he" for "it" preceding "may secure", respectively.

Subsec. (b). Pub. L. 91–469, § 7(2), provided for recomputation of estimated foreign cost annually, publication of notice to compute or recompute such estimated foreign cost, offer of opportunity to interested persons to file written statements, consideration of relevant matter so filed, explanation of basis of determination, prohibition commencing with fiscal year 1972 of construction contracts requiring construction-differential in excess of prescribed percentages unless there is no likelihood of attaining the percentages and the commitment to the ship construction program may not be continued, notice to Commission on American Shipbuilding of execution of such a contract, and submission of a Commission report on the American shipbuilding industry within six months of the notice, substituted "may equal" for "shall equal", "construction of that type vessel" for "construction of the proposed vessel", "exceeds the following percentages: in fiscal year 1971, 45 per centum; in fiscal year 1972, 43 per centum; in fiscal year 1973, 41 per centum; in fiscal year 1974, 39 per centum; in fiscal year 1975, 37 per centum; in fiscal year 1976 and thereafter, 35 per centum" for "in any case exceeds the foregoing applicable percentage of such cost", and "with such bidder, notwithstanding the provisions of the first sentence of section 1155 of this title with respect to competitive bidding," for "on behalf of the applicant", and inserted "with any bidder, whether or not such bidder is the lowest bidder," after "the Secretary may negotiate" and ", or as close thereto as possible" before "or less".

Subsec. (c). Pub. L. 91–469, §§ 7(3), 35(f), inserted "of sale" after introductory phrase "In such contract", in revising interest rate substituted provision for a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum plus an administrative cost allowance for prior rate of 3½ per

centum per annum, substituted in last sentence "rate per annum applicable to payments that are chargeable to the purchaser's portion of the price of the vessel" for "rate of 3½ per centum per annum", "purchaser" for "applicant" in six instances, "purchaser's portion of the price" for "applicant's purchase price", and "purchaser's" for "applicant's"; and substituted "Secretary of Commerce's" for "Commission's", respectively.

Subsec. (e). Pub. L. 91–469, §§ 7(4), 35(g), substituted "a citizen of the United States" for "the applicant" in first sentence and for "an applicant" in third sentence and "his" for "its" in second sentence, respectively.

Subsec. (f). Pub. L. 91–469, § 7(5), in first par., substituted "this subchapter and subchapter VII of this chapter" for "subchapter VII of this chapter and section 1159 of this title, and the Federal Maritime Board, in connection with ship construction, reconstruction, or reconditioning under this subchapter (except section 1159 of this title)," and "in such manner as he may determine" for "in such manner as it may be determined" in second sentence; and in second par., substituted "purchaser" for "applicant" in six instances and "United States port in an essential service" for "United States port on any essential service of the operator" in fourth sentence.

Subsec. (g). Pub. L. 91–469, § 7(6), substituted "application" and "any citizen of the United States" for "agreement" and "an applicant under this subchapter" in the first sentence.

1969—Subsec. (b). Pub. L. 91–40 substituted "June 30, 1970" for "June 30, 1969."

1968—Subsec. (b). Pub. L. 90–572 substituted "June 30, 1969" for "June 30, 1968".

1966—Subsec. (b). Pub. L. 89–589 substituted "June 30, 1968" for "June 30, 1966."

1965—Subsec. (b). Pub. L. 89–127 substituted "June 30, 1966" for "June 30, 1965".

1964—Subsec. (b). Pub. L. 88–370 substituted "June 30, 1965" for "June 30, 1964."

Subsec. (f). Pub. L. 88–410 provided for reimbursement of expenses incurred during construction and the delivery voyage of a vessel, if as a result of allocation under this subsection, they are in excess of the estimated expenses that would have been incurred if the vessel had been constructed by the lowest responsible bidder, less one-half of any gross income allocable to the delivery voyage, minus one-half the extra expenses incurred to produce such income, and that such reimbursement shall not be part of the construction-differential subsidy, that no interest be paid on any refund authorized, that if the vessel is constructed under section 1159 the price of the vessel is to be reduced by such excess expenses less such gross income, calculated as above, obtained on the delivery voyage, that if the vessel is not to receive the operating-differential subsidy the delivery voyage shall be deemed terminated at the port where the vessel begins loading, and if it does receive the subsidy, when the vessel begins loading at a United States port on any esential service of the operator, but in either case there is to be no compensation greater than the expenses that would have been incurred in delivering the vessel from the shipyard at which it was built to the one of the lowest bidder, that if the allocation results in a saving of expenses for the applicant, the applicant shall pay an equal amount to the Secretary, and if the vessel was built with the subsidy, such payment shall not be considered a reduction of the subsidy.

1962—Subsec. (b). Pub. L. 87–877, § 1, among other changes, substituted references to the Secretary, for references to the Federal Maritime Board, wherever appearing, and provided that in the reconstruction or reconditioning of a passenger vessel having the characteristics set forth in section 1153 of this title, the construction differential shall not exceed 60 per centum of the cost, excluding national defense features, however, after June 30, 1964, the construction differential approved by the Secretary for any vessel shall not exceed 50 per centum of such cost.

Subsec. (d). Pub. L. 87–877, § 2(a), repealed subsec. (d), which provided for giving a preference to Pacific coast bidders in obtaining a subsidy and specified the conditions to be met therefor.

Subsec. (f). Pub. L. 87–877, § 2(e), (f), substituted "at least once each year" for "periodically", "existing or impending inadequacy" for "existing inadequacy", and eliminated ", with the approval of the President," which preceded "allocate such construction."

1960—Subsec. (b). Pub. L. 86–607, § 1(1), increased the limitation on construction differential from 50 to 55 per centum of the construction cost of a vessel and provided for such percentage limitation in lieu of former 33⅓ per centum of construction cost, increased to 50 per centum on affirmative vote of two Board members.

Subsec. (c). Pub. L. 86–518, § 1, substituted "twenty-five" for "twenty" in two instances.

Subsec. (d). Pub. L. 86–607, § 1(2), increased the limitation on construction-differential from 50 to 55 per centum of the construction cost of a vessel.

Subsec. (g). Pub. L. 86–518, § 2, substituted "at the rate of 4 per centum per annum" for "based on a twenty-year life expectancy."

1956—Subsec. (f). Act July 26, 1956, substituted provisions that required Secretary of Commerce, with advice of Secretary of the Navy, to make periodic survey of privately owned shipyards to determine adequacy for providing mobilization base, and that any inadequacies would be corrected by Secretary of Commerce or Federal Maritime Board with the approval of the President by allocating work to such yards, for former provisions allowing periodic survey by the Federal Maritime Board of both Navy and privately owned shipyards.

1939—Subsec. (b). Act Aug. 4, 1939, substituted "a foreign shipbuilding center which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed" for "a principal foreign shipbuilding center which may reasonably be availed of by the principal foreign competitors in the service in which the vessel is to be operated, and which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated cost of construction in foreign countries of vessels of the type proposed to be constructed."

1938—Subsec. (a). Act June 23, 1938, § 9, substituted "of the contract price of the vessel" for "the cost of the vessel."

Subsec. (b). Act June 23, 1938, § 10, permitted negotiations and contracts to build vessels in domestic shipyards in cases where the construction differential exceeds 33⅓ per centum or 50 per centum of the cost, and to require a report where there is reason to believe that the bidding is collusive.

Subsec. (c). Act June 23, 1938, § 11, among other changes, substituted "of not less than 25 per centum of the price at which the vessel is sold to the applicant" for "a sum equal to 25 per centum of the construction cost of the vessel paid by the Commission (excluding cost of national-defense features as above provided)", and required the applicant to pay, not less frequently than annually, interest at the rate of 3½ per centum per annum on those portions of payments made to the shipbuilder which are chargeable to the applicant's purchase price of the vessel (after deduction of the applicant's cash payments).

Subsec. (d). Act June 23, 1938, § 12, substituted "construction-differential subsidy" for "construction subsidy", and inserted provisions relating to limitation on approval of construction-differential in excess of 50 per centum of the construction cost of the vessel paid by the Commission.

Subsec. (f). Act June 23, 1938, §13, added subsec. (b).

Subsec. (g). Act June 23, 1938, § 14, added subsec. (g).

Effective Date of 1962 Amendment

Section 5 of Pub. L. 87–877 provided that: "The amendment made by the first section of this Act [to subsec. (b) of this section] shall be effective only with respect to contracts entered into with respect to (a) the construction of a vessel the keel of which was laid after June 30, 1959, or (b) the reconstruction or reconditioning of a vessel the shipyard contract for which was entered into

after June 30, 1959, and the Secretary may, with the consent of the parties thereto, modify any such contract entered into prior to the date of the enactment of this Act [Oct. 24, 1962] to the extent authorized by the amendment made by this Act."

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 2 of Pub. L. 86–607, as amended by Pub. L. 87–222, Sept. 13, 1961, 75 Stat. 494, provided that: "The amendment made by this Act [to subsecs. (b) and (d) of this section] shall be effective only with respect to any contract entered into not later than two years after the date of enactment of this Act [July 7, 1960] under the provisions of section 502 of the Merchant Marine Act, 1936 [this section], with respect to (a) the construction of a vessel the keel of which was laid, or (b) the reconstruction or reconditioning of a vessel the shipyard contract for which was entered into after June 30, 1959, and the Federal Maritime Board may, with the consent of the parties thereto, modify any such contract entered into prior to the date of enactment of the first amendment to Public Law 86–607 (74 Stat. 362) [Sept. 13, 1961], to the extent authorized by the amendment made by this Act, as amended [to subsec. (b) and (d) of this section]."

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

References to "Federal Maritime Board" and "Board" have been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board", "Board", "Federal Maritime Board or the Secretary of Commerce", "Board or Secretary" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission), and words "upon the affirmative vote of two members" were substituted for "upon the affirmative vote of four members, except as otherwise provided in section 1111(a) of this title" in subsec. (b), on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

MODIFICATION OF CONTRACTS; CONDITIONS

Section 2 of Pub. L. 88–410 provided that: "The amendment made by this Act [to subsec. (f) of this section] shall be effective with respect to any contract entered into under the provisions of section 502 of the Merchant Marine Act, 1936, as amended [this section], and the Secretary of Commerce shall, with the consent of the other parties thereto, modify any such contract entered into prior to the date of the enactment of this Act [Aug. 10, 1964] to the extent authorized by the amendment made by this Act, except that the Secretary shall not agree to any such modification which would result in a payment by the United States unless, within one year after enactment of this Act, application is made for such modification. No payment shall be made by the Secretary under the provisions of the amendment made by this Act with respect to any contract entered into after the date of enactment of this Act unless the recipient of such payment has agreed to the modification of any contract which was entered into prior to the date of enactment of this Act and to which such recipient was a party, and which, if modified under the authority of this section, would result in a payment to the United States."

CONTRACTS FOR NEW SHIP CONSTRUCTION AWARDED ON BIDS OPENED PRIOR TO OCTOBER 24, 1962

Section 2(a) of Pub. L. 87–877 provided in part: "That the repeal of subsection (d) of section 502 of the Merchant Marine Act, 1936 [subsec. (d) of this section], shall not be effective with respect to contracts for new ship construction under title V of said Act [this subchapter] awarded on the basis of bids opened prior to the date of the enactment of this Act. [Oct. 24, 1962]."

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86–518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

CONSTRUCTION AND SALE OF SUPERLINER PASSENGER VESSELS

Pub. L. 85–521, July 15, 1958, 72 Stat. 359, provided: "That it is necessary, in order to carry out the merchant marine policy declared in the Merchant Marine Act, 1936, as amended [this chapter], to have (a) a superliner passenger vessel equivalent to the steamship United States, to replace the steamship America for operation on an essential trade route in the North Atlantic, and (b) a superliner passenger vessel with capacity of approximately one thousand four hundred passengers for operation on an essential trade route in the Pacific Ocean. Nothing herein shall preclude the operation of either of these vessels in other areas, subject to the approval of the Federal Maritime Board. There is hereby authorized to be appropriated to the Department of Commerce such sums as may be necessary, to remain available until expended, for the construction, outfitting, and equipping of such vessels.

"SEC. 2. Concurrently with entering into contracts with shipbuilders for the construction of said vessels, the Board is authorized to enter into contracts for the sale of the vessels, fully outfitted and equipped, upon their completion, (a) with respect to the superliner passenger vessel equivalent to the steamship United States, to the United States Lines Company, for the fixed price of $47,000,000, and (b) with respect to the superliner passenger vessel for operation in the Pacific Ocean, to the American President Lines, Limited, for the fixed price of $34,000,000, or 45 per centum of the domestic construction cost of the vessel fully outfitted and equipped (excluding national defense features and escalation) whichever is the greater. The sales prices stated herein shall include the cost of stabilizers, all outfit and equipment not covered by the shipbuilders' bids, customary architects' and interior decorators' fees for design, inspection during construction, and all escalation provided for in the shipbuilders' bids: *Provided, however,* That such prices shall be increased in an amount equal to 45 per centum of any net change in the cost of the vessels (other than national defense features) arising out of any changes in the bid specifications approved by the Federal Maritime Board or any changes in the usual outfitting and equipping of the vessels if such changes are requested by the purchasers and approved by the Federal Maritime Board after the enactment hereof. Terms and conditions of payment of the purchase price shall be as provided for

in sections 502(c) and 503 of the Merchant Marine Act, 1936, as amended [subsec. (c) of this section and section 1153 of this title]. In order that such construction of the superliner passenger vessel equivalent to the steamship United States may be accomplished promptly, the Federal Maritime Board, in its discretion, may have such a vessel constructed, without further bidding, under outstanding bids which have hitherto been made by United States shipbuilders on a similar vessel.

"SEC. 3. Except as otherwise provided in this Act, the construction and sale of the superliner passenger vessels authorized by this Act shall be in accordance with the provisions of the Merchant Marine Act, 1936, as amended [this chapter].

"SEC. 4. For the purposes of this Act the words 'construction differential subsidy' used in the Merchant Marine Act, 1936, as amended [this chapter], shall mean the difference between the sales price paid by the purchaser hereunder and the cost of the vessel (less national defense features) including the cost of stabilizers, all outfit and equipment not covered by the shipbuilders' bids, customary architects' and interior decorators' fees for design, inspection during construction, and all escalation provided for in the shipbuilders' bids.

"SEC. 5. Any contract for an operating differential subsidy on the operation of a vessel constructed and sold under this Act shall be subject to the provisions of title VI of the Merchant Marine Act, 1936, as amended [subchapter VI of this chapter]: *Provided, however,* That such contract shall provide that, if at the end of any recapture period, the net profits on the operation of such vessel for such recapture period, computed without regard to profits or losses on other vessels operated by the contractor, exceed 10 per centum per annum on a cumulative basis upon the contractor's capital necessarily employed in the operation of such vessel, as determined by the Federal Maritime Board, the contractor shall account to the United States for an amount equal to 75 per centum of such excess profits."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1154, 1155 of this title.

§ 1153. Documentation of completed vessel under laws of United States; delivery to purchaser; first mortgage to secure deferred payments.

Upon completion of the construction of any vessel in respect to which a construction-differential subsidy is to be allowed under this subchapter and its delivery by the shipbuilder to the Secretary of Commerce, the vessel shall be documented under the laws of the United States, and concurrently therewith, or as soon thereafter as practicable, the vessel shall be delivered with a bill of sale to the purchaser with warranty against liens, pursuant to the contract of sale between the purchaser and the Secretary of Commerce. The vessel shall remain documented under the laws of the United States for not less than twenty-five years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period. At the time of delivery of the vessel the purchaser shall execute and deliver a first-preferred mortgage to the United States to secure payment of any sums due from the purchaser in respect to said vessel: *Provided,* That notwithstanding any other provisions of law, the payment of any sums due in respect to a passenger vessel purchased under section 1737(b) of Appendix to Title 50, reconverted or restored for normal operation in commercial services, or in respect to a passenger vessel purchased under subchapter V of this chapter, which is delivered subsequent to March 8, 1946, and which (i) is of not less than ten thousand gross tons, (ii) has a designed speed approved by the Secretary of Commerce but not less than eighteen knots, (iii) has accommodations for not less than two hundred passengers, and, (iv) is approved by the Secretary of Defense as being desirable for national defense purposes, may, with the approval of the Secretary of Commerce be secured only by a first-preferred mortgage on said vessel. With the approval of the Secretary of Commerce, such preferred mortgage may provide that the sole recourse against the purchaser of such a passenger vessel under such mortgage, and any of the notes secured thereby, shall be limited to repossession of the vessel by the United States and the assignment of insurance claims, if the purchaser shall have complied with all provisions of the mortgage other than those relating to the payment of principal and interest when due, and the obligation of the purchaser shall be satisfied and discharged by the surrender of the vessel, and all right, title, and interest therein to the United States. Such vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever, except the lien of the preferred mortgage, (ii) in class, and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the purchaser, except that any deficiencies with respect to freedom from encumbrances, condition, and class, may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the United States of claims of the purchaser under such policies of insurance. The purchaser shall also comply with all the provisions of section 868 of this title. (June 29, 1936, ch. 858, §§ 503, 905(e), 49 Stat. 1997; June 23, 1938, ch. 600, § 15, 52 Stat. 957; 1950 Reorg. Plan No. 21, §§ 105 (1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, §§ 3, 21, 66 Stat. 761, 765; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 8, 35(a), 84 Stat. 1021, 1035.)

AMENDMENTS

1970—Pub. L. 91–469 substituted "purchaser" for "applicant" in three instances, "sale between the purchaser and the Secretary of Commerce" for "purchase between the applicant and the Commission" in the first sentence; and "Secretary of Commerce" for "Commission", in four instances, respectively.

1960—Pub. L. 86–518 substituted "twenty-five years" for "twenty years."

1952—Act July 17, 1952, § 3, amended section to provide that as to passenger vessels delivered after Mar. 8, 1946, the balance of the payments shall be secured by a first preferred mortgage, that the purchasers' obligation to pay will be discharged by surrender of the vessel and all rights to the Government, and to set up conditions governing type of vessel.

1938—Act June 23, 1938, amended section, substituting "construction-differential subsidy" for "construction subsidy", and "or so long as there remains due" for "and so long as there remains due".

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1154, 1159 of this title.

§ 1154. Purchase of vessel constructed in accordance with application for subsidy; bid or negotiated price basis for subsidy and payments for cost of national defense features; documentation.

If a qualified purchaser under the terms of this subchapter desires to purchase a vessel to be constructed in accordance with an application for construction-differential subsidy under this subchapter, the Secretary of Commerce may, in lieu of contracting to pay the entire cost of the vessel under section 1152 of this title, contract to pay only construction-differential subsidy and the cost of national defense features to the shipyard constructing such vessel. The construction-differential subsidy and payments for the cost of national defense features shall be based upon the lowest responsible domestic bid unless the vessel is constructed at a negotiated price as provided by section 1152(a) of this title or under a contract negotiated by the Secretary of Commerce as provided in section 1152(b) of this title in which event the construction-differential subsidy and payments for the cost of national defense features shall be based upon such negotiated price. No construction-differential subsidy, as provided in this section, shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this subchapter to protect the interests of the United States as the Secretary of Commerce deems necessary. Such vessel shall be documented under the laws of the United States as provided in section 1153 of this title. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel, except to the extent expressly required by law. (June 29, 1936, ch. 858, §§ 504, 905 (e), 49 Stat. 1998; June 23, 1938, ch. 600, § 16, 52 Stat. 958; 1950 Reorg. Plan No. 21, §§ 105(1), 306. eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, §§ 4, 21, 66 Stat. 761, 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 940; Oct. 21, 1970, Pub L. 91-469, §§ 9, 35(a), 84 Stat. 1021, 1035.)

AMENDMENTS

1970—Pub. L. 91-469, in revising the text, provided a negotiated price as an alternative basis for payment of subsidy and cost of national defense features, and substituted "Secretary of Commerce" for "Commission", respectively.

1952—Act July 17, 1952, § 4, added provision that the lawful or proper use of the vessel may not be restricted.

1938—Act June 23, 1938, substituted "domestic shipyards" for "American shipyards", eliminated "and if it is the lowest bid" which followed "fair and reasonable", and changed the term "construction subsidy" to "construction-differential subsidy".

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1224 of this title; title 50 App. section 1742.

§ 1155. Eligible shipyards; materials; conditions of contracts; limitation to American shipyards; American materials, waiver; ability of bidders; filing bids and data.

All construction in respect of which a construction-differential subsidy is allowed under this subchapter shall be performed in a shipyard of the United States as the result of competitive bidding, after due advertisement, with the right reserved in the Secretary of Commerce to disapprove, any or all bids. In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 1401 of Title 19; *Provided, however,* That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the

Secretary of Commerce may waive such requirements to the extent necessary to prevent such delay. No shipbuilder shall be deemed a responsible bidder unless he possesses the ability, experience, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. Each bid submitted to the Secretary of Commerce shall be accompanied by all detailed estimates upon which it is based. The Secretary of Commerce may require that the bids of any subcontractors, or other pertinent data, accompany such bid. All such bids and data relating thereto shall be kept on file until disposed of as provided by law. For the purposes of this subchapter V, the term "shipyard of the United States" means shipyards within any of the United States and the Commonwealth of Puerto Rico. (June 29, 1936, ch. 858, §§ 505, 905(e), 49 Stat. 1998; June 23, 1938, ch. 600, §§ 17, 40(a), 52 Stat. 958, 964; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; Oct. 25, 1951, ch. 562, § 3(4), 65 Stat. 639; July 17, 1952, ch. 939; § 21, 66 Stat. 765; July 12, 1960, Pub. L. 86–624, § 35(a), 74 Stat. 421; Oct. 21, 1970, Pub. L. 91–469, §§ 10, 35(a), 84 Stat. 1022, 1035.)

AMENDMENTS

1970—Pub. L. 469 struck out subsec. (a) designation, struck out of first sentence "within the continental limits" and "the applicant to reject, and in" following "shipyard" and "right reserved in", provided for waiver of use of American materials, substituted definition of "shipyard of the United States" for definition of "continental limits of the United States", and struck out: subsec. (b) provisions for conditions of contracts, reports as to costs and net profits, limitation on profit, payment to Secretary of excess profit, subdivision of contracts, inspection of records and premises, and contracts for scientific equipment; subsec. (c) provisions as to method of determining profit and limitation on salaries; subsec. (d) provisions for utilization of Treasury Department employees; and subsec. (e) provisions for rescinding approval of bid on refusal of bidder to comply with conditions, new bids, and construction in navy yards; and substituted "Secretary of Commerce" for "Commission" in three instances, respectively.

1960—Subsec. (a). Pub. L. 86–624 inserted the definition of the term "continental limits of the United States."

1951—Subsec. (a). Act Oct. 25, 1951, in last sentence, substituted "on file until disposed of as provided by law" for "permanently on file".

1938—Subsec. (a). Act June 23, 1938, § 40(a), substituted "construction-differential subsidy is allowed" for "subsidy is allowed".

Subsec. (b). Act June 23, 1938, § 17, made section inapplicable to contracts or other arrangements entered into under this subchapter by the terms of which the United States undertakes to pay only for national-defense features.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board", "Board", "Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

CROSS REFERENCES

Management and disposition of records, see chapters 10 and 11 of Title 44, Public Printing and Documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1155a, 1176 of this title; title 50 App. section 1212.

§ 1155a. Same; suspension of profit-limiting provisions as to certain subcontracts.

(a) The provisions of section 1155 (b) of this title shall not apply to any subcontract which would otherwise be within such provisions if such subcontract is entered into in any taxable year of the subcontractor to which Subchapter E of Chapter 2 of the Internal Revenue Code is applicable and if the principal contractor and the subcontractor between which such subcontract is entered into are not affiliated within the meaning of subsection (b) of this section at the time such subcontract is entered into or at any time thereafter up to and including the date of its completion; and any agreement, pursuant to which the subcontractor is required to pay to the Secretary of Commerce profit in excess of 10 per centum of the contract price of any such subcontract or pursuant to which such an agreement is required to be obtained from such subcontractor relative to such subcontract, shall be without effect. This subsection shall apply only if both the principal contractor and the subcontractor are corporations.

(b) For the purposes of this section, two or more corporations shall be deemed to be affiliated (1) if one corporation owns at least 95 per centum of the stock of the other or others, or (2) if at least 95 per centum of the stock of two or more corporations is owned by the same interests. As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. (Oct. 8, 1940, ch. 757, title IV, § 402, 54 Stat. 1003; 1950 Reorg. Plan No. 21, §§ 105 (1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274–1277.)

REFERENCES IN TEXT

Subchapter E of Chapter 2 of the Internal Revenue Code, referred to in subsec. (a), means subchapter E of Chapter 2 of the Internal Revenue Code of 1939, which was repealed by act Nov. 8, 1945, ch. 453, title I, § 122(a), 59 Stat. 568.

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1156. Operation of subsidy constructed vessel limited to foreign trade; repayments to Secretary for deviations.

Every owner of a vessel for which a construction-differential subsidy has been paid shall agree that

the vessel shall be operated exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, and that if the vessel is operated in the domestic trade on any of the above-enumerated services, he will pay annually to the Secretary of Commerce that proportion of one-twenty-fifth of the construction-differential subsidy paid for such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. The Secretary may consent in writing to the temporary transfer of such vessel to service other than the service covered by such agreement for periods not exceeding six months in any year, whenever the Secretary may determine that such transfer is necessary or appropriate to carry out the purposes of this chapter. Such consent shall be conditioned upon the agreement by the owner to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Secretary as such temporary period bears to the entire economic life of the vessel. No operating-differential subsidy shall be paid for the operation of such vessel for such temporary period. (June 29, 1936, ch. 858, §§ 506, 905(e), 49 Stat. 1999; June 23, 1938, ch. 600, § 18, 52 Stat. 958; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Mar. 18, 1959, Pub. L. 86-3, § 18(b)(1), 73 Stat. 12; June 12, 1960, Pub. L. 86-518, § 3, 74 Stat. 216.)

AMENDMENTS

1960—Pub. L. 86-518 substituted "one-twenty-fifth" for "one-twentieth."

1959—Pub. L. 86-3 included stops at the State of Hawaii for vessels operated on voyages in foreign trade.

1938—Act June 23, 1938, made changes in phraseology and substituted "construction-differential subsidy" for "construction subsidy".

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960; AMENDMENT OF CONTRACTS DEALING WITH VESSELS HAVING EXTENDED LIFE

For provisions authorizing revision and amendment of certain contracts, see section 8(c) of Pub. L. 86-518, as amended, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1183 of this title.

§ 1157. Construction of new vessel to replace obsolete; purchase of old vessel by Secretary; bond of seller against liens.

If a contract is made by the Secretary of Commerce under authority of this subchapter for the construction and sale of a new vessel to replace a vessel then operated in foreign trade or domestic trade, which in the judgment of the Secretary should be replaced because it is obsolete or inadequate for successful operation in such trade, the Secretary is authorized, in his discretion, to buy such replaced vessel from the owner at a fair and reasonable valuation, which valuation shall not exceed the cost to the owner or any former owner plus the actual cost previously expended thereon for reconditioning, and less a reasonable and proper depreciation, based upon not more than twenty-five-year life of the vessel, and apply the purchase price agreed upon to that portion of the construction cost of such new vessel which is to be borne by the purchaser thereof: *Provided,* That the owner of such replaced vessel shall execute a bond, with one or more approved sureties, conditioned upon indemnifying the United States from all loss resulting from any existing lien against such vessel: *And provided further,* That such vessel has been documented under the laws of the United States for a period of at least ten years prior to the date of its purchase by the United States. (June 29, 1936, ch. 858, §§ 507, 905(e), 49 Stat. 2000; June 23, 1938, ch. 600, § 19, 52 Stat. 959; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, §§ 5, 21, 66 Stat. 761, 765; June 12, 1960, Pub. L. 86-518, § 1, 74 Stat. 216; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1960—Pub. L. 86-518 substituted "twenty-five-year life" for "twenty-year life."

1952—Act July 17, 1952, § 5, made section applicable to vessels in domestic trade.

1938—Act June 23, 1938, eliminated provisions which authorized a deduction for obsolescence.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

References to the "Federal Maritime Board" and "Board" have been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or Secretary of Commerce" and "Board or Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86–518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

§ 1158. Disposition of vessels transferred to Department of Commerce by United States Maritime Commission.

If the Secretary of Commerce shall determine that any vessel transferred to the Department of Commerce, as the successor to the United States Maritime Commission, or hereafter acquired, is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary is authorized (1) to scrap said vessel, or (2) to sell such vessel for cash, after appraisement and due advertisement, and upon competitive sealed bids, either to citizens of the United States or to aliens: *Provided,* That the purchaser thereof shall enter into an undertaking with sureties approved by the Secretary that such vessel shall not be operated in the foreign commerce of the United States at any time within the period of ten years after the date of the sale, in competition with any other vessel owned by a citizen or citizens of the United States and registered under the laws thereof. (June 29, 1936, ch. 858, §§ 508, 905(e), 49 Stat. 2000; 1950 Reorg. Plan No. 21, §§ 204, 305, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Department of Commerce" and "United States Maritime Commission" were substituted for "Commission" and "Department of Commerce" in the catchline and "Secretary of Commerce", "Secretary" and "the Department of Commerce, as the successor to the United States Maritime Commission" for "Commission" and "it by section 1112 of this title" in the text, on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1159. Vessels to be operated in domestic trade; terms and conditions of construction aid and sale to purchaser.

Any citizen of the United States may make application to the Secretary of Commerce for aid in the construction of a new vessel to be operated in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Secretary of Commerce, the vessel may be constructed under the terms and conditions of this subchapter, but no construction-differential subsidy shall be allowed. The Secretary of Commerce shall pay for the cost of national-defense features incorporated in such vessel. In case the vessel is designed to be of not less than three thousand five hundred gross tons and to be capable of sustained speed of not less than fourteen knots, or in the case of a passenger vessel operating solely on the inland rivers and waterways which is designed to be of not less than one thousand gross tons and to be capable of sustained speed of not less than eight knots, or in the case of an oceangoing tug of more than two thousand five hundred horsepower or oceangoing barge of more than two thousand five hundred gross tons, the purchaser shall be required to pay the Secretary of Commerce not less than 12½ per centum of the cost of such vessel, and in the case of any other vessel the purchaser shall be required to pay the Secretary of Commerce not less than 25 per centum of the cost of such vessel (excluding from such cost, in either case, the cost of national defense features); and the balance of such purchase price shall be paid by the purchaser within twenty-five years in not to exceed twenty-five equal annual installments, with interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs, the balance of such purchase price being secured by a preferred mortgage on the vessel sold and otherwise secured as the Secretary of Commerce may determine: *Provided,* That, notwithstanding any other provisions of law, the balance of the purchase price of a passenger vessel constructed under this section which is delivered subsequent to March 8, 1946, and which has the tonnage, speed, passenger accommodations, and other characteristics set forth in section 1153 of this title, may, with the approval of the Secretary of Commerce, be secured as provided in such section, and the obligation of the purchaser of such a vessel

shall be satisfied and discharged as provided in such section. (June 29, 1936, ch. 858, §§ 509, 905(e), 49 Stat. 2000; June 23, 1938, ch. 600, § 20, 52 Stat. 959; June 6, 1939, ch. 186, 53 Stat. 810; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, §§ 6, 21, 66 Stat. 761, 765; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; Oct. 24, 1962, Pub. L. 87–877, § 2(b), 76 Stat. 1200; Dec. 10, 1967, Pub. L. 90–183, 81 Stat. 559; Dec. 18, 1967, Pub. L. 90–214, 81 Stat. 660; Oct. 21, 1970, Pub. L. 91–469, § 11, 84 Stat. 1022.)

AMENDMENTS

1970—Pub. L. 91–469 substituted "Secretary of Commerce" for "Commission" in seven instances, "purchaser" for "applicant" in first three instances, and provision for a rate of interest not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum plus an administrative cost allowance for prior rate of 3½ per centum per annum.

1967—Pub. L. 90–214 included provision for oceangoing tugs of more than two thousand five hundred horsepower or oceangoing barges of more than two thousand five hundred gross tons.

Pub. L. 90–183 inserted "or in the case of a passenger vessel operating solely on the inland rivers and waterways which is designed to be of not less than one thousand gross tons and to be capable of sustained speed of not less than eight knots" following "fourteen knots,".

1962—Pub. L. 87–877 eliminated the second proviso which, in the case of a vessel to be constructed under this section, gave a preference to an applicant who had his principal place of business on the Pacific coast of the United States, but not including one in business on or before Aug. 1, 1935, who subsequently changed his princi- was to be operated from such coast, the amount of the lowest responsible shipyard bid did not exceed by more than six per centum, a bid by such a shipyard on the Atlantic coast, and a port on the Pacific coast was designated and continued as the home port of the vessel, which set a lower rate of interest on deferred payments that would otherwise be applicable with respect to periods of construction of such vessel and its operation exclusively in coastwise, intercoastal, and other domestic trade, and which enumerated four conditions under which such such lower interest rate would not apply.

1960—Pub. L. 86–518 substituted "twenty-five" for "twenty" in two instances.

1952—Act July 17, 1952, § 6, provided that as to vessels delivered after Mar. 8, 1946, the balance of the payments shall be secured by a first preferred mortgage and that the purchaser's obligation to pay will be discharged by surrender of the vessel and all rights to the Government.

1939—Act June 6, 1939, eliminated "except as otherwise provided in this title" which followed "no construction-differential subsidy shall be allowed", and inserted provisions requiring the applicant to pay not less than 12½ per centum of the cost in case the vessel is designed to be of not less than 3,500 gross tons and to be capable of a sustained speed of not less than 14 knots.

1938—Act June 23, 1938, substituted "foreign or domestic trade" for "domestic trade", and inserted provisions requiring the Commission to pay for the cost of national-defense features.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1274, 1276a of this title.

§ 1160. Acquisition of obsolete vessels.

(a) Definitions.

When used in this section—

(1) The term "obsolete vessel" means a vessel or vessels, each of which (A) is of not less than one thousand three hundred and fifty gross tons, (B) in the judgment of the Secretary of Commerce, should, by reason of age, obsolescence, or otherwise, be replaced in the public interest and (C) has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder.

(2) The term "new vessel" means a vessel or vessels, each of which (A) is constructed under the provisions of this chapter, and is acquired within two years from the date of completion of such vessel, or is purchased under section 1204 of this title, as amended, by the person turning in an obsolete vessel under this section, or (B) is hereafter constructed in a domestic shipyard on private account and not under the provisions of this chapter, and documented under the laws of the United States.

(b) Promotion of construction of new vessels; allowance on obsolete vessels.

In order to promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Commerce is authorized, subject to the provisions of this section, to acquire any obsolete vessel in exchange for an allowance of credit. The obsolete vessel shall be acquired by the Secretary of Commerce, if the owner so requests, either at the time the owner contracts for the construction or purchase of a new vessel or within five days of the actual date of delivery of the new vessel to the owner. The amount of the allowance shall be determined at the time of the acquisition of the obsolete vessel by the Secretary of Commerce. In the event the

obsolete vessel is acquired by the Secretary of Commerce at the time the owner contracts for the construction or purchase of the new vessel, the allowance shall not be paid to the owner of the obsolete vessel, but shall be applied upon the purchase price of a new vessel. In the case of a new vessel constructed under the provisions of this chapter, such allowance may, under such terms and conditions as the Secretary of Commerce may prescribe, be applied upon the cash payments required under this chapter. In case the new vessel is not constructed under the provisions of this chapter, the allowance shall, upon acquisition of the obsolete vessel by the Secretary of Commerce, be paid, for the account of the owner, to the shipbuilder constructing such new vessel. In the event that title to the obsolete vessel is acquired by the Secretary of Commerce at the time of delivery of the new vessel, the allowance shall be deposited in the owner's capital construction fund. This subsection shall apply to obsolete vessels exchanged for new vessels hereafter contracted to be built, or eligible for such exchange but not exchanged in connection with a contract for new vessels executed prior to October 1, 1960.

(c) Utility value of new vessel; gross tonnage.

The utility value of the new vessel for operation in the domestic or foreign commerce of the United States shall not be substantially less than that of the obsolete vessel. The gross tonnage of the obsolete vessel may exceed the gross tonnage of the new vessel in a ratio not in excess of three to one, if the Secretary of Commerce finds that the new vessel, although of lesser tonnage, will provide utility value equivalent to or greater than that of the obsolete vessel.

(d) Amount of allowance on obsolete vessel; determination of amount.

The allowance for an obsolete vessel shall be the fair and reasonable value of such vessel as determined by the Secretary of Commerce. In making such determination the Secretary shall consider: (1) the scrap value of the obsolete vessel both in American and foreign markets, (2) the depreciated value based on a twenty or twenty-five year life, whichever is applicable to the obsolete vessel, and (3) the market value thereof for operation in the world trade or in the foreign or domestic trade of the United States. In the event the obsolete vessel is acquired by the Secretary at the time the owner contracts for the construction of the new vessel, and the owner uses such vessel during the period of construction of the new vessel, the allowance shall be reduced by an amount representing the fair value of such use. The rate for the use of the obsolete vessel shall be fixed by the Secretary for the entire period of such use at the time of execution of the contract for the construction of the new vessel.

(e) Recognition of gain for income tax purposes; basis for gain or loss.

No gain shall be recognized to the owner for the purpose of Federal income taxes in the case of a transfer of an obsolete vessel to the Secretary of Commerce under the provisions of this section. The basis for gain or loss upon a sale or exchange and for depreciation under the applicable Federal income-tax laws of a new vessel acquired as contemplated in this section shall be the same as the basis of the obsolete vessel or vessels exchanged for credit upon the acquisition of such new vessel, increased in the amount of the cost of such vessel (other than the cost represented by such obsolete vessel or vessels) and decreased in the amount of loss recognized upon such transfer.

(f) Report to Congress.

The Secretary of Commerce shall include in their annual report to Congress a detailed statement of all transactions consummated under the provisions of the preceding subsections during the period covered by such report.

(g) Use of vessels 20 years old or more.

An obsolete vessel acquired by the Secretary of Commerce under this section which is or becomes twenty-five years old or more, and vessels presently in the Secretary's laid-up fleet which are or become twenty-five years old or more, shall in no case be used for commercial operation, except that any such obsolete vessel, or any such vessel in the laid-up fleet may be used during any period in which vessels may be requisitioned under section 1242 of this title, as amended, and except as otherwise provided in this chapter for the employment of the Secretary's vessels in steamship lines on trade routes exclusively serving the foreign trade of the United States.

(h) Acquisition of tankers for national defense reserve.

The Secretary of Commerce is authorized until July 1, 1958 (subject to the provisions of this section as herein amended), to acquire a tanker or tankers, determined by him to be desirable for inclusion in the national defense reserve, in exchange for an allowance of credit to be applied upon the purchase price of a new tanker or tankers: *Provided,* That each of the tankers to be traded in (1) is not less than one thousand three hundred and fifty gross tons; (2) is not less than ten years old; (3) is owned by a citizen or citizens of the United States; (4) and preference shall be given to those tankers which have been documented under the laws of the United States for not less than three years immediately preceding; and (5) is in class with respect to hull and machinery satisfactory to the Secretary of Commerce on the date of its physical delivery to the United States and shall be considered an "obsolete vessel" for purposes of this section: *And provided further,* That only a tanker which is constructed after August 10, 1954 and documented under the laws of the United States shall be considered a "new vessel" for purposes of this section.

The Secretary of Commerce is authorized to pay the cost of national defense features incorporated in any such new tanker. In the event that the United States acquires ownership of such new tanker, the price paid therefor shall not include any amount for national defense features paid for by the United States. The foregoing provisions shall run with the title to each new tanker and be binding on all owners thereof.

The allowance of credit for a traded-in tanker which was sold under the Merchant Ship Sales Act

of 1946, as amended, or which was eligible for a price adjustment under section 1742 of Title 50, Appendix, shall be: (1) in the case of tankers sold under such Act, the depreciated net sales price paid to the United States, and (2) in the case of tankers which were eligible for price adjustment under such Act, the statutory sales price of such tanker as of March 8, 1946, depreciated: plus the depreciated cost of any additions or betterments to the tanker which were capitalized by the owner and allowed for Federal income tax purposes. Such allowance shall be determined as of the date the owner contracts for the construction of a new tanker. In each case, depreciation shall be computed on the basis of the life of the tanker adopted or accepted by the Internal Revenue Service for determining depreciation for income-tax purposes to the date the owner contracts for the construction of a new tanker.

The allowance of credit for any other traded-in tanker shall be determined in accordance with the provisions of subsection (d) of this section.

In no event shall the amount of credit allowed under this subsection or subsection (d) of this section for a traded-in tanker exceed the price paid by the owner for such tanker, plus the cost of any additions or betterments to the tanker capitalized by such owner and allowed for income-tax purposes.

If an owner uses any tanker traded in pursuant to this section subsequent to the date of the contract for construction of a new tanker, the allowance determined shall be reduced by an amount equal to depreciation for the period of such use and computed in accordance with the schedule adopted or accepted by the Internal Revenue Service. Title to the traded-in tanker shall in all instances vest in the United States, and the allowance of credit shall be applied at the time of physical delivery of such tanker to the United States, which shall be no later than ninety days after delivery of the new tanker. The traded-in tanker shall thereupon be placed in the national defense reserve subject to the provisions of section 1744 of Title 50, Appendix.

(i) Exchange of vessels; conditions.

In order to improve the type and suitability of vessels operating in the domestic and foreign commerce of the United States, and to further the policies of this chapter, the Secretary of Commerce is authorized (subject to the provisions of this subsection) to acquire at any time before July 5, 1972, vessels of one thousand five hundred gross tons or over which were constructed in the United States, in exchange for more modern or efficient ocean-going vessels of one thousand five hundred gross tons or over owned by the United States. Such exchanges shall be subject to the following conditions:

(1) The traded-in vessel shall have been owned by a citizen or citizens of the United States, documented under the laws of the United States, and shall not have been operated with operating-differential subsidy under subchapter VI of this chapter by the applicant or any affiliate of the applicant for at least three years immediately prior to the date of the exchange.

(2) The fair and reasonable value of the traded-in and traded-out vessels shall be determined as of the date of the exchange, pursuant to subsection (d) of this section. The value of a vessel when traded out shall be calculated in the same manner as its value was determined when it was traded in, except that vessels traded in prior to October 1, 1960, shall be valued on the basis yielding the highest fair return to the Government commensurate with the purposes of this subsection. In each exchange of vessels under this subsection, the value of the vessel traded-in, unless based on scrap value, and the value of the vessel traded-out shall be calculated in the same manner.

(3) In determining said fair and reasonable value the Secretary shall consider the cost of placing the vessels in class with respect to hull and machinery, and, with respect to any traded-out vessels of the military type, the cost of reconverting and restoring such vessels for normal operation in commercial service. The Secretary of Commerce shall consult with and obtain the approval of the Defense Department before any vessel of a military type is traded out under the provisions of this subsection. In determining the value of the traded-in vessel or vessels the Secretary may take into consideration the cost to the owner of compliance with subparagraph (8), clauses (A) and (B), of this subsection.

(4) The value of the traded-out vessel which is in excess of the value of the traded-in vessel or vessels shall be paid in cash at the time of the exchange. No payments shall be made by the United States to the owner of a traded-in vessel in connection with any exchange under this subsection.

(5) A contract shall be entered into under this subsection by any person acquiring a traded-out vessel, which shall provide (A) that in the event the United States shall, through purchase or requisition or otherwise, reacquire ownership of said vessel, at any time within twenty years of the date of construction thereof, the owner shall be paid therefor the value thereof, but in no event shall such payment exceed the fair and reasonable exchange value determined under this subsection (together with the actual cost of capital improvements thereon) depreciated to the date of such purchase or acquisition, or the fair and reasonable scrap value of such vessel, as determined by the Secretary of Commerce, whichever is the greater; (B) that such determination shall be final; (C) that in computing the depreciated exchange value of such vessel, the depreciation shall be computed on the vessel on the schedule adopted or accepted by the Secretary of the Treasury for Federal income tax purposes as applicable to such vessel; (D) that such vessel shall remain documented under the laws of the United States for a period of at least five years after the date of the exchange, or twenty years from the date of its construction, whichever is the later date; and (E) that the foregoing conditions respecting requisition or acquisition of ownership by the United States and documentation shall run with the title to such vessel and be binding on all owners thereof. Any other conditions respecting purchase or

requisition by the United States heretofore applicable by statute to any traded-out vessel are made inapplicable to such vessel.

(6) Neither subsection (e) of this section, nor the nontaxable exchange provisions of the Internal Revenue Code, shall apply to the exchange of vessels under this subsection.

(7) Any repairs or reconversion necessary at the time of the exchange to place the traded-out vessel in class and prepare it for commercial operation shall be performed in a shipyard within the continental United States.

(8) The owner of the traded-in vessel, at his own expense and in a manner satisfactory to the Secretary of Commerce, shall (A) effect deactivation and preparation of the traded-in vessel and its equipment for storage or layup; (B) make delivery of such vessel and its equipment at a location designated by the Secretary of Commerce; and (C) execute a bond, with one or more approved sureties, conditioned upon indemnifying the United States from all loss resulting from any lien against such vessel existing at the time of the exchange.

(9) Except where traded out for use exclusively in trade and commerce on the Great Lakes, including the Saint Lawrence River and Gulf, tanker vessels may be traded out under the provisions of this subsection only for major conversions into dry cargo carriers or liquid bulk carriers, including natural gas carriers but excluding bulk petroleum carriers.

(j) Placement in national defense reserve fleet of acquired vessels.

Any vessel heretofore or hereafter acquired under this section, or otherwise acquired by the Secretary of Commerce under any other authority shall be placed in the national defense reserve fleet established under authority of section 1744 of appendix to Title 50, and shall not be traded out or sold from such reserve fleet, except as provided for in subsections (g) and (i) of this section. This limitation shall not affect the rights of the Secretary of Commerce to dispose of a vessel as provided in other sections of this subchapter or in subchapters VII or XI of this chapter. (June 29, 1936, ch. 858, §§ 510, 905(e), as added Aug. 4, 1939, ch. 417, § 7, 53 Stat. 1183, and amended 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; July 17, 1952, ch. 939, §§ 7, 8, 21, 66 Stat. 762, 765; Aug. 10, 1954, ch. 664, 68 Stat. 680; Feb. 20, 1958, Pub. L. 85–332, 72 Stat. 17; June 13, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; July 5, 1960, Pub. L. 86–575, 74 Stat. 312; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 5, 1961, Pub. L. 87–401; 75 Stat 833; Oct. 5, 1962, Pub. L. 87–755, 76 Stat. 751; Oct. 10, 1965, Pub. L. 89–254, §§ 1, 2, 79 Stat. 980; Oct. 21, 1970, Pub. L. 91–469, §§ 12, 13, 35(a), 84 Stat. 1022, 1035.)

REFERENCES IN TEXT

The Merchant Ship Sales Act of 1946, referred to in subsec. (h), is classified to sections 1735—1746 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–469, § 12(a), in redefining "obsolete vessel", substituted in subd. (B) "in the judgment of the Secretary of Commerce, should, by reason of age, obsolescence, or otherwise, be replaced in the public interest" for "is not less than seventeen years old and, in the judgment of the Commission, is obsolete or inadequate for successful operation in the domestic or foreign trade of the United States", substituted in subd. (C) "has been owned" for "is owned" and deleted therefrom "and has been owned by such citizen or citizens" preceding "for at least three years", and deleted concluding proviso defining "obsolete vessel" as meaning a vessel, until June 30, 1964, which is not less than 1,350 gross tons, is not less than 12 years old, and is citizen owned for three year period prior to acquisition hereunder.

Subsec. (b) Pub. L. 91–469, §§ 12(b), 35(a), substituted "capital construction fund" for "capital reserve fund" and "Secretary of Commerce" for "Commission" in seven instances, respectively.

Subsec. (i). Pub. L. 91–469, § 13, in revising first sentence, substituted "1972" and "which were constructed in the United States" for "1970" and "which were constructed or contracted for by the United States shipyards before September 3, 1945" and struck out "war-built vessels (which are defined for purposes of this subsection as" and "which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)" preceding and following "oceangoing vessels of one thousand five hundred gross tons or over".

1965—Subsec. (i). Pub. L. 89–254, § 1(a), substituted "before July 5, 1970, vessels of one thousand five hundred gross tons or over which were constructed or contracted for by the United States shipyards before September 3, 1945" for "within five years from the date of enactment of this Act war-built vessels (which are defined for purposes of this subsection as oceangoing vessels of one thousand five hundred gross tons or over which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)", and inserted "(which are defined for purposes of this subsection as oceangoing vessels of one thousand five hundred gross tons or over which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)."

Subsec. (i)(1). Pub. L. 89–254, § 1(b), reworded par. (1) to apply the 3 year prohibition against any vessel being operated under an operating-differential subsidy to the applicant or any affiliate of the applicant rather than to the vessel itself.

Subsec. (i)(2). Pub. L. 89–254, § 1(c), required the value of a traded out vessel to be calculated in the same manner as its value was determined when it was traded in, except that vessels traded in prior to Oct. 1, 1960, shall be valued on the basis yielding the highest fair return to the government commensurate with the purpose of this subsection, and required in each exchange of vessels under this subsection, the value of the traded-in vessel, unless based on scrap value, and the value of the traded-out vessel to be calculated in the same manner.

Subsec. (i)(9). Pub. L. 89–254, § 1(d), substituted provisions permitting tanker vessels to be traded out under the provisions of this subsection only for major conversions into dry cargo carriers or liquid bulk carriers, including natural gas carriers but excluding bulk petroleum carriers, except where traded out for use exclusively in trade and commerce on the Great Lakes, including the St. Lawrence River and Gulf, for provisions which prohibited tanker-vessels to be traded out under the provisions of this subsection.

Subsec. (j). Pub. L. 89–254, § 2, added subsec. (j).

1962—Subsec. (a)(1). Pub. L. 87–755 substituted "June 30, 1964" for "June 30, 1962."

1961—Subsec. (b). Pub. L. 87–401, § 1(1), provided that if the owner requests, the vessel shall be acquired by the Federal Maritime Board or Secretary of Commerce either when the owner contracts for construction or purchase of a new ship or within 5 days of actual delivery of

the new vessel to the owner, that the amount of allowance be determined at the time of acquisition of the vessel by the Board or Secretary, and if at such time, the owner contracts for construction or purchase of a new vessel, the allowance shall be applied upon the price of the new vessel, that if the Board or Secretary acquired title to the vessel at time of delivery of the new vessel, the allowance shall be deposited in the owner's capital reserve fund, and that this subsection shall apply to exchanges for vessels hereafter contracted to be built, or eligible for exchange but not so exchanged in connection with contracts for new vessels executed prior to Oct. 1, 1960.

Subsec. (d). Pub. L. 87-401, § 1(2), provided for a depreciation value based upon a twenty-year life, if applicable, and substituted "In the event the obsolete vessel is acquired by the Board or Secretary at the time the owner contracts for the construction of a new vessel, and the owner" for "If the owner of the obsolete vessel."

1960—Subsec. (d). Pub. L. 86-518 substituted "twenty-five-year life" for "twenty-year life."

Subsec. (g). Pub. L. 86-518 substituted "twenty-five years" for "twenty years" in two instances.

Subsec. (i). Pub. L. 86-575 added subsec. (i).

1958—Subsec. (a)(1). Pub. L. 85-332 substituted "June 30, 1962" for "June 30, 1958".

1954—Subsec. (h). Act Aug. 10, 1954, added subsec. (h).

1952—Subsec. (a)(1). Act July 17, 1952, § 7, provided that until June 30, 1958, the minimum age in determining the eligibility of "obsolete vessels" for turn in for credit allowance on a new vessel is reduced from 17 to 12 years.

Subsec. (d). Act July 17, 1952, § 8, provided that the rate for the use of the obsolete vessel should be fixed at the time that the contract for the new vessel is entered into.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

References to the "Federal Maritime Board" and "Board" have been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or Secretary of Commerce", "Federal Maritime Board and Secretary of Commerce" and "Board or Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86-518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SUSPENSION OF SUBSEC. (G) REPEALED

Joint Res. May 14, 1940, ch. 201, § 1, 54 Stat. 216, as extended June 16, 1942, ch. 416, 56 Stat. 370, which suspended subsec. (g) of this section until six months after the end of World War II should have been proclaimed or such earlier time as the Congress by concurrent resolution or the President might designate, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

CROSS REFERENCES

Basis for depreciation, generally, see section 167 of Title 26, Internal Revenue Code.

Basis for determining gain or loss, generally, see section 1001 et seq. of Title 26, Internal Revenue Code.

Recognition of gain or loss, generally, see section 1002 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 1741.

§ 1161. Reserve funds for construction or acquisition of vessels; taxation.

(a) "New vessel" defined.

When used in this section the term "new vessel" means any vessel (1) documented or agreed with the Secretary of Commerce to be documented under the laws of the United States; (2) construction in the United States after December 31, 1939, or the construction of which has been financed under subchapters V or VII of this chapter, or the construction of which has been aided by a mortgage insured under subchapter XI of this chapter; and (3) either (A) of such type, size, and speed as the Secretary shall determine to be suitable for use on the high seas or Great Lakes in carrying out the purposes of this chapter, but not of less than two thousand gross tons or of less speed than twelve knots, unless the Secretary shall determine and certify in each case that a vessel of a specified lesser tonnage or speed is desirable for use by the United States in case of war or national emergency, or (B) constructed to replace a vessel or vessels requisitioned or purchased by the United States.

(b) Establishment of construction reserve funds.

For the purposes of promoting the construction, reconstruction, reconditioning, or acquisition of vessels, or for other purposes authorized in this section, necessary to carrying out the policy set forth in section 1101 of this title, any citizen of the United States who is operating a vessel or vessels in the foreign or domestic commerce of the United States or in the fisheries or owns in whole or in part a vessel or vessels being so operated, or who, at the time of purchase or requisition of the vessel by the Government, was operating a vessel or vessels so engaged or owned in whole or in part a vessel or vessels being so operated or had acquired or was having constructed a vessel or vessels for the purpose of operation in such commerce or in the fisheries, may establish a construction reserve fund, for the construction, reconstruction, reconditioning, or acquisition of new vessels, or for other purposes authorized in this section, to be composed of deposits of proceeds from

sales of vessels, indemnities on account of losses of vessels, earnings from the operation of vessels documented under the laws of the United States and from services incident thereto, and receipts, in the form of interest or otherwise, with respect to amounts previously deposited. Such construction reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed jointly by the Secretary of Commerce and the Secretary of the Treasury.

(c) Recognition of gain for taxation where proceeds of sale or indemnity for loss deposited in fund.

In the case of the sale or actual or constructive total loss of a vessel, if the taxpayer deposits an amount equal to the net proceeds of the sale or to the net indemnity with respect to the loss in a construction reserve fund established under subsection (b) of this section, then—

(1) if the taxpayer so elects in his income-tax return for the taxable year in which the gain was realized, or

(2) in case a vessel is purchased or requisitioned by the United States, or is lost, in any taxable year beginning after December 31, 1939, and the taxpayer receives payment for the vessel so purchased or requisitioned, or receives from the United States indemnity on account of such loss, subsequent to the end of such taxable year, if the taxpayer so elects prior to the expiration of sixty days after the receipt of the payment or indemnity, and in accordance with a form of election to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury,

no gain shall be recognized to the taxpayer in respect of such sale or indemnification in the computation of net income for the purposes of Federal income or excess-profits taxes. If an election is made under subdivision (2) of this subsection and if computation or recomputation in accordance with this subsection is otherwise allowable but is prevented, on the date of making such election or within six months thereafter, by any statute of limitation, such computation or recomputation nevertheless shall be made notwithstanding such statute if a claim therefor is filed within six months after the date of making such election.

For the purposes of this subsection no amount shall be considered as deposited in a construction reserve fund unless it is deposited within sixty days after it is received by the taxpayer.

As used in this subsection the term "net proceeds" and the term "net indemnity" mean the sum of (1) the adjusted basis of the vessel and (2) the amount of gain which would be recognized to the taxpayer without regard to this subsection.

(d) Basis for determining gain or loss and for depreciation of new vessels.

The basis for determining gain or loss and for depreciation, for the purposes of Federal income or excess profits taxes, of any new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or with respect to which purchase-money indebtedness is liquidated as provided in subsection (g) of this section, in whole or in part out of the construction reserve fund shall be reduced by that portion of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel which represents gain not recognized for tax purposes under subsection (c) of this section.

(e) Order, proportions, etc., of deposits and withdrawals.

For the purposes of this section, (1) if the net proceeds of a sale or the net indemnity in respect of a loss are deposited in more than one deposit, the amount consisting of the gain shall be considered as first deposited; (2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and (3) if any deposit consists in part of gain not recognized under subsection (c) of this section, any expenditure, obligation, or withdrawal applied against such deposit shall be considered to consist of gain in the proportion that the part of the deposit consisting of gain bears to the total amount of the deposit.

(f) Amounts in fund as accumulation of earnings or profits.

With respect to any taxable year, amounts on deposit on the last day of such year in a construction reserve fund in accordance with this section and with respect to which all the requirements of subsection (g) of this section have been satisfied, to the extent that such requirements are applicable as of the last day of said taxable year, shall not constitute an accumulation of earnings or profits within the meaning of section 102 of Title 26.

(g) Benefits of section conditioned upon manner and time of expenditure of deposits.

The provisions of subsections (c) and (f) of this section shall apply to any deposit in the construction reserve fund only to the extent that such deposit is expended or obligated for expenditure, in accordance with rules and regulations to be prescribed jointly by the Secretary of Commerce and the Secretary of the Treasury—

(1) under a contract for the construction or acquisition of a new vessel or vessels (or in the discretion of the Secretary of Commerce, for a part interest therein), or, with the approval of the Secretary of Commerce, for the reconstruction or reconditioning of a new vessel or vessels, entered into within (i) two years from the date of deposit or the date of any extension thereof which may be granted by the Secretary of Commerce pursuant to the provisions of subsection (h) of this section, in the case of deposits made prior to the date on which these amendatory provisions become effective, or (ii) three years from the date of such deposit in the case of a deposit made after such effective date, only if under such rules and regulations—

(A) within such period not less than 12½ per centum of the construction or contract price of the vessel or vessels is paid or irrevocably committed on account thereof and the plans and specifications therefor are approved by the Secretary of Commerce to the extent by him deemed necessary; and

(B) in case of a vessel or vessels not constructed under the provisions of this subchapter or not purchased from the Secretary of Commerce, (i) said construction is completed, within six months from the date of the construction contract, to the extent of not less than 5 per centum thereof (or in case the contract covers more than one vessel, the construction of the first vessel so contracted for is so completed to the extent of not less than 5 per centum) as estimated by the Secretary of Commerce and certified by said Secretary to the Secretary of the Treasury, and (ii) all construction under such contract is completed with reasonable dispatch thereafter;

(2) for the liquidation of existing or subsequently incurred purchase-money indebtedness to persons other than a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel or vessels within (i) two years from the date of deposit or the date of any extension thereof which may be granted by the Secretary of Commerce pursuant to the provisions of subsection (h) of this section, in the case of deposits made prior to the date on which these amendatory provisions become effective, or (ii) three years from the date of such deposit in the case of a deposit made after such effective date.

(h) Same; extensions of time.

The Secretary of Commerce is authorized under rules and regulations to be prescribed jointly by the Secretary of the Treasury and the Secretary of Commerce to grant extensions of the period within which the deposits shall be expended or obligated or within which construction shall have progressed to the extent of 5 per centum of completion as provided herein, but such extension shall not be for an aggregate additional period in excess of two years with respect to the expenditure or obligation of such deposits or more than one year with respect to the progress of such construction: *Provided,* That until January 1, 1965, in addition to the extensions hereinbefore permitted, further extensions may be granted ending not later than December 31, 1965.

(i) Same; taxation of deposits upon failure of conditions.

Any such deposited gain or portion thereof which is not so expended or obligated within the period provided, or which is otherwise withdrawn before the expiration of such period, or with respect to which the construction has not progressed to the extent of 5 per centum of completion within the period provided, or with respect to which the Secretary of Commerce finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction is not completed with reasonable dispatch, if otherwise taxable income under the law applicable to the taxable year in which such gain was realized, shall be included in the gross income for such taxable year, except for the purpose of the declared value excess-profits tax and the capital stock tax. If any such deposited gain or portion thereof with respect to a deposit made in any taxable year ending on or before June 30, 1945 is so included in gross income for such taxable year, there shall (in addition to any other deficiency) be assessed, collected, and paid in the same manner as if it were a deficiency, an amount equal to 1.1 per centum of the amount of gain so included, such amount being in lieu of any adjustment with respect to the declared value excess-profits tax for such taxable year.

(j) Same; assessment and collection of deficiency tax.

Notwithstanding any other provision of law, any deficiency in tax for any taxable year resulting from the inclusion of any amount in gross income as provided by subsection (i) of this section, and the amount to be treated as a deficiency under such subsection in lieu of any adjustment with respect to the declared value excess-profits tax, may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time: *Provided, however,* That interest on any such deficiency or amount to be treated as a deficiency shall not begin until the date the deposited gain or portion thereof in question is required under subsection (i) of this section to be included in gross income.

(k) Taxable years governed by section.

This section shall be applicable to a taxpayer only in respect of sales or indemnifications for losses occurring within a taxable year beginning after December 31, 1939, and only in respect of earnings derived during a taxable year beginning after December 31, 1939.

(*l*) Vessels deemed constructed or acquired by taxpayers owning stock in corporations constructing or acquiring vessels.

For the purposes of this section a vessel shall be considered as constructed or acquired by the taxpayer if constructed or acquired by a corporation at a time when the taxpayer owns at least 95 per centum of the total number of shares of each class of stock of the corporation.

(m) Definitions.

The terms used in this section shall have the same meaning as in chapter 1 of Title 26.

(n) Definition of "contract for the construction" and "construction contract".

The terms "contract for the construction" and "construction contract", as used in this section, shall include, in the case of a taxpayer who constructs a new vessel in a shipyard owned by such taxpayer, an agreement between such taxpayer and the Secretary of Commerce with respect to such construction and containing provisions deemed necessary or advisable by the Secretary to carry out the purposes and policy of this section.

(*o*) Definition of "reconstruction and reconditioning".

The terms "reconstruction and reconditioning", as used in this section, shall include the reconstruction, reconditioning, or modernization of a vessel for exclusive use on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary of Commerce determines that the objectives of this chapter will be promoted by such reconstruction, reconditioning, or modernization, and, notwithstanding any other provisions of law, such vessel shall be deemed to be a "new vessel" within the meaning of this section for such reconstruction, reconditioning, or modernization. (June 29, 1936, ch. 858, §§ 511,

905(e), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106, and amended June 17, 1943, ch. 130, 57 Stat. 157; Dec. 23, 1944, ch. 714, 58 Stat. 920; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, §§ 9—14, 21, 66 Stat. 762, 765; Sept. 8, 1959, Pub. L. 86-237, § 1, 73 Stat. 471; Sept. 26, 1961, Pub. L. 87-303, § 3, 75 Stat. 661; Oct. 10, 1962, Pub. L. 87-782, § 1, 76 Stat. 796; Dec. 23, 1963, Pub. L. 88-227, § 1, 77 Stat. 470; Sept. 12, 1964, Pub. L. 88-595, § 1, 78 Stat. 943.)

REFERENCES IN TEXT

Section 102 of Title 26, referred to in subsec. (f), is a reference to section 102 of Internal Revenue Code, 1939, which was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by sections 531-536 of said Title 26. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of Title 26.

Chapter 1 of Title 26, referred to in subsec. (m), is a reference to chapter 1 of the Internal Revenue Code, 1939, which was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by Subtitle A of said Title 26. For provision deeming a reference in other laws to provisions of I.R.C. 1939, also as a reference to corresponding provisions of I.R.C. 1954, see section 7852(b) of Title 26.

AMENDMENTS

1964—Subsec. (h). Pub. L. 88-595 substituted "January 1, 1965" for "January 1, 1964" and "December 31, 1965" for "December 31, 1964."

1963—Subsec. (h). Pub. L. 88-227 substituted "January 1, 1964" for "January 1, 1963" and "December 31, 1964" for "December 31, 1963."

1962—Subsec. (h). Pub. L. 87-782 substituted "January 1, 1963" for "January 1, 1962" and "December 31, 1963" for "December 31, 1962."

1961—Subsec. (h). Pub. L. 87-303, substituted "January 1, 1962" for "January 1, 1961" and "December 31, 1962" for "December 31, 1961."

1959—Subsec. (h). Pub. L. 86-237 substituted "January 1, 1961" and "December 31, 1961" for "March 31, 1953" and "September 30, 1953," respectively.

1952—Subsec. (b). Act July 17, 1952, § 9, extended its provisions to the reconstruction and reconditioning of vessels.

Subsec. (c). Act July 17, 1952, § 10, deleted obsolete language.

Subsec. (d). Act July 17, 1952, § 11, provided for the adjustment in the tax basis of a vessel if the reserve funds are used for reconstruction, reconditioning, or liquidation of a purchase-money indebtedness on vessels.

Subsec. (g). Act July 17, 1952, § 12, provided that the reserve funds may be used for reconstruction, reconditioning, and liquidation of purchase money indebtedness, and extended the time of required commitment of deposits in order to avoid the imposition of taxes at the established rate.

Subsec. (h). Act July 17, 1952, § 13(a), extended extension period.

Subsec. (i). Act July 17, 1952, § 13(b), limited the additional 1.1% tax imposed on deposits in lieu of the capital-stock tax or declared excess profit tax to deposits made in taxable years ending on or before June 30, 1945.

Subsec. (o). Act July 17, 1952, § 14, added subsec. (o).

1944—Subsec. (c). Act Dec. 23, 1944, amended first sentence generally.

Subsec. (n). Act Dec. 23, 1944, added subsec. (n).

1943—Subsec. (b). Act June 17, 1943, extended provisions of first sentence to ownership in whole or in part and to persons who had acquired or were having constructed a vessel or vessels.

Subsec. (c). Act June 17, 1943, changed the dates of deposit in second sentence.

Subsec. (g). Act June 17, 1943, inserted "(or in the discretion of the Commission, for a part interest therein)".

Subsec. (h). Act June 17, 1943, substituted "Commission" for "Commissioner of Internal Revenue" at beginning of subsec. and added proviso.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 2 of Pub. L. 88-595 provided that: "The amendment made by the first section of this Act [to subsec. (h) of this section] shall take effect December 31, 1964, or on the date of enactment of this Act [Sept. 12, 1964], whichever date first occurs."

EFFECTIVE DATE OF 1963 AMENDMENT

Section 2 of Pub. L. 88-227 provided that: "The amendment made by the first section of this Act [to subsec. (h) of this section] shall take effect December 31, 1963, or on the date of enactment of this Act [Dec. 23, 1963], whichever date first occurs."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 2 of Pub. L. 87-782 provided that: "The amendment made by the first section of this Act [to subsec. (h) of this section] shall take effect December 31, 1962, or on the date of enactment of this Act [Oct. 10, 1962], whichever date first occurs."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86-237 provided that: "The amendment made by the first section of this Act [to subsec. (h) of this section] shall take effect June 30, 1959, or on the date of enactment of this Act [Sept. 8, 1959], whichever date first occurs."

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

TERMINATION OF WAR

Section 5 of act Aug. 8, 1947, ch. 515, 61 Stat. 917, as amended Apr. 20, 1949, ch. 82, 63 Stat. 56; Oct. 1, 1951, ch. 443, 65 Stat. 366; July 16, 1952, ch. 913, 66 Stat. 737, provided: "For the purposes of the proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, as amended, added to such subsection by the Act of June 17, 1943 (57 Stat. 158) [subsec. h of this section], the present war shall be considered as having terminated on March 31, 1953."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 543; title 50 App. section 1741.

SUBCHAPTER VI.—OPERATING-DIFFERENTIAL SUBSIDY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1131, 1132, 1152, 1160, 1191, 1204, 1221, 1222, 1223, 1226, 1227, 1228, of this title.

§ 1171. Subsidy authorized for operation of vessels in foreign trade.

(a) Application for subsidy; conditions precedent to granting.

The Secretary of Commerce is authorized and directed to consider the application of any citizen of the United States for financial aid in the opera-

tion of a vessel or vessels, which are to be used in an essential service in the foreign commerce of the United States or in such service and in cruises authorized under section 1183 of this title. In this subchapter VI the term "essential service" means the operation of a vessel on a service, route, or line described in section 1121(a) of this title or in bulk cargo carrying service described in section 1121(b) of this title. No such application shall be approved by the Secretary of Commerce unless he determines that (1) the operation of such vessel or vessels in an essential service is required to meet foreign-flag competition and to promote the foreign commerce of the United States except to the extent such vessels are to be operated on cruises authorized under section 1183 of this title, and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date; (2) the applicant owns, or leases or can and will build or purchase, or lease, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate in an essential service, in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the vessel or vessels as to meet competitive conditions and promote foreign commerce; (4) the granting of the aid applied for is necessary to place the proposed operations of the vessel or vessels on a parity with those of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of this chapter. To the extent the application covers cruises, as authorized under section 1183 of this title, the Secretary may make the portion of this last determination relating to parity on the basis that any foreign flag cruise from the United States competes with any American flag cruise from the United States.

(b) Statements as to financial interests to accompany application; penalty for false statements.

Every application for an operating-differential subsidy under the provisions of this subchapter shall be accompanied by statements disclosing the names of all persons having any pecuniary interest, direct or indirect, in such application, or in the ownership or use of the vessel or vessels, routes, or lines covered thereby, and the nature and extent of any such interest, together with such financial and other statements as may be required by the Secretary of Commerce. All such statements shall be under oath or affirmation and in such form as the Secretary shall prescribe. Any person who, in an application for financial aid under this subchapter or in any statement required to be filed therewith, willfully makes any untrue statement of a material fact, shall be guilty of a misdemeanor. (June 29, 1936, ch. 858, §§ 601, 905(e), 49 Stat. 2001; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; May 27, 1961, Pub. L. 87–45, § 2, 75 Stat. 90; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 14, 35(a), (h), 84 Stat. 1023, 1035, 1036; Dec. 31, 1970, Pub. L. 91–603, § 4(c), (d), 84 Stat. 1675.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–603 included the leasing of vessels in cl. (2).

Pub. L. 91–469, §§ 14, 35(a),(h), inserted definition of "essential service", and substituted "an essential service" for "such service, route, or line" in subd. (1) and "in an essential service" for "and maintain the service, route, or line" in subd. (2); substituted "Secretary of Commerce" for "Commission" in two instances; and substituted "he" for "it" in the third sentence preceding "determines that", respectively.

1961—Subsec. (a). Pub. L. 87–45 required the Federal Maritime Board to consider applications for financial aid in the operation of vessels in cruises under section 1183 of this title, and permitted the Board, to the extent the application covers such cruises, to make the portion of the determination relating to parity on the basis that any foreign flag cruise from the United States competes with any American flag cruise from the United States.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1152 of this title.

§ 1172. Determination of necessity of subsidy to meet competition.

Except with respect to cruises authorized under section 1183 of this title, no contract for an operating-differential subsidy shall be made by the Secretary of Commerce for the operation of a vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the Secretary of Commerce, after a full and complete investigation and hearing, shall determine that an operating-differential subsidy is necessary to meet competition of foreign-flag ships. (June 29, 1936, ch. 858, §§ 602, 905(e), 49 Stat. 2002; June 23, 1938, ch. 600, § 40(b), 52 Stat. 964; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; May 27, 1961, Pub. L. 87–45, § 3, 75 Stat. 91; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, § 35(a), 84 Stat. 1035.)

AMENDMENTS

1970—Pub. L. 91–469 substituted "Secretary of Commerce" for "Commission" in two instances.

1961—Pub. L. 87–45 excepted cruises authorized under section 1183 of this title.

1938—Act June 23, 1938, amended section, substituting "operating-differential subsidy" for "operating subsidy".

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1173. Contracts for payment of subsidy.

(a) Authorization of contracts.

If the Secretary of Commerce approves the application, he may enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section, for the operation of such vessel or vessels in an essential service and in cruises authorized under section 1183 of this title for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this chapter, as the Secretary of Commerce shall require to effectuate the purposes and policy of this chapter, including a performance bond with approved sureties, if such bond is required by the Secretary of Commerce.

(b) Amount of subsidy.

Such contract shall provide, except as the parties should agree upon a lesser amount, that the amount of the operating-differential subsidy for the operation of vessels in an essential service shall equal the excess of the subsidizable wage costs of the United States officers and crews, the fair and reasonable cost of insurance, subsistence of officers and crews on passenger vessels, as defined in section 1183 of this title, maintenance, and repairs not compensated by insurance, incurred in the operation under United States registry of the vessel or vessels covered by the contract, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 1151(b) of this title) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the contract: *Provided, however,* That the Secretary of Commerce may, with respect to any vessel in an essential bulk cargo carrying service as described in section 1121(b) of this title, pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country. For any period during which a vessel cruises as authorized by section 1183 of this title, operating-differential subsidy shall be computed as though the vessel were operating on the essential service to which the vessel is assigned: *Provided, however,* That if the cruise vessel calls at a port or ports outside of its assigned service, but which is served with passenger vessels (as defined in section 1183 of this title) by another subsidized operator at an operating-differential subsidy rate for wages lower than the cruise vessel has on its assigned essential service, the operating-differential subsidy rates for each of the subsidizable items for each day (a fraction of a day to count as a day) that the vessel stops at such port shall be at the respective rates applicable to the subsidized operator regularly serving the area.

(c) Definitions of "collective bargaining costs", "base period costs", "base period", and "subsidizable wage costs of United States officers and crews"; determination of collective bargaining costs and establishment of new base periods; wage change index.

(1) When used in this section—

(A) The term "collective bargaining costs" means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense required of the applicant through collective bargaining or other agreement, covering the employ of United States officers and crew of a vessel, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls, but excluding subsistence of officers and crews on vessels other than passenger vessels as defined in section 1183 of this title and costs relating to:

(i) the officers or members of the crew that the Secretary of Commerce has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of such vessel: *Provided,* That the Secretary of Commerce shall afford representatives of the collective-bargaining unit or units responsible for the manning of the vessel an opportunity to comment on such finding prior to the effective date of such finding: *And provided further,* That in determining whether officers or members of the crew are necessary for the efficient and economical operation of such vessel, the Secretary of Commerce shall give due consideration to, but shall not be bound by, wage and manning scales and working conditions required by a bona fide collective-bargaining agreement, or

(ii) those officers or members of the crew that the Secretary of Commerce has found, prior to ninety days following October 21, 1970, to be unnecessary for the efficient and economical operation of the vessel.

(B) The term "base period costs" means for the base period beginning July 1, 1970, and ending June 30, 1971, the collective-bargaining costs as of January 1, 1971, less all other items of cost that have been disallowed by the Secretary of Commerce prior to ninety days following October 21, 1970, and not already excluded from collective-bargaining costs under subparagraph (A)(i) or (A)(ii) of this subsection. In any subsequent base period the term

"base period costs" means the average of the subsidizable wage cost of United States officers and crews for the preceding annual period ending June 30 (calculated without regard to the limitation of the last sentence of paragraph (D) of this subdivision but increased or decreased by the increase or decrease in the index described in subdivision (3) of this subsection from January 1 of such annual period to January 1 of the base period), and the collective-bargaining costs as of January 1 of the base period: *Provided,* That in no event shall the base period cost be such that the difference between the base period cost and the collective-bargaining costs as of January 1 of any base period subsequent to the first base period exceeds five-fourths of 1 per centum of the collective-bargaining costs as of such January 1 multiplied by the number of years that have elapsed since the most recent base period.

(C) The term "base period" means any annual period beginning July 1, and ending June 30 with respect to which a base period cost is established.

(D) The term "subsidizable wage costs of United States officers and crews" in any period other than a base period means the most recent base period costs increased or decreased by the increase or decrease from January 1 of such base period to January 1 of such period in the index described in subdivision (3) hereof, and with respect to a base period means the base period cost. The subsidizable wage costs of United States officers and crews in any period other than a base period shall not be less than 90 per centum of the collective-bargaining costs as of January 1 of such period nor greater than 110 per centum of such collective-bargaining costs.

(2) The Secretary of Commerce shall determine the collective-bargaining costs on ships in subsidized operation as of January 1, 1971, and as of each January 1 thereafter, and shall as of intervals of not less than two years nor more than four years, establish a new base period cost, except that the Secretary shall not establish a new base period unless he announces his intention to do so prior to the December 31 that would be included in the new base period.

(3) The Bureau of Labor Statistics shall compile the index referred to in subdivision (1). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective-bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

(d) Foreign wage computation; foreign manning.

Each foreign wage cost computation shall be made after an opportunity is given to the contractor to submit in writing and in timely fashion all relevant data within his possession. In making the computation, the Secretary shall consider all relevant matter so presented and all foreign wage cost data collected at his request or on his behalf. Such foreign cost data shall be made available to an interested contractor, unless the Secretary shall find that disclosure of the data will prevent him from obtaining such data in the future. In determining foreign manning for purposes of this section, the foreign manning determined for any ship type with respect to any base period shall not be redetermined until the beginning of a new base period.

(e) Monthly payment of wage subsidy; procedures for calculation and payment of subsidy on certain expenses.

The wage subsidy shall be payable monthly for the voyages completed during the month, upon the contractor's certification that the subsidized vessels were in authorized service during the month. The Secretary of Commerce shall prescribe procedures for the calculation and payment of subsidy on items of expense which are included in "collective-bargaining costs" but are not included in the daily rate because they are unpredictably timed.

(f) Monthly percentage payment of other than wage subsidy; security for refund of overpayments; payment of remainder after audit of voyage accounts.

Ninety percent of the amount of the insurance and maintenance and repair and subsistence of officers and crews subsidy shall be payable monthly for the voyages completed during the month on the basis of the subsidy estimated to have accrued with respect to such voyages. Any such payment shall be made only after there has been furnished to the Secretary of Commerce such security as he deems to be reasonable and necessary to assure refund of any overpayment. The contractor and the Secretary of Commerce shall audit the voyage accounts as soon as practicable after such payment. The remaining 10 percent of such subsidy shall be payable after such audit. (June 29, 1936, ch. 858, §§ 603, 905 (e), 49 Stat. 2002; Aug. 4, 1939, ch. 417, § 8, 53 Stat. 1185; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; May 27, 1961, Pub. L. 87–45, § 4, 75 Stat. 91; Sept. 14, 1961, Pub. L. 87–243, 75 Stat. 513; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 15–17, 35(a), (i), 84 Stat. 1023, 1024, 1035, 1036.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–469, §§ 15, 35(a), (i), substituted "an essential service" for "such service, route, or line," "Secretary of Commerce" for "Commission" in three instances, and "he" for "it" preceding "may enter", respectively.

Subsec. (b). Pub. L. 91–469, § 16, in amending first sentence, inserted ", except as the parties should agree upon a lesser amount," after "shall provide", "subsistence of officers and crews on passenger vessels, as defined in section 1183 of this title," after "cost of insurance," and proviso for payment of necessary sums to make operating costs of American-flag vessels providing bulk cargo carrying services competitive with operating costs of similar vessels under foreign registry, and substituted "vessels in an essential service shall equal the excess of the subsidizable wage costs of the United States officers and crews," for "vessels on a service, route, or line shall not exceed the excess of", "maintenance, and repairs not compensated by insurance" for "maintenance, repairs not compensated by insurance," and "incurred" for "wages

and subsistence of officers and crews, and any other items of expense in which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country hereinafter referred to,".

Subsec. (c)-(e). Pub. L. 91-469, § 17(1), added subsecs. (c)-(e). Former subsec. (c) redesignated (f).

Subsec. (f). Pub. L. 91-469, § 17, redesignated former subsec. (c) as (f), substituted provision for monthly payment of ninety percent of subsidy (insurance and maintenance and repair and subsistence of officers and crews) on basis of estimated accrual of subsidy and payment of remaining ten percent after audit of voyage accounts for prior provisions for determination and payment of subsidy on basis of final accounting made annually or after some agreed fixed period and for payments on account limited to 75 per centum of estimated accrued amount and an additional 15 per centum for any particular voyage after an audit, substituted provision to "assure" rather than "insure" refund, and repealed second par. prohibition against payment of subsidy until contractor provided evidence that minimum wages prescribed by Secretary of Commerce under section 1131(a) of this title had been paid to ships personnel.

1961—Subsec. (a). Pub. L. 87-45, § 4(a), inserted words "and in cruises authorized under section 1183 of this title" following "in such service, route, or line."

Subsec. (b). Pub. L. 87-45, § 4(b), inserted provisions for the computation of the subsidy for periods during which a vessel cruises as authorized by section 1183 of this title.

Subsec. (c). Pub. L. 87-243 increased, effective on and after July 1, 1962, the amount payable on account from not more than 75 per centum to not more than 90 per centum of the amount estimated to have accrued on account of such subsidy, and reduced the amount payable to the contractor after the audit of the voyage from 15 to 5 per centum.

1939—Subsec. (c). Act Aug. 4, 1939, permitted payment to the contractor of an additional 15 per cent.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board", "Board", "Secretary of Commerce", "Secretary" and "Secretary of Commerce has verified the correctness of the same" were substituted for "Commission" and "Commission's auditors have verified the correctness of the same" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS; AMENDMENT AND RECAPTURE PROVISIONS

Section 40 of Pub. L. 91-469 provided that:

"(a) The amendments made by this Act [see Short Title note under section 1101 of this title] shall not affect any contract with the Secretary of Commerce or his delegates that is in effect on the date of enactment of this Act [Oct. 21, 1970]. At the request of the other party to such operating-differential subsidy contract, the Secretary of Commerce shall amend such contract so as to be in accordance with all of the amendments made by this Act [see Short Title note under section 1101 of this title]. No amendment made by this Act [see Short Title note under section 1101 of this title] shall be incorporated in such contract unless all such amendments [see Short Title note under section 1101 of this title] are incorporated in such contract, except that if the other party elects to continue under the "old fund" as provided in section 607 as amended by section 21 of this Act [see section 1177 of this title], such amendment need not be incorporated in such contract. Until such contract is amended or if such contract is not amended, it shall be administered in accordance with the provisions of the Merchant Marine Act, 1936 [this chapter] as they existed immediately prior to enactment of this Act [see Short Title note under section 1101 of this title]. Nothing in section 16 of this Act amending section 603 of the Merchant Marine Act, 1936 [subsec. (b) of this section] or in the contracts made thereunder, shall be deemed to affect or to change existing law or contracts with respect to the proceedings now pending before the Secretary of Commerce relating to the payment of subsidy in respect of cargoes covered by section 901(b)(1) of the Merchant Marine Act, 1936 [section 1241(b) of this title], section 616(a) of Title 15, United States Code, or section 2631 of Title 10, United States Code.

"(b) If any operating-differential subsidy contract in existence on the date of enactment of this Act [Oct. 21, 1970] is amended by including all of the amendments made by this Act [see Short Title note under section 1101 of this title] or all of the amendments made by this Act other than those made by section 21 [to section 1177 of this title], the operator may elect to terminate his recapture period as of the date of such contract amendment and have his recapture computed on the basis of the shortened period, or he may elect to continue his recapture period until the end of its ten-year term and continue his recapture obligations as provided by the Merchant Marine Act, 1936, prior to the enactment of this Act [see Short Title note under section 1101 of this title] until the end of such ten-year period. The amendments in either event shall provide that, with respect to seafaring personnel, in determining the rights and obligations of the contractor under such contract, the limitation of section 805(c) of the Merchant Marine Act, 1936 [section 1223(c) of this title], as it existed immediately before the enactment of this Act [Oct. 21, 1970] shall not apply."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1183 of this title.

§ 1174. Additional subsidy; when authorized.

If in the case of any particular foreign-trade route the Secretary of Commerce shall find after consultation with the Secretary of State, that the subsidy provided for in this subchapter is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, he may grant such additional subsidy as he determines to be necessary for that purpose. (June 29, 1936, ch. 858, §§ 604, 905(e), 49 Stat. 2003; June 23, 1938, ch. 600, § 21, 52 Stat. 959; Aug. 4, 1939, ch. 417, § 9, 53 Stat. 1185; 1950 Reorg. Plan No. 21, §§ 102 (d), 105 (1), 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

CODIFICATION

Provisions requiring the affirmative vote of two members of the Federal Maritime Board for an additional subsidy under this section have been omitted as obsolete in view of the abolition of the Federal Maritime Board. See Transfer of Functions note below.

AMENDMENTS

1939—Act Aug. 4, 1939, reduced requirement in proviso from unanimous vote to vote of four commissioners.

1938—Act June 23, 1938, authorized additional subsidies only where the Commission (which had reference to United States Maritime Commission) by unanimous vote finds after consultation with the Secretary of State that the subsidy is inadequate.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to United States Maritime Commission) and "two of the members" for "four of the members" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1175. Vessels excluded from subsidy.

(a) Vessels engaged in coastwise or intercoastal trade; vessels on inland waterways.

No operating-differential subsidy shall be paid for the operation of any vessel on a voyage on which it engages in coastwise or intercoastal trade: *Provided, however,* That such subsidy may be paid on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or a round voyage from the Atlantic coast to the Orient which includes intercoastal ports of the United States or a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, and if the subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade the subsidy payment for the entire voyage shall be reduced by an amount which bears the same ratio to the subsidy otherwise payable as such gross revenue bears to the gross revenue derived from the entire voyage. No vessel operating on the inland waterways of the United States shall be considered for the purposes of this chapter to be operating in foreign trade.

(b) Vessels more than 25 years old.

No operating-differential subsidy shall be paid for the operation of a vessel that is more than twenty-five years of age unless the Secretary of Commerce finds that it is to the public interest to grant such financial aid for the operation of such vessel and enters a formal order thereon, and the Secretary shall include in each annual report a full report covering each case in which such exception is made, with the reasons therefor.

(c) Vessels to be operated in an essential service served by citizens of the United States.

No contract shall be made under this subchapter with respect to a vessel to be operated in an essential service served by citizens of the United States which would be in addition to the existing service, or services, unless the Secretary of Commerce shall determine after proper hearing of all parties that the service already provided by vessels of United States registry is inadequate, and that in the accomplishment of the purposes and policy of this chapter additional vessels should be operated thereon; and no contract shall be made with respect to a vessel operated or to be operated in an essential service served by two or more citizens of the United States with vessels of United States registry, if the Secretary of Commerce shall determine the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in such essential service unless following public hearing, due notice of which shall be given to each operator serving such essential service, the Secretary of Commerce shall find that it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry. The Secretary of Commerce in determining for the purposes of this section whether services are competitive, shall take into consideration the type, size, and speed of the vessels employed, whether passenger or cargo, or combination passenger and cargo, vessels, the ports or ranges between which they run, the character of cargo carried, and such other facts as he may deem proper. (June 29, 1936, ch. 858, §§ 605, 905(e), 49 Stat. 2003; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, §§ 15, 21, 66 Stat. 764, 765; Mar. 18, 1959, Pub. L. 86–3, § 18(b)(2), 73 Stat. 12; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 18, 19, 26(b), 35(a), (j), 84 Stat. 1025, 1026, 1034–1036.)

ANNUAL REPORT OF EXCEPTIONS TO PROHIBITION AGAINST PAYMENT OF SUBSIDY

Pub. L. 89–348, § 1(9), Nov. 8, 1965, 79 Stat. 1310, repealed provisions of subsection (b) of this section which required an annual report covering each case and the reasons therefor in which an exception is made to the prohibition against payment of an operating-differential subsidy for the operation of a vessel beyond its economic life.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–469, § 26(b), deleted "on the Great Lakes or" following "No vessel operating" in last sentence.

Subsec. (b). Pub. L. 91–469, § 18, substituted "unless the Secretary of Commerce" for "unless the Commission" and deleted preceding such words "except one whose life expectancy has been determined as provided in section 1177(b) of this title for a period in no case to exceed the life expectancy determined thereunder,".

Subsec. (c). Pub. L. 91–469, §§ 19, 35(a), (j), substituted "in an essential service" for "on a service, route, or line", "an essential service" for "a service, route, or line", and "such essential service" for "competitive services, routes, or lines," and struck out "in such service, route, or line" preceding "is inadequate" in first sentence; substituted "Secretary of Commerce" for "Commission" in four instances; and substituted "he" for "it" preceding "may deem" in last sentence, respectively.

1960—Subsec. (b). Pub. L. 86–518 substituted "twenty-five years" for "twenty years."

1959—Subsec. (a). Pub. L. 86–3 included stops at the State of Hawaii.

1952—Subsec. (b). Act July 17, 1952, § 15, permitted the recomputation of the life-expectancy of a reconstructed or reconditioned vessel in use under an operating differential-subsidy contract, and provided for recomputation of depreciation changes.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1183 of this title.

§ 1176. Readjustments; change in service; withdrawal from service; payment of excess profits; wages, etc.; American materials.

Every contract for an operating-differential subsidy under this subchapter shall provide (1) that the amount of the future payments to the contractor shall be subject to review and readjustment from time to time, but not more frequently than once a year, at the instance of the Secretary of Commerce or of the contractor. If any such readjustment cannot be reached by mutual agreement, the Secretary of Commerce, on his own motion or on the application of the contractor, shall, after a proper hearing, determine the facts and make such readjustment in the amount of such future payments as he may determine to be fair and reasonable and in the public interest. The testimony in every such proceeding shall be reduced to writing and filed in the office of the Secretary of Commerce. His decision shall be based upon and governed by the changes which may have occurred since the date of the said contract, with respect to the items theretofore considered and on which such contract was based, and other conditions affecting shipping, and shall be promulgated in a formal order, which shall be accompanied by a report in writing in which the Secretary of Commerce shall state his findings of fact; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the Secretary of Commerce shall determine, for any periods in which the vessel or vessels are laid up; (3) that if the Secretary of Commerce shall determine that a change in an essential service, which is receiving an operating-differential subsidy under this subchapter, is necessary in the accomplishment of the purposes of this chapter, it may make such change upon such readjustment of payments to the contractor as shall be arrived at by the method prescribed in clause (1) of these conditions; (4) that if at any time the contractor receiving an operating-differential subsidy claims that he cannot maintain and operate his vessels in such an essential service, with a reasonable profit upon his investment, and applies to the Secretary of Commerce for a modification or rescission of his contract to maintain such essential service, and the Secretary of Commerce determines that such claim is proved the Secretary of Commerce shall modify or rescind such contract and permit the contractor to withdraw such vessels from such essential service upon a date fixed by the Secretary of Commerce, and upon the date of such withdrawal the further payment of the operating differential subsidy shall cease and the contractor be discharged from any further obligation under such contract; (5) that the contractor shall conduct his operations with respect to essential services and any services authorized under section 1183 of this title, covered by his contract in an economical and efficient manner, and (6) that whenever practicable, an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items only articles, materials, and supplies of the growth, production, and manufacture of the United States, as defined in section 1155 of this title, except when it is necessary to purchase supplies outside the United States to enable such vessel to continue and complete her voyage, and an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency. (June 29, 1936, ch. 858, §§ 606, 905(e), 49 Stat. 2004; June 23, 1938, ch. 600, § 22, 52 Stat. 960; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, §§ 16, 21, 66 Stat. 764, 765; May 10, 1956, ch. 247, § 1, 70 Stat. 148; July 12, 1960, Pub. L. 86–624, § 35 (b), 74 Stat. 421; May 27, 1961, Pub. L. 87–45, § 5, 75 Stat. 91; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, §§ 20, 35(a), (k), 84 Stat. 1026, 1035, 1036.)

AMENDMENTS

1970—Pub. L. 91–469, § 35(a), substituted "Secretary of Commerce" for "Commission" wherever appearing.

Cl. (1). Pub. L. 91–469, § 35(k)(1)–(3), substituted "his" for "its" in two instances, "he" for "it", and "His" for "Its", respectively.

Cl. (3). Pub. L. 91–469, §§ 20(1), 35(k)(2), substituted "and essential service" for "the service, route, or line" and "he" for "it", respectively.

Cl. (4). Pub. L. 91–469, § 20(2), (3), substituted "in such an essential service" for "on such service, route, or line" and "essential service" for "service, route, or line" in two instances, respectively.

Cl. (5). Pub. L. 91–469, § 20(4), (5), (6)–(9), struck out former cl. (5) providing that when at the end of any ten-

year period the contractor's net profit on his subsidized vessels has averaged more than 10 percent of his capital necessarily employed, he shall pay one-half of such net profit to the United States, but not exceeding the operating-differential subsidy paid to him during the period, as partial or complete reimbursement of the operating subsidy; redesignated former cl. (6) as (5); and substituted therein "essential services", "services", and "an economical" for "the vessel's services, routes, and lines", "cruises", and "the most economical" and struck out therefrom "but with due regard to the wage and manning scales and working conditions prescribed by the Commission as provided in subchapter III of this chapter" after "efficient manner,", respectively.

Cl. (6). Pub. L. 91–469, § 20(10), (11), redesignated former cl. (7) as (6) and substituted "an operator who received subsidy with respect to subsistence of officers and crews shall use as such subsistence items" for "the operator shall use", "1155" for "1155(a)", and "and an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico," and struck out "and equipment" preceding "outside the United States" and definition of "continental limits of the United States" as including States of Alaska and Hawaii, respectively.

Cl. (7). Pub. L. 91–469, § 20(10) redesignated former cl. (7) as (6).

1961—Pub. L. 87–45 inserted words ", and any cruises authorized under section 1183 of this title," following "services, routes, and lines" in subdivision (6).

1960—Pub. L. 86–624 inserted the definition of the term "continental limits of the United States."

1956—Clause (5). Act May 10, 1956, provided that termination of subsidy contract shall not end the 10-year recapture period if subsidized operations continue under a new, or consecutive, contract.

1952—Clause (5). Act July 17, 1952, § 16, substituted "life expectancy of the subsidized vessel determined as provided in section 1177(b) of this title" for "twenty-year life expectancy of the subsidized vessels".

1938—Clause (5). Act June 23, 1938, substituted "ten-year period" for "five-year period" in three instances, and inserted provisions to permit computation of net profits without regard to capital gains and losses.

AMENDMENT OF CONTRACT

Section 2 of act May 10, 1956, provided that: "Each operating-differential subsidy contract in force on the date of enactment of this act [May 10, 1956] shall, if the subsidized contractor consents, be amended to conform to the provisions of section 606 of the Merchant Marine Act, 1936 [this section], as amended by section 1 of this act."

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board", "Board" and "Secretary Commerce" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1177 of this title.

§ 1177. Capital construction fund.

(a) Agreement rules; persons eligible; replacement, additional, or reconstructed vessels for prescribed trade and fishery operations; amount of deposits, annual limitation; conditions and requirements for deposits and withdrawals.

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1) of this section) may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the "fund") with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontinguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f) of this section. The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A) of this section) which is attributable to the operation of the agreement vessels.

(b) Ceiling on deposits; lessees; "agreement vessel" defined.

(1) The amount deposited under subsection (a) of this section in the fund for any taxable year shall not exceed the sum of:

(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

(B) the amount allowable as a deduction under section 167 of the Internal Revenue Code of 1954 for such year with respect to the agreement vessels,

(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel, and

(D) the receipts from the investment or reinvestment of amounts held in such fund.

(2) In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under this section, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

(3) For purposes of paragraph (1), the term "agreement vessel" includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(c) Investment requirements; depositories; fiduciary requirements; interest-bearing securities; stock: percentage for domestic issues, listing and registration, prudent acquisitions, value and percentage equilibrium, and treatment of preferred issues.

Amounts in any fund established under this section shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary of Commerce. They may be invested only in interest-bearing securities approved by the Secretary of Commerce; except that, if the Secretary of Commerce consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage. For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(d) Nontaxability of deposits; eligible deposits.

(1) For purposes of the Internal Revenue Code of 1954—

(A) taxable income (determined without regard to this section) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b)(1)(A) of this section,

(B) gain from a transaction referred to in subsection (b)(1)(C) of this section, shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

(D) the earnings and profits of any corporation (within the meaning of section 316 of such Code) shall be determined without regard to this section, and

(E) in applying the tax imposed by section 531 of such Code (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(e) Accounts within fund: capital account, capital gain account, and ordinary income account; limitation on capital losses.

For purposes of this section—

(1) Within the fund established pursuant to this section three accounts shall be maintained:

(A) the capital account,

(B) the capital gain account, and

(C) the ordinary income account.

(2) The capital account shall consist of—

(A) amounts referred to in subsection (b)(1)(B) of this section,

(B) amounts referred to in subsection (b)(1)(C) of this section other than that portion thereof which represents gain not taken into account by reason of subsection (d)(1)(B) of this section,

(C) 85 percent of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (d)(1)(C) of this section) be allowed a deduction under section 243 of the Internal Revenue Code of 1954, and

(D) interest income exempt from taxation under section 103 of such Code.

(3) The capital gain account shall consist of—

(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (b)(1)(C) or (b)(1)(D) of this section reduced by

(B) amounts representing capital losses on assets held in the fund for more than 6 months.

(4) The ordinary income account shall consist of—

(A) amounts referred to in subsection (b)(1)(A) of this section,

(B) (i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (b)(1)(C) or (b)(1)(D) of this section, reduced by—

(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

(D) ordinary income from a transaction described in subsection (b)(1)(C) of this section, and

(E) 15 percent of any dividend referred to in paragraph (2)(C).

(5) Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(f) Purposes of qualified withdrawals; nonqualified withdrawal treatment for nonfulfillment of substantial obligations.

(1) A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

(A) the acquisition, construction, or reconstruction of a qualified vessel,

(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary of Commerce, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

(2) Under joint regulations, if the Secretary of Commerce determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(g) Tax treatment of qualified withdrawals; basis: reduction.

(1) Any qualified withdrawal from a fund shall be treated—

(A) first as made out of the capital account,

(B) second as made out of the capital gain account, and

(C) third as made out of the ordinary income account.

(2) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to—

(A) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Internal Revenue Code of 1954), or

(B) One-half of such portion, in the case of any other person.

(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (h)(3)(A) of this section which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

(h) Tax treatment of nonqualified withdrawals; FIFO and LIFO bases; interest rate.

(1) Except as provided in subsection (i) of this section, any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(2) Any nonqualified withdrawal from a fund shall be treated—

(A) first as made out of the ordinary income account,

(B) second as made out of the capital gain account, and

(C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (g)(4) of this section, shall be treated as withdrawn on a last-in-first-out basis.

(3) For purposes of the Internal Revenue Code of 1954—

(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

(i) no interest shall be payable under section 6601 of such Code and no addition to the tax shall be payable under section 6651 of such Code,

(i) no interest shall be payable under sec- tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 1176(5) of this title as in effect on December 31, 1969.

(4) For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury and the Secretary of Commerce and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(i) Corporate reorganizations and partnership changes.

Under joint regulations—

(1) a transfer of a fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1954 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

(2) a similar rule shall be applied in the case of a continuation of a partnership (within the meaning of subchapter K of such Code).

(j) Treatment of existing funds; relation of old to new fund.

(1) Any person who was maintaining a fund or funds (hereinafter in this subsection referred to as "old fund") under this section (as in effect before the enactment of this subsection) may elect to continue such old fund but—

(A) may not hold moneys in the old fund beyond the expiration date provided in the agreement under which such old fund is maintained (determined without regard to any extension or renewal entered into after April 14, 1970),

(B) may not simultaneously maintain such old fund and a new fund established under this section, and

(C) if he enters into an agreement under this section to establish a new fund, may agree to the extension of such agreement to some or all of the amounts in the old fund.

(2) In the case of any extension of an agreement pursuant to paragraph (1)(C), each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund established under this section. For purposes of subsection (h)(3)(C) of this section, the date of the deposit of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

(k) Definitions.

For purposes of this section—

(1) The term "eligible vessel" means any vessel—

(A) constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) documented under the laws of the United States, and

(C) operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

Any vessel which (i) was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or (ii) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subparagraph (A) of this paragraph and the requirements of subparagraph (A) of paragraph (2).

(2) The term "qualified vessel" means any vessel—

(A) constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) documented under the laws of the United States, and

(C) which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term "agreement vessel" means any eligible vessel or qualified vessel which is subject to an agreement entered into under this section.

(4) The term "United States", when used in a geographical sense, means the continental United States including Alaska, Hawaii, and Puerto Rico.

(5) The term "United States foreign trade" includes (but is not limited to) those areas in domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under the first sentence of section 1156 of this title.

(6) The term "joint regulations" means regulations prescribed under subsection (*l*) of this section.

(7) The term "vessel" includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term "vessel" also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

(8) The term "noncontiguous trade" means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii.

(*l*) Records; reports; rules and regulations; termination of agreement upon changes in regulations with substantial effect on rights or obligations.

Each person maintaining a fund under this section shall keep such records and shall make such reports as the Secretary of Commerce or the Secretary of the Treasury shall require. The Secretary of the Treasury and the Secretary of Commerce shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate to the determination of tax liability under this section. If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary of Commerce under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement.

(June 29, 1936, ch. 858, §§ 607, 905(e), 49 Stat. 2005; June 23, 1938, ch. 600, §§ 23—28, 52 Stat. 960, 961; Aug. 4, 1939, ch. 417, § 10, 53 Stat. 1185; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, §§ 17—19, 21, 66 Stat. 764, 765; Aug. 14, 1958, Pub. L. 85-637, 72 Stat. 592; June 12, 1960, Pub. L. 86-518, § 1, 74 Stat. 216; May 27, 1961, Pub. L. 87-45, § 6, 75 Stat. 91; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 FR. 7315, 75 Stat. 840; Sept. 21, 1961, Pub L. 87-271, 75 Stat. 570; Oct. 21, 1970, Pub. L. 91-469, § 21 (a), 84 Stat. 1026.)

REFERENCES IN TEXT

Sections of the Internal Revenue Code of 1954, and sections of such Code, referred to in: subsecs. (b)(1)(A), (B), (d)(1), (e)(2)(C), (g)(3)(B), (h)(3), and (i)(1); and subsecs. (d)(1)(D), (E), (e)(2)(D), (h)(3)(C)(i), and(i)(2), respectively, are identical with sections of Title 26, Internal Revenue Code.

AMENDMENTS

1970—Pub. L. 91-469 revised tax deferred reserve fund provisions generally, extended tax deferral privilege to vessels operated in nonsubsidized foreign trade, noncontiguous domestic trade, Great Lakes trade, and in fisheries, built in the United States, and documented under her laws, and substituted a new statutory framework consisting of subsecs. (a)-(*l*) for determination of tax status of deposits into and withdrawals from the fund for former subsecs. (a)-(h) and providing as follows:

Subsec. (a), a capital construction fund, agreement rules, persons eligible, replacement, additional, or reconstructed vessels for prescribed trade and fishery operations, amount of deposits, annual limitation, and conditions and requirements for deposits and withdrawals, subsec. (a) formerly permitting a 10 percent distribution of net profits;

Subsec. (b), ceiling on deposits, deposits of lessees, and definition of "agreement vessel", subsec. (b) formerly providing for a capital reserve fund, deposits, and allowable disbursements;

Subsec. (c), investment requirements, depositories, fiduciary requirements, investment in interest-bearing certificates (formerly provided in former subsec. (d)(2) of this section), stock investments, including common stock treatment of preferred issues, percentage for domestic issues, listing and registration, prudent man acquisitions (provisions formerly covered in former subsec. (d)(3)(A) of this section), and value and percentage equilibrium, subsec. (c) formerly providing for creation of a special reserve fund, deposits, and allowable disbursements;

Subsec. (d), nontaxability of deposits and eligible deposits, subsec. (d) formerly providing rules and regulations for administration of reserve funds and investment of funds, now covered in subsec.(c) of this section;

Subsec. (e), capital account, capital gain account, and ordinary income account within the capital construction fund and limitation on losses, subsec. (e) formerly providing for withdrawals from capital reserve fund to meet needs due to operating losses;

Subsec. (f), purposes of qualified withdrawals and nonqualified withdrawal treatment for nonfulfillment of substantial obligations, subsec. (f) formerly providing for title to reserve funds on termination of contract;

Subsec. (g), tax treatment of qualified withdrawals and reduction of basis, subsec. (g) formerly providing for increase and transfer of reserve funds and interest on overpayment of taxes;

Subsec. (h), tax treatment of nonqualified withdrawals, FIFO and LIFO bases, and interest rate, subsec. (h) formerly providing for exemption of reserve funds from taxation, in effect a tax deferral;

Subsec. (i), corporate reorganizations and partnership changes;

Subsec. (j), treatment of existing funds and relation of old to new funds;

Subsec. (k), definitions; and

Subsec (*l*), records, reports, rules, and regulations, and termination of agreement upon changes in regulations with substantial effect on rights or obligations.

1961—Subsec. (b). Pub. L. 87-271 authorized the contractor, upon consent of the Secretary of Commerce, to pay amounts from the capital reserve fund for research, development, and design expenses for new and advanced ship design machinery and equipment, purchase of cargo containers delivered after June 30, 1959, payment of principal on indebtedness incurred for containers, and for reimbursing the contractor's general funds for expenditures for such purchases or payments, and required such cargo containers, to the extent paid for out of the capital reserve fund, to be treated as vessels for purpose of deposits and withdrawals from the fund, except that depreciation thereon shall be based on life expectancy used for such containers in determination of "net earnings" in subsec. (d)(1) of this section.

Pub. L. 87-45 inserted words "and on cruises, if any, authorized under section 1183 of this title" following "route or service approved by the Secretary" in the second paragraph.

1960—Subsec. (b). Pub. L. 86-518 substituted "twenty-five-year life expectancy" for "twenty-year life expectancy."

1958—Subsec. (d). Pub. L. 85-637 designated the first and second paragraphs as subdivisions (1) and (2), and added subdivision (3).

1952—Subsec. (b). Act July 17, 1952, § 17, permitted the recomputation of the life-expectancy of a reconstructed or reconditioned vessel in use under an operating-differential subsidy contract, and provided for recomputation of depreciation changes.

Subsec. (d). Act July 17, 1952, § 18, substituted "as provided for in section 1177(b) of this title" following "life of the vessel" for "being twenty years".

Subsec. (g). Act July 17, 1952, § 19, barred payment of interest by Government on overpayment of taxes resulting from voluntary deposits of earnings.

1939—Subsec. (c)(3). Act Aug. 4, 1939, permitted payment from the capital reserve fund, and authorized payment from other assets of the contractor if assets have not been repaid to the reserve funds, or if prepayments of amounts not due before one year after the date of termination of the contract have been made from the capital reserve funds.

1938—Subsec. (b). Act June 23, 1938, §§ 23, 24, substituted "insurance and indemnities" for "insurance indemnities" in the first paragraph, and inserted provisions requiring deposit of proceeds of any sale or other disposition of a vessel in the capital reserve funds, and to permit the contractor to pay from the fund any sums owing but not yet due on notes secured by mortgages on subsidized vessels.

Subsec. (c) Act June 23, 1938, § 25, substituted "If the profits, without regard to capital gains and capital losses, earned by the business of the subsidized vessels and services incident thereto exceed 10 per centum per annum and exceed the percentage of profits deposited in the capital reserve fund, as provided in subsection (b) of this section, the contractor shall deposit annually such excess profits in this reserve fund" for "In this reserve fund, the contractor shall deposit annually the profits earned by the business of the subsidized vessels and services incident thereto in excess of 10 per centum per annum and in excess of the percentage of profits deposited in the capital reserve fund, as provided in subsection (b) of this section", in the second paragraph.

Subsec. (c)(2). Act June 23, 1938, § 26, substituted "will be made up" for "will not be made up".

Subsecs. (f) and (g). Act June 23, 1938, § 27, added subsecs. (b) and (g) and also redesignated former subsec. (f) as (h).

Subsec. (h). Act June 23, 1938, § 28, redesignated former subsec. (b) as subsec. (h) and made earnings withdrawn from the special reserve fund taxable as if earned during the year of withdrawal from the fund.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 21(b) of Pub. L. 91-469 provided that: "The amendment made by subsection (a) [to this section] shall apply to taxable years beginning after December 31, 1969."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

References to the "Federal Maritime Board" and "Board" have been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Secretary of Commerce", "Secretary", "Federal Maritime Board or Secretary of Commerce" and "Board or Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86-518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1175, 1176 of this title; title 26 section 543.

§ 1177a. Deposits in special reserve fund; excusal; tax treatment.

On and after June 13, 1957, to the extent that the operating-differential subsidy accrual (computed on the basis of parity) is represented on the operator's books by a contingent accounts receivable item against the United States as a partial or complete offset to the recapture accrual, the operator (1) shall be excused from making deposits in the special reserve fund, and (2) as to the amount of such earnings the deposit of which is so excused shall be entitled to the same tax treatment as though it had been deposited in said special reserve fund. To the extent that any amount paid to the operator by the United States reduces the balance in the operator's contingent receivable account against the United States, such amount shall forthwith be deposited in the special reserve fund of the operator. (Pub. L. 85-52, title I, § 101, June 13, 1957, 71 Stat. 73.)

CODIFICATION

Section was enacted as a part of the Department of Commerce and Related Agencies Appropriation Act, 1958, and not as a part of the Merchant Marine Act of 1936 which comprises this chapter.

§ 1178. Sale or assignment of contract; consent of Board; purchaser subject to terms of contract; rescinding contract on transfer without consent.

No contract executed under this subchapter or any interest therein shall be sold, assigned, or transferred, either directly or indirectly, or through any reorganization, merger, or consolidation, nor shall any agreement or arrangement be made by the holder whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the written consent of the Secretary of Commerce. If he consents to such agreement or arrangement, the agreement or arrangement shall make provision whereby the person undertaking such maintenance, management, or operation agrees to be bound by all of the provisions of the contract and of this chapter applicable thereto, and the rules and regulations prescribed pursuant to this chapter. If the holder of any such contract shall voluntarily sell such contract or any interest therein, or make such assignment, transfer, agreement, or arrangement whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the consent of the Secretary, or if the operation of the service, route, line, or vessel, shall pass out of the direct control of the holder of such contract by reason of any voluntary or involuntary receivership or bankruptcy proceedings, the Secretary shall have the right to modify or rescind such contract, without further liability thereon by the United States, and is vested with exclusive jurisdiction to determine the purposes for which any payments made by it under such contract shall be expended. (June 29, 1936, ch. 858, §§ 608, 905(e), 49 Stat. 2007; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

§ 1179. Withholding payment to defaulting contractor.

The Secretary of Commerce shall withhold the payment of operating-differential subsidy while any contractor therefor is in default in any payments due on account of construction-loan, ship-sales

mortgage notes, or any other obligation due the United States, and shall apply the amount so withheld to the satisfaction of such debt. (June 29, 1936, ch. 858, §§ 609, 905(e), 49 Stat. 2007; June 23, 1938, ch. 600, § 29, 52 Stat. 961; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

AMENDMENTS

1938—Act June 23, 1938, repealed former subsec. (b), which related to cancellation or modification of a contract where a contractor filed bankruptcy or was in default of payments.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

§ 1180. Vessels eligible to subsidy.

An operating-differential subsidy shall not be paid under authority of this subchapter on account of the operation of any vessel which does not meet the following requirements: (1) The vessel shall be of steel or other acceptable metal, shall be propelled by steam or motor, shall be as nearly fireproof as practicable, shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date, and shall be documented under the laws of the United States, during the entire life of the subsidy contract; and (2) if the vessel shall be constructed after June 29, 1936 it shall be either a vessel constructed according to plans and specifications approved by the Secretary of Commerce and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or a vessel approved by the Secretary of Commerce and the Navy Department as otherwise useful to the United States in time of national emergency. (June 29, 1936, ch. 858, §§ 610, 905(e), 49 Stat. 2007; 1950 Reorg. Plan No. 21, §§ 105 (1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" and "Board" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1152 of this title.

§ 1181. Transfer of vessels to foreign registry on default of United States.

(a) The contractor, upon compliance with the provisions of this section, may transfer to foreign registry the vessels covered by any operating-differential subsidy contract held by him, in the event that the United States defaults upon such contract or cancels it without just cause. Any contractor desiring to transfer any such vessel to foreign registry upon such default or cancelation shall file an application in writing with the Secretary of Commerce setting forth its contentions with respect to the lack of just cause or lawful grounds for such default or cancelation. The Secretary shall afford the contractor an opportunity for a hearing within twenty days after such contractor files written application therefor, and after the testimony, if any, in such hearing has been reduced to writing and filed with the Secretary, he shall, within a reasonable time, grant or deny the application by order.

(b) If any such application is denied, the contractor may obtain a review of the order of denial in the United States Court of Appeals for the District of Columbia, by filing in such court, within twenty days after the entry of such order, a written petition praying that the order of the Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk to the Secretary of Commerce or any officer designated by the Secretary for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of Title 28. Upon the filing of such petition such court shall have exclusive jurisdiction to determine whether such cancelation or default was without just cause, and to affirm or set aside such order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final.

(c) No transfer of vessels to foreign registry under this section shall become effective until any indebtedness to the Government or to any citizen of the United States, secured by such vessels, has been paid or discharged, and until after the expiration of ninety days from the date of final determination of the application or the appeal, if any. Within such ninety-day period the Secretary of Commerce may (1) with the consent of the contractor purchase the vessels at cost to the contractor plus cost of capital improvements thereon, less 4 per centum annual depreciation upon such vessel, and the actual depreciated costs of capital improvements thereon, or (2) reinstate the contract and adjust or settle the default found by the Secretary or the court to exist. (June 29, 1936, ch. 858, §§ 611, 905(e), as added June 23, 1938, ch. 600, § 30, 52 Stat. 961, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 28, 1958, Pub. L. 85-791, § 17, 72 Stat. 947; June 12, 1960, Pub. L. 86-518, § 4, 74 Stat. 216.)

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-518 substituted "4 per centum" for "5 per centum."

1958—Subsec. (b). Pub. L. 85-791, in second sentence, substituted "transmitted by the clerk of the court to" for "served upon", eliminated "upon" preceding "any officer",

substituted "file in the court" for "certify and file in the court a transcript of", and inserted "as provided in section 2112 of Title 28", and which, in third sentence, substituted "petition" for "transcript".

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

ABOLITION OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86–518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 808 of this title.

§ 1182. Subordination of Secretary's interest to Reconstruction Finance Corporation.

The Secretary of Commerce is authorized to subordinate his interest as mortgagee in any vessel subsidized under the provisions of this subchapter in favor of any loan for working capital made by the Reconstruction Finance Corporation under the Reconstruction Finance Corporation Act, as amended, if the Secretary finds that the making of such loan by the Reconstruction Finance Corporation would be in furtherance of the policies of this chapter or would, in its opinion, preserve or protect his mortgage interest in said subsidized vessel: *Provided,* That the obligations evidencing such loans by the Reconstruction Finance Corporation shall not be transferred, except to some other governmental agency. (June 29, 1936, ch. 858, §§ 612, 905(e), as added June 23, 1938, ch. 600, § 30, 52 Stat. 961, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

REFERENCES IN TEXT

For distribution of the Reconstruction Finance Corporation Act, see section 601 of Title 15, Commerce and Trade.

TRANSFER OF FUNCTIONS

"Secretary of Commerce", "Secretary" and "Secretary's" were substituted for "Commission" and "Commission's" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

§ 1183. Off-season cruises by passenger vessels.

(a) Definition.

In this section, "passenger vessel" means a vessel which (1) is of not less than ten thousand gross tons, and (2) has accommodations for not less than one hundred passengers.

(b) Authorization for payment of subsidy.

If the Secretary of Commerce finds that the operation of any passenger vessel with respect to which a contract for the payment of an operating-differential subsidy has been entered into under section 1173 of this title effective before January 2, 1960, is required for at least one-third of each year, but not for all of each year, in order to furnish adequate service on the service, route, or line covered by such contract, he may amend such contract to agree to pay an operating-differential subsidy for operation of the vessel (1) on such service, route, or line for such part of each year, and (2) on cruises for all or part of the remainder of each year if such specific cruise is approved by the Secretary of Commerce under subsection (e) of this section: *Provided, however,* That no such vessel may cruise for more than seven months of each year to ports which are regularly served by another United States-flag passenger vessel pursuant to an operating-differential subsidy contract.

(c) Authorization for payment of subsidy to passenger vessels providing domestic service.

The Secretary of Commerce may authorize passenger vessels under operating-differential subsidy contracts to provide domestic service between specified ports while the vessels are on voyages in an essential service in the foreign commerce of the United States without reduction of operating-differential subsidy and the partial payback of construction-differential subsidy for operating in the domestic trades, if he finds that such domestic service will not result in a substantial deviation from

the service, route, or line for which operating-differential subsidy is paid and will not adversely affect service on such service, route, or line.

(d) Conditions for cruises or domestic service while on voyages in an essential service in foreign commerce.

When a vessel is being operated on cruises or has been authorized under this section to provide domestic passenger services while on voyages in an essential service in foreign commerce of the United States—

(1) it shall carry no mail unless required by law, or cargo except passengers' luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

(2) it may not carry one-way passengers between those ports served by another United States carrier on its regular service assigned by contract, without the consent of such carrier, except between those ports between which it may carry one-way passengers on its own regular service assigned by contract;

(3) it shall stop at other domestic ports only for the same time and the same purpose as is permitted with respect to a foreign-flag vessel which is carrying passengers who embarked at a domestic port, except that a cruise may end at a different port or coast from that where it began and may embark or disembark passengers at other domestic ports, either when not involving transportation in the domestic offshore trade in competition with a United States-flag passenger vessel offering berth service therein, or, if involving such transportation, with the consent of such carrier: *Provided, however,* That nothing herein shall be construed to repeal or modify section 1223(a) of this title.

Section 1175(c) of this title shall not apply to cruises authorized under this section. Notwithstanding the applicable provisions of sections 1175(c) and 1156 of this title requiring the reduction of operating differential subsidy and the partial payback of construction differential subsidy for operating in the domestic trades, such reduction of operating subsidy and partial payback of construction subsidy under sections 1175(a) and 1156, respectively, of this title, shall not apply to cruises or domestic services authorized under this section.

(e) Application for approval of cruise; notice to other American flag operators.

Upon the application of any operator for approval of a specific cruise, the Secretary after notice to all other American flag operators who may be affected and after affording all such operators an opportunity to submit written data, views or arguments, with or without opportunity to present the same orally in any manner, and after consideration of all relevant matter presented, shall, if he determines that the proposed cruise will not substantially adversely affect an existing operator's service performed with passenger vessels of United States registry, approve the proposed cruise. Such approval shall not be given more than two years in advance of the beginning of the cruise. (June 29, 1936, ch. 858, § 613, as added May 27, 1961, Pub. L. 87–45, § 1, 75 Stat. 89 and amended 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; June 22, 1968, Pub. L. 90–358, §§ 1, 2, 82 Stat. 248; May 14, 1970, Pub. L. 91–250, 84 Stat. 215.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–250, § 1(a), substituted "(e)" for "(d)" after the words "under subsection".

Subsec. (c). Pub. L. 91–250, § 1(b), substituted provision that Secretary of Commerce may authorize passenger vessels under operating-differential subsidy contracts to provide domestic service between specified ports under stated conditions, for provision stating conditions for operating passenger vessels on cruises.

Subsec. (d). Pub. L. 91–250, § 1(c), added subsec. (d). Former subsec. (d) redesignated as (e).

Subsec. (e). Pub. L. 91–250, § 1 (c), (d), redesignated former subsec. (d) as (e). Former subsec. (e), which defined seacoasts of the United States, was eliminated.

1968—Subsec. (b). Pub. L. 90–358, § 1, substituted reference to passenger vessels with respect to which a contract for the payment of an operating-differential subsidy has been entered into under section 1173 of this title effective before January 2, 1960, for reference to passenger vessels with respect to which an application for operating-differential subsidy has been filed under section 1171 of this title, increased from four to eight months of each year the length of the period during which vessels may engage in cruises, and limited the cruising period each year to seven months in the case of ports regularly served by another United States-flag passenger vessel pursuant to an operating-differential subsidy contract.

Subsec. (d). Pub. L. 90–358, § 2 (a), (b), redesignated former subsec. (e) as subsec. (d). Former subsec. (d), making provision for periodic review of operating differential subsidy contracts entered into under this subchapter and for amendment of such contracts, was repealed.

Subsec. (e). Pub. L. 90–358, § 2(b), redesignated former subsec. (f) as subsec. (e). Former subsec. (e) redesignated as subsec. (d).

Subsec. (f). Pub. L. 90–358, § 2(b), redesignated former subsec. (f) as subsec. (e). Former subsec. (e) redesignated as subsec. (d).

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1171, 1172, 1173, 1176, 1177, 1183a of this title.

§ 1183a. Off-season cruises additional to right of operator to make voyages on regular service, route, or line, including approved deviations.

The cruises authorized by section 1183 of this title shall be in addition to and not in derogation of the right of an operator to make voyages on his regular service, route or line, including approved deviations within the general area of his essential service. There shall be no adjustment of subsidy in the event of such deviations if they are without prejudice to the adequacy of service. (Pub. L. 87–45, § 7, May 27, 1961, 75 Stat. 91.)

CODIFICATION

Section was not enacted as part of the Merchant Marine Act, 1936, which comprises this chapter.

SUBCHAPTER VII.—PRIVATE CHARTER OPERATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1131, 1152, 1160, 1161, 1221, 1222, 1223, 1226, 1227, 1228 of this title; title 50 section 198; title 50 App. sections 1738, 1742.

§ 1191. Additional powers of Secretary for completion of program.

Whenever the Secretary of Commerce shall find and determine, and such finding and determination shall be approved by the President of the United States, that the national policy declared in section 1101 of this title, and the objectives set forth in section 1120 of this title, cannot be fully realized within a reasonable time, in whole or in part, under the provisions of subchapters V and VI of this chapter, the Secretary is authorized and directed to complete his long-range program previously adopted as provided in this subchapter. (June 29, 1936, ch. 858, §§ 701, 905(e), 49 Stat. 2008; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

FINDING OF COMMISSION

Former United States Maritime Commission made findings and determinations on April 28, 1938, which were approved by the President on April 29, 1938, that the national policy declared in section 1101 of this title and the objectives set forth in section 1120 of this title could not with respect to construction of new vessels be fully realized within a reasonable time under the provisions of subchapters V and VI of this chapter.

CROSS REFERENCES

Operational and charter authority for vessels acquired under emergency powers, see section 198 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1192. Construction or reconditioning of vessels by Secretary.

The Secretary of Commerce is authorized to have constructed in shipyards in the continental United States such new vessels as he shall determine may be required to carry out the objects of this chapter, and to have old vessels reconditioned or remodeled in such yards: *Provided*, That if satisfactory contracts for such new construction or reconstruction, in accordance with the provisions of this chapter, cannot be obtained from private shipbuilders, the Secretary is authorized to have such vessels constructed, reconditioned, or remodeled in United States navy yards. For the purposes of this section, the term "continental United States" includes the States of Alaska and Hawaii. (June 29, 1936, ch. 858, §§ 702, 905(e), 49 Stat. 2008; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 28, 1957, Pub. L. 85-191, 71 Stat. 471; July 12, 1960, Pub. L. 86-624, § 35(c), 74 Stat. 421.)

AMENDMENTS

1960—Pub. L. 86-624 inserted the definition of the term "continental United States."

1957—Pub. L. 85-191 substituted "in shipyards in the continental United States" for "in domestic yards, on the Atlantic and Gulf and Pacific coasts,".

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "he" for "it" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1193. Competitive bidding; opening bids.

(a) No contract for the building of a new vessel, or for the reconditioning or reconstruction of any other vessel, shall be made by the Secretary of Commerce with any private shipbuilder, except after due advertisement and upon sealed competitive bids.

(b) All contracts for the construction, reconditioning, or reconstruction of a vessel or vessels by a private shipbuilder under authority of this subchapter shall be subject to all the provisions and requirements prescribed in subchapter V of this chapter with respect to contracts with a private shipbuilder for the construction of vessels under authority of said subchapter.

(c) All bids required by the Secretary of Commerce for the construction, reconstruction, or reconditioning of vessels, and for the chartering of the Secretary's vessels hereinafter provided for, shall be opened at the time, hour, and place stated in the advertisement for bids, and all interested persons, including representatives of the press, shall be permitted to attend, and the results of such bidding shall be publicly announced. (June 29, 1936, ch. 858, §§ 703, 905(e), 49 Stat. 2008; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1194. Charter or sale of vessels acquired by Department of Commerce.

All vessels transferred to or otherwise acquired by the Department of Commerce in any manner may be chartered or sold by the Secretary of Commerce pur-

suant to the further provisions of this chapter. (June 29, 1936, ch. 858, §§ 704, 905(e), 49 Stat. 2008; Apr. 1, 1937, ch. 64, 50 Stat. 57; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

CODIFICATION

Provisions relating to discontinuance of operation of United States Maritime Commission's vessels on lines in foreign commerce of the United States by private operators under operating agreements within one year after June 29, 1936 and requiring section 1194 not to be construed as limiting or affecting the power of sale under section 1195 of this title, have been omitted as obsolete.

AMENDMENTS

1937—Act Apr. 1, 1937, substituted "may be temporarily operated" for "shall be temporarily operated", required preference to be given to present operators, permitted private operators to commence voyages prior to the expiration date and to complete them thereafter, and inserted provisions providing that nothing contained in this section should be construed as limiting the power of sale under section 1195 of this title.

TRANSFER OF FUNCTIONS

"Department of Commerce" and "Secretary of Commerce" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

AUTHORITY FOR WARTIME SALE OR CHARTER REPEALED

Joint Res. May 14, 1940, ch. 201, § 2, 54 Stat. 216, as extended June 16, 1942, ch. 416, 56 Stat. 370, which related to sale or charter of vessels by United States Maritime Commission until six months after the end of World War II should have been proclaimed or such earlier time as the Congress by concurrent resolution or the President might designate, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1195. Employment of vessels on foreign trade routes; selection of routes; encouraging private operation by sale or charter; selling price.

As soon as practicable after June 29, 1936, and continuing thereafter, the Secretary of Commerce shall arrange for the employment of the vessels of the Department of Commerce in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary shall determine are necessary and essential for the development and maintenance of the commerce of the United States and the national defense: *Provided*, That such needs are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States. It shall be the policy of the Secretary to encourage private operation of each essential steamship line now owned by the United States by selling such lines to citizens of the United States in the manner provided in section 866 of this title, and in strict accordance with the provisions of section 864 of this title, or by demising its vessels on bare-boat charter to citizens of the United States who shall agree to maintain such line or lines in the manner hereinafter provided. No vessel constructed under the provisions of this chapter, as amended, shall be sold by the Secretary for operation in the foreign trade for a sum less than the estimated foreign construction cost exclusive of national defense features (determined as of the date the construction contract therefor is executed) less depreciation based on a twenty-five year life, nor shall any such vessel be sold by the Secretary for operation in the domestic trade for a sum less than the cost of construction in the United States exclusive of national defense features less depreciation based on a twenty-five year life. (June 29, 1936, ch. 858, §§ 705, 905(e), 49 Stat. 2009; Aug. 4, 1939, ch. 417, § 11 (a), 53 Stat. 1185; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216).

AMENDMENTS

1960—Pub. L. 86–518 substituted "twenty-five-year life" for "twenty-year life" in two instances.

1939—Act Aug. 4, 1939, prohibited the sale of any vessel constructed under this chapter for operation in the foreign trade for a sum less than the estimated foreign construction cost exclusive of national defense features less depreciation based on a 20 year life, nor for operation in the domestic trade for a sum less than the cost of construction in the United States exclusive of national defense features less depreciation based on a 20 year life.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "the vessels of the Department of Commerce" for "its vessels" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86–518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or

other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1196. Advertising for bids for charters; rejection of bids.

(a) The Secretary of Commerce shall not charter the vessels of the Department of Commerce to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids. Each and every advertisement for bids to charter the vessels of the Department of Commerce shall state the number, type, and tonnage of the vessels the Secretary is offering for bare-boat charter for operation as a steamship line on a designated trade route, the minimum number of sailings that will be required, the length of time for which the charter will be given, and all other information the Secretary shall deem necessary for the information of prospective bidders.

(b) The Secretary of Commerce shall have authority to, and shall announce in his advertisements for bids that the Secretary reserves the right to, reject any and all bids submitted. The Secretary shall reject any bid for the charter (under sections 1191 to 1203 of this title) of any vessel constructed under the provisions of this chapter, as amended, if the charter hire offered by the bidder is lower than the minimum charter hire for such vessel would be if chartered under the provisions of section 1204 of this title. (June 29, 1936, ch. 858, §§ 706, 905(e), 49 Stat. 2009; Aug. 4, 1939, ch. 417, § 11(b), 53 Stat. 1186; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

AMENDMENTS

1939—Subsec. (b). Act Aug. 4, 1939, required the rejection of any bids for charter if the charter hire offered by the bidder is lower than the minimum charter hire for such vessel would be if chartered under the provisions of section 1204 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) and "the vessels of the Department of Commerce" was substituted for "its vessels" and the "Commission's vessels" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1197. Awarding charter on bids.

(a) The Secretary of Commerce shall award the charter to the bidder proposing to pay the highest monthly charter hire unless the Secretary shall reject such bid for the reasons set forth in subsection (b) of this section.

(b) The Secretary of Commerce may reject the highest or most advantageous or any other bid, if, in the discretion of the Secretary, the charter hire offered is deemed too low, or the Secretary determines that the bidder lacks sufficient capital, credit, or experience to operate successfully the line; but the reason or reasons for rejection of any bid, upon request of the bidder, shall be stated to such bidder in writing.

(c) If the highest bid is rejected, the Secretary of Commerce may award the charter to the next highest bidder, or may reject all bids and readvertise the line: *Provided, however,* That the Secretary may operate the line until conditions appear to be more favorable for a reoffering of the line for private charter. (June 29, 1936, ch. 858, §§ 707, 905(e), 49 Stat. 2009; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1198. Payment of subsidies to charterers.

The Secretary of Commerce may, if in his discretion financial aid is deemed necessary, enter into a contract with any charterer of its vessels for payment to such charterer of an operating-differential subsidy upon the same terms and conditions and subject to the same limitations and restrictions, where applicable, as are elsewhere provided in this chapter with respect to payments of such subsidies to operators of privately owned vessels. (June 29, 1936, ch. 858, §§ 708, 905(e), 49 Stat. 2009; June 23, 1938, ch. 600, § 31, 52 Stat. 962; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1938—Act June 23, 1938, inserted ", where applicable," preceding "as are elsewhere provided."

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board" was substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1196, 1223 of this title; title 50 App. section 1738.

§ 1199. Excess profit; payment to Secretary; formula for determining profit.

(a) Every charter made by the Secretary of Commerce pursuant to the provisions of this subchapter shall provide that whenever, at the end of any calendar year subsequent to the execution of such charter, the cumulative net voyage profits (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessels) shall exceed 10 per centum per annum on the charterer's capital necessarily employed in the business of such chartered vessels, the charterer shall pay over to the Secretary, as additional charter hire, one-half of such cumulative net voyage profit in excess of 10 per centum per annum: *Provided,* That the cumulative net profit so accounted for shall not be included in any calculation of cumulative net profit in subsequent years.

(b) Every charter shall contain a definition of the terms "net voyage profit" and "fair and reasonable overhead expenses", and "capital necessarily employed", as said terms are used in subsection (a) of this section, setting forth the formula for determining such profit and overhead expense and capital necessarily employed, which definitions shall have been previously approved by the Secretary of Commerce and published in the advertisement for bids for such charter. (June 29, 1936, ch. 858, §§ 709, 905(e), 49 Stat. 2010; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1196, 1205 of this title; title 50 App. section 1738.

§ 1200. Undertaking required of charterer.

Every charterer of the vessels of the Secretary of Commerce shall be required to deposit with the Secretary an undertaking with approved sureties as security for the faithful performance of all of the conditions of the charter, including indemnity against liens on the chartered vessels, in such amount as the Secretary shall require. (June 29, 1936, ch. 858, §§ 710, 905(e), 49 Stat. 2010; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Of the vessels of the Secretary of Commerce" was substituted for "of the Commission's vessels" and "Secretary" for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title; title 50 App. section 1738.

§ 1201. Terms and conditions of charters.

The charters to be made by the Secretary of Commerce pursuant to the provisions of this subchapter shall demise the vessels to the charterer subject to all usual conditions contained in bareboat charters, and until January 1, 1940, shall be for terms of three years or less as the Secretary may decide: *Provided,* That after January 1, 1940, charters may be executed by the Secretary for such terms as the experience gained by the Secretary shall indicate are to the best interests of the United States and the merchant marine. (June 29, 1936, ch. 858, §§ 711, 905(e), 49 Stat. 2010; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title.

§ 1202. Insurance requirements; repairs; inspection by Secretary; termination of charter in national emergency.

Every charter shall provide—

(a) That the charterer shall carry on the chartered vessels, at his own expense, policies of insurance covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, in such amounts, in such form, and in such insurance companies as the Secretary of Commerce shall require and approve, adequate to cover all damages claimed against and losses sustained by the chartered vessels arising during the life of the charter: *Provided,* That in accordance with existing law, some or all of such insurance risks may be underwritten by the Secretary himself as in his discretion he may determine.

(b) That the charterer shall at its own expense keep the chartered vessel in good taste of repair and in efficient operating condition and shall at its own expense make any and all repairs as may be required by the Secretary of Commerce.

(c) That the Secretary of Commerce shall have the right to inspect the vessel at any and all times to ascertain its condition.

(d) That whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President, the Secretary of Commerce may terminate the charter without cost

to the United States, upon such notice to the charterers as the President shall determine. (June 29, 1936, ch. 858, §§ 712, 905(e), 49 Stat. 2010; Aug. 7, 1939, ch. 555, § 1, 53 Stat. 1254; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

AMENDMENTS

1939—Subsec. (d). Act Aug. 7, 1939, permitted the termination of a charter whenever the President proclaims that the security of the national defense makes it advisable.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "himself as in his discretion he may determine" for "itself as in its discretion it may determine" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (d) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CROSS REFERENCES

War risk insurance, see section 1281 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title; title 50 App. section 1738.

§ 1203. Financial resources and other factors considered in awarding charters.

In the awarding of charters, the Secretary of Commerce shall take in consideration the charterer's financial resources and credit standing, practical experience in the operation of vessels, and any other factors that would be considered by a prudent businessman in entering into a transaction involving a large investment of his capital; and the Secretary is directed to refrain from chartering the vessels of the Department of Commerce to any person appearing to lack sufficient capital, credit, and experience to operate successfully the vessel over the period covered by the charter. (June 29, 1936, ch. 858, §§ 713, 905(e), 49 Stat. 2010; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "the vessels of the Department of Commerce" for "its vessels" on authority of 1950 Reorg. Plan No. 21 set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1196 of this title; title 50 App. section 1738.

§ 1204. Construction and chartering of vessels for unsuccessful routes; purchase of vessel by charterer; purchase price; operation of vessel in foreign trade.

If the Secretary of Commerce shall find that any trade route (determined by the Secretary of Commerce to be an essential trade route as provided in section 1121 of this title) cannot be successfully developed and maintained and the Secretary of Commerce's replacement program cannot be achieved under private operation of such trade route by a citizen of the United States with vessels registered under the laws thereof, without further Government aid in addition to the financial aids authorized under subchapters V and VI of this chapter, the Secretary of Commerce is authorized to have constructed, in private shipyards or in navy yards, the vessel or vessels of the types deemed necessary for such trade route, and to demise such new vessel or vessels, or bare-boat charter to the American-flag operator established on such trade route, without advertisement or competition, upon an annual charter hire of not less than 4 per centum of the price (herein referred to as the "foreign cost") at which such vessel or vessels would be sold if constructed under subchapter V of this chapter plus an amount equal to (i) the sum of a percentage of the depreciated foreign cost computed annually upon the basis of a twenty-five year life of the vessel determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs. Such charter may contain an option to the charterer to purchase such vessel or vessels from the Secretary of Commerce within five years after delivery thereof under the charter, upon the same terms and conditions as are provided in subchapter V of this chapter for the purchase of new vessels from the Secretary of Commerce, except that (a) the purchase price shall be the foreign cost less depreciation to the date of purchase based upon a twenty-five year life; (b) the required cash payment payable at the time of such purchase shall be 25 per centum of the purchase price as so determined; (c) the charter may provide that all or any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of such purchase; (d) the balance of the purchase price shall be paid within the years remaining of the twenty-five years after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first of said installments, which shall be payable upon the next ensuing anniversary date of such delivery under the charter, shall be a proportionate part of the annual installment, interest to be payable upon the unpaid balances from the date of purchase, at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with

remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs.

Such charter shall provide for operation of the vessel exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island Territory of the United States, and if the vessel is operated in the domestic trade on any of the above-enumerated services the charterer will pay annually to the Secretary of Commerce that proportion of one-twenty-fifth of the difference between the domestic and foreign cost of such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. (June 29, 1936, ch. 858, §§ 714, 905(e), 49 Stat. 2011; June 23, 1938, ch. 600, § 32, 52 Stat. 962; Aug. 4, 1939, ch. 417, § 12, 53 Stat. 1186; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Mar 18, 1959, Pub. L. 86–3, § 18(b)(3), 73 Stat. 12; June 12, 1960, Pub. L. 86–518, § 5, 74 Stat. 216; Oct. 21, 1970, Pub L. 91–469, § 22, 84 Stat. 1032.)

AMENDMENTS

1970—Pub. L. 91–469 substituted: "Secretary of Commerce" and "Secretary of Commerce's" for "Commission" and "Commission's" wherever appearing; provision for an additional amount for charter hire equal to sum of depreciated foreign cost computed annually upon basis of a twenty-five year life of vessel determined by the Secretary of the Treasury, taking into consideration the current average market yield or outstanding marketable obligations of the United States with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth of 1 per centum plus an administrative cost allowance for prior provision for 3½ per centum of depreciated foreign cost computed annually upon the basis of a twenty-five year life of vessel; and provision for interest upon unpaid balances of purchase price payable in annual installments from date of purchase, at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum plus an administrative cost allowance for prior interest upon unpaid balances of 3½ per centum per annum from date of purchase.

1960—Pub. L. 86–518 substituted "4 per centum" for "5 per centum", "twenty-five-year life" for "twenty-year life" in two instances, "twenty-five years" for "twenty years", and "one-twenty-fifth" for "one-twentieth."

1959—Pub. L. 86–3 included stops at the State of Hawaii for vessels operated on voyages in foreign trade.

1939—Act Aug. 4, 1939, amended section generally, and among other changes, substituted "price (herein referred to as the 'foreign cost') at which such vessel or vessels would be sold if constructed under sections 1151—1161 of this title plus 3½ per centum of the depreciated foreign cost computed annually upon the basis of a twenty-year life of the vessel" for "construction cost of such new vessel or vessels", and added the second paragraph relating to mixed foreign and domestic trade.

1938—Act June 23, 1938, required the charter to contain an agreement of the purchaser to pay interest at the rate of 3½ per centum per annum upon all unpaid portions of the purchase price from the date of the delivery of the vessel to the purchaser under the charter agreement, and provided that if the option to purchase is exercised, the deferred payments shall not be extended beyond the life of the vessel computed on a 20 year expectancy.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86–518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86–518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86–518, set out as a note under section 1125 of this title

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86–518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86–518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86–518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1160, 1196 of this title.

§ 1205. Experimental operation and testing of United States vessels; number; bareboat charters; review of charters and agency agreements; provisions applicable to charters and agreements.

The Secretary of Commerce, for the purpose of practical development, trial, and testing, is authorized without regard to other provisions of this subchapter or other laws relating to chartering and general agency operations, to operate, under general agency agreements or bareboat charter, vessels owned by the United States (including any national defense reserve vessel) which have been constructed, reconditioned, or remodeled for experimental or testing purposes, in the foreign or domestic trade of the United States or for use for the account of any agency or department of the United States, under such reasonable terms or

conditions as the Secretary of Commerce determines to be necessary to carry out the objects of this chapter: *Provided, however,* That not in excess of ten such vessels shall be operated and tested under the authority of this section in any one year. Bareboat charters entered into under this section shall be made at reasonable rates of charter and shall include such restrictions and conditions as the Secretary of Commerce determines to be necessary or appropriate to protect the public interest, including provisions for recapture of profits as provided for in section 1199 of this title. Charters and general agency agreements entered into under this section shall be reviewed annually for the purpose of determining whether conditions exist which would justify continuance of the charter or agreement. Those provisions of law prescribed or incorporated under section 1241a of this title, which relate to vessel operating activities of the Secretary of Commerce and to employment of seamen through general agents, shall be applicable in connection with charters and agreements entered into under this section. (June 29, 1936, ch. 858, § 715, as added July 11, 1956, ch. 574, 70 Stat. 531.)

§ 1206. Construction of nuclear-powered merchant ship; appropriations; special services; cooperation with other Federal agencies.

There is authorized to be appropriated to the Department of Commerce, Maritime Administration, and the Atomic Energy Commission, such sums as may be necessary, to remain available until expended, for the construction, outfitting, and preparation for operation, including training of qualified personnel, of a nuclear-powered merchant ship capable of providing shipping services on routes essential for maintaining the flow of the foreign commerce of the United States. The Maritime Administration, and the Atomic Energy Commission, in carrying on activities and functions under this section, may collaborate with and employ persons, firms, and corporations on a contract or fee basis for the performance of special services deemed necessary by such agencies in carrying on such activities and functions. The Administration may, for the same purposes, with the approval of the Secretary of Commerce and where appropriate the Atomic Energy Commission, avail itself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof. (June 29, 1936, ch. 858, § 716, as added July 30, 1956, ch. 792, 70 Stat. 731.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2210.

SUBCHAPTER VIII.—CONTRACT PROVISIONS

§ 1211. Provision for books and records; filing balance sheets; inspection and auditing by Secretary; rescission of contract on failure to comply with provisions.

Every contract executed by the Secretary of Commerce under the provisions of subchapters VI or VII of this chapter shall contain provisions requiring (1) that, the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Secretary: *Provided,* That the provisions of this paragraph shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to file, upon notice from the Secretary, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Secretary affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Secretary shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever he may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Secretary of Commerce shall have the right to rescind the contract, and upon such rescission, the United States shall be relieved of all further liability on such contract. (June 29, 1936, ch. 858, §§ 801, 905(e), 49 Stat. 2011; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

TRANSFER OF FUNCTIONS

References to the "Federal Maritime Board" and "Board" have been stricken pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Martime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "he" for "it" in clause (3) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1212. Purchase or requisition of vessels by United States; amount of payment.

Every contract executed by the Secretary of Commerce under authority of subchapter V of this chapter shall provide that—

In the event the United States shall, through purchase or requisition, acquire ownership of the vessel or vessels on which a construction-differential subsidy was paid, the owner shall be paid therefor the value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof (together with the actual depreciated

cost of capital improvements thereon, but excluding the cost of national-defense features) less the depreciated amount of construction-differential subsidy theretofore paid incident to the construction or reconditioning of such vessel or vessels, or the fair and reasonable scrap value of such vessel as determined by the Secretary of Commerce, whichever is the greater. Such determination shall be final. In computing the depreciated value of such vessel, depreciation shall be computed on each vessel on the schedule adopted by the Internal Revenue Service for income-tax purposes.

The foregoing provision respecting the requisition or the acquisition of ownership by the United States shall run with the title to such vessel or vessels and be binding on all owners thereof. (June 29, 1936, ch. 858, §§ 802, 905(e), 49 Stat. 2011; June 23, 1938, ch. 600, § 33, 52 Stat. 962; Aug. 7, 1939, ch. 555, § 2, 53 Stat. 1254; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1939—Act Aug. 7, 1939, eliminated words "fair actual" in first sentence which followed "owner shall be paid therefor the".

1938—Act June 23, 1938, inserted ", or the fair and reasonable scrap value of such vessel as determined by the Commission, whichever is the greater. Such determination shall be final." at the end of the first sentence, and the word "depreciated" following "In computing the" in the second sentence.

CHANGE OF NAME

The official title of the Bureau of Internal Revenue was changed to the Internal Revenue Service by Treas. Dept. Order 150-29, eff. July 9, 1953.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan. No. 7.

"Federal Maritime Board" and "Secretary of Commerce" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1241a, 1242 of this title.

§ 1213. Contracts designed equitably for all ports; preference to citizens of United States.

Contracts under this chapter shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In awarding contracts under this chapter, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested. (June 29, 1936, ch. 858, § 809, 49 Stat. 2015; Oct. 21, 1970, Pub. L. 91-469, § 26(a), 84 Stat. 1034.)

AMENDMENTS

1970—Pub. L. 91-469 included ports on the Great Lakes.

§ 1214. Amount of contract authorizations.

CODIFICATION

Section, act Feb. 6, 1941, ch. 5, § 3, 55 Stat. 6, authorized the United States Maritime Commission to enter into contracts for the purpose of carrying out this chapter, and was omitted since the Maritime Commission was abolished.

CONTRACT AUTHORIZATIONS

1937—Aug. 25, 1937, ch. 757, title I, § 101, 50 Stat. 759—$115,000,000.

1939—Mar. 16, 1939, ch. 11, § 1, 53 Stat. 543—$230,000,000.

1940—June 27, 1940, ch. 437, title I, § 101, 54 Stat. 634—$50,000,000.

1941—Feb. 6, 1941, ch. 5, § 3, 55 Stat. 6—$65,000,000.
Apr. 5, 1941, ch. 40, § 1, 55 Stat. 119—$180,000,000.
Aug. 25, 1941, ch. 409, title III, § 301, 55 Stat. 682—$1,296,650,000.

1942—June 27, 1942, ch. 450, § 1, 56 Stat. 419—$90,000,000.

SUBCHAPTER VIII-A.—OFFENSES AND PENALTIES

§ 1221. Repealed. Pub. L. 91-469, § 23, Oct. 21, 1970, 84 Stat. 1033.

Section, acts June 29, 1936, ch. 858, § 803, 49 Stat. 2012; June 23, 1938, ch. 600, § 34, 52 Stat. 963, restricted employment of persons, concerns, etc. (in which contractor or charterer is financially interested) furnishing supplies and services to operator's subsidized or chartered vessel and exemption therefrom where enforcement is unnecessary and agreement provides for accounting and payment of all profits to contractor, etc.

§ 1222. Operating competing foreign-flag vessel forbidden.

(a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful for any contractor receiving an operating-differential subsidy under subchapter VI of this chapter or for any charterer of vessels under subchapter VII of this chapter, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Secretary of Commerce to be essential as provided in section 1121 of this title.

(b) Under special circumstances and for good cause shown, the Secretary of Commerce may, in his discretion, waive the provisions of subsection (a) of this section as to any contractor, for a specific period of time.

(c) Upon application to the Secretary of Commerce the provisions of subsection (a) of this section shall not apply to the following specified activities of any contractor under subchapter VI of this chapter, or those in the foregoing specified relationship to him, who was not such a contractor on April 15, 1970, and who shall have complied with the requirement set forth in subsection (d) of this section:

(1) Until April 15, 1990—

(A) the continued ownership, charter, or operation of a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk which

was owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, on April 15, 1970;

(B) the continued acting as agent or broker for a vessel described in subsection (c)(1)(A) of this section which is owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, and for which such contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970;

(2) Until April 15, 1972, the continued acting as agent or broker for a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk (other than one described in subsection (c)(1)(A)), for which the contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970.

(d) No contractor under subchapter VI of this chapter, whether he shall have become such a contractor before or after October 21, 1970, shall avail himself of the provisions of subsection (c) of this section unless not later than ninety days after October 21, 1970, there shall have been filed with the Secretary of Commerce a full and complete statement, satisfactory in form and substance to the Secretary, of all foreign-flag vessels which he, or those in the foregoing specified relationship to him, directly or indirectly owned, chartered, acted as agent or broker for, or operated on April 15, 1970.

(e) During the period of time provided for in subsection (c) of this section, the Secretary of Commerce shall, at the beginning of each regular session, make a report to the Congress on the activities of contractors under such subsection, including but not limited to, the nature and extent of such activities; its effect, if any, upon carrying forward the national policy declared in section 1101 of this title; and the Secretary's recommendations for legislation, if such is deemed to be necessary. (June 29, 1936, ch. 858, §§ 804, 905(e)(49 Stat. 2012; June 23, 1938, ch. 600 § 35, 52 Stat. 963; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Oct. 21, 1970, Pub. L. 91-469, § 24, 84 Stat. 1033.)

AMENDMENTS

1970—Subsecs. (a)-(d). Pub. L. 91-469 designated existing provisions as subsecs. (a) and (b) and added subsecs. (c) to (e).

1938—Act June 23, 1938, inserted words "for a specific period of time" following "contractor,".

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) and "his" for "its", and "by affirmative vote of four of its members, except as otherwise provided in section 1111 (a) of this title," at the end of the sentence following "for a specific period of time" was omitted, on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1223. Forbidden practices relating to coastwise service, salaries, officers, and employees.

(a) Foreign trade subsidy contractor engaging in coastwise or intercoastal trade.

It shall be unlawful to award or pay any subsidy to any contractor under authority of subchapter VI of this chapter, or to charter any vessel to any person under subchapter VII of this chapter if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal or coastwise service, or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service, without the written permission of the Secretary of Commerce. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Secretary shall give a hearing to the applicant and the intervenors. The Secretary shall not grant any such application if the Secretary finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this chapter: *Provided,* That if such contractor or other person above-described or a predecessor in interest was in bona-fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Secretary shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor.

(b) Contractor in default paying more than specified salary.

Whenever any contractor under subchapters VI or VII of this chapter receiving an operating-differential subsidy is in default with respect to any mortgage, note, purchase contract, or other obligation to the Secretary of Commerce, or has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this chapter, the Secretary shall have the right to supervise the number and compensation of all officers and employees of the contractor.

(c) Repealed. Pub. L. 91-469, § 25, Oct. 21, 1970, 84 Stat. 1034.

(d) Employing other persons or concerns as managing or operating agent.

It shall be unlawful, without express written consent of the Secretary of Commerce, for any contractor holding a contract authorized under subchapters VI or VII of this chapter to employ any other person or concern as the managing or operating agent of such operator, or to charter any vessel, on which an operating-differential subsidy is to be paid, for operation by another person or concern, and if such charter is made, the person or concern operating the chartered vessel or vessels shall be subject to all the terms and provisions of this chapter, including limitations of profits and salaries.

(e) Employing Member of Congress.

It shall be unlawful for any contractor or charterer who holds any contract made under authority of any provision in this chapter to employ any Member of Congress, either with or without compensation, as an attorney, agent, officer, or director of such person.

(f) Penalty.

Any willful violation of any provision of this section shall constitute a breach of the contract or charter in force under this chapter, and upon determining that such a violation has occurred the Secretary of Commerce may forthwith declare such contract or charter rescinded and any person willfully violating the provisions of this section shall be guilty of a misdemeanor. (June 29, 1936, ch. 858, §§ 805, 905(e), 49 Stat. 2012; June 23, 1938, ch. 600, §§ 36, 37, 52 Stat. 963; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274-1276; July 17, 1952, ch. 939, §§ 20, 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91-469, § 25, 84 Stat. 1034; Dec. 31, 1970, Pub. L. 91-603, § 4(e), 84 Stat. 1675.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-469 struck out restriction against taking into account for subsidy accounting purposes any salary for personal services in excess of $25,000 paid by the contractor and definition of terms "director", "officer", "employee", and "salary".

Subsec. (d). Pub. L. 91-603 eliminated provisions which prohibited a contractor from receiving an operating-differential subsidy for the operation of any chartered vessel save and except during a period of actual emergency determined by the Secretary, or except as provided in section 1198 of this title.

1952—Subsec. (c). Act July 17, 1952, § 20, removed limitation of amount of salaries paid to employers, and defined director, officer, or employee.

1938—Act June 23, 1938, substituted "contractor. (c) No director" for "contractor (c) no director", and inserting "or except as provided in section 1198 of this title" in subsec. (d).

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce", "Board or Secretary", "Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, § 21, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1183 of this title.

§ 1224. Collusion with respect to bidding.

Whoever shall consult with, or enter into an agreement with, or inform any other bidder, or officer, director, executive, agent, or employee of any such other bidder, as to the amount, the terms, or the conditions of any bid submitted to the Federal Maritime Commission or the Secretary of Commerce prior to the public opening of such bids, or enter into any combination, understanding, agreement, or arrangement whatsoever, to prevent the making of any bona-fide bid for any contract or charter under this chapter, to induce any other person not to bid for any such contract or charter, or to deprive the United States in any way of the benefit of full, free, and secret competition in the awarding of any such contract or charter shall be guilty of a misdemeanor: *Provided,* That this section shall also apply to bidding for contracts under the provisions of section 1154 of this title. (June 29, 1936, ch. 858, §§ 806(a), 905(e), 49 Stat. 2014; 1950 Reorg. Plan No. 21, §§ 105(1), 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce" was substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1228 of this title.

§ 1225. Employment of persons to appear before Congress or governmental agency; filing statement of employment.

It shall be unlawful for any person employed or retained by any shipbuilder or ship operator holding or applying for a contract under the provisions of this chapter, or employed or retained by any subsidiary, affiliate, associate, or holding company

of such shipbuilder or ship operator, to present, advocate, or oppose any matter within the scope of the Shipping Act, 1916, as amended, the Merchant Marine Act, 1920, as amended, the Merchant Marine Act, 1928, as amended, the Intercoastal Shipping Act, 1933, or this chapter, before the Congress or any committee thereof, or before the Federal Maritime Commission or the Secretary of Commerce, unless such shipbuilder or ship operator shall have previously filed with the Secretary of Commerce in such form and detail as the Secretary shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Secretary within thirty days after the close of each calendar month during such retainer or employment, in such form and detail as the Secretary shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment. Whosoever shall violate this provision shall be guilty of a misdemeanor. (June 29, 1936, ch. 858, §§ 807, 905(e), 49 Stat. 2014; June 23, 1938, ch. 600, § 38, 52 Stat. 963; 1950 Reorg. Plan No. 21, §§ 104, 105, 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274—1277; July 17, 1952, ch. 939, §21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

REFERENCES IN TEXT

Distribution of—

Shipping Act, 1916, see section 842 of this title.

Merchant Marine Act, 1920, see note under section 861 of this title.

Merchant Marine Act, 1928, see note under section 891s of this title.

Intercoastal Shipping Act, 1933, see section 848 of this title.

AMENDMENTS

1938—Act June 23, 1938, amended section generally, and among other changes, inserted provisions to include matters within the scope of the Shipping Act, 1916, the Merchant Marine Act, 1920, the Merchant Marine Act, 1928, and the Intercoastal Shipping Act, 1933, and substituted "thirty days" for "ten days".

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce", "Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1226. Discrimination in respect to cargo.

It shall be unlawful for any contractor receiving an operating-differential subsidy under subchapter VI of this chapter or for any charterer under subchapter VII of this chapter unjustly to discriminate in any manner so as to give preference directly or indirectly in respect to cargo in which such contractor or charterer has a direct or indirect ownership, or purchase or vending interest; and whosoever shall violate this provision shall be guilty of a misdemeanor. (June 29, 1936, ch. 858, § 808, 49 Stat. 2015.)

§ 1227. Agreements with other carriers forbidden; withholding subsidies; actions by injured persons for damages.

It shall be unlawful for any contractor receiving an operating-differential subsidy under subchapter VI of this chapter or for any charterer of vessels under subchapter VII of this chapter to continue as a party to or to conform to any agreement with another carrier or carriers by water, or to engage in any practice in concert with another carrier or carriers by water, which is unjustly discriminatory or unfair to any other citizen of the United States who operates a common carrier by water exclusively employing vessels registered under the laws of the United States on any established trade route from and to a United States port or ports.

No payment or subsidy of any kind shall be paid directly or indirectly out of funds of the United States or any agency of the United States to any contractor or charterer who shall violate this section. Any person who shall be injured in his business or property by reason of anything forbidden by this section may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (June 29, 1936, ch. 858, § 810, 49 Stat. 2015.)

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 54 on this section, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

§ 1228. Fines and penalties; conviction as rendering persons ineligible to receive benefits of law.

Whenever any natural person is found guilty in any district court of the United States of any act or acts declared in this chapter to constitute a misdemeanor, he shall be punished by a fine of not more than $10,000, or by imprisonment for not less than one year or more than five years, or by both fine and imprisonment. Whenever any corporation is found guilty of any act or acts declared in this chapter to be unlawful, such corporation shall be punished by a fine of not more than $25,000.

In addition to the punishment prescribed in section 1224 of this title, any person or corporation convicted of a misdemeanor under the provisions of this chapter shall be ineligible, at the discretion of the Federal Maritime Commission or the Secretary of

Commerce, to receive any benefits under subchapters V and VI of this chapter, or to receive a charter under subchapter VII of this chapter for a period of five years after conviction.

Whoever knowingly and willfully violates any order, rule, or regulation of the Federal Maritime Commission or the Secretary of Commerce made or issued in the exercise of the powers, duties, or functions transferred to it or him or vested in it or him by this chapter, as amended, for which no penalty is otherwise expressly provided, shall upon conviction thereof be subject to a fine of not more than $500. If such violation is a continuing one, each day of such violation shall constitute a separate offense. (June 29, 1936, ch. 858, §§ 806(b), 905(e), 49 Stat. 2014; Aug. 4, 1939, ch. 417, § 13, 53 Stat. 1187; 1950 Reorg. Plan No. 21, §§ 104, 105, 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274–1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

AMENDMENTS

1939—Subsec. (d). Act Aug. 4, 1939, added subsec. (d).

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Federal Maritime Board or the Secretary of Commerce" was substituted for "Commission" and "United States Maritime Commission" and "or him" was inserted following "to it" and "in it" in the second paragraph on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

§ 1241. Transportation in American vessels of Government personnel and certain cargoes.

(a) Requirement that officers and employees travel on American ships.

Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided,* That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor.

(b) Cargoes procured, furnished or financed by United States; waiver in emergencies; exceptions; definition.

(1) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided,* That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of this paragraph and so notifies the appropriate agency or agencies: *And provided further,* That the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of section 616a of Title 15. For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to September 21, 1961, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: *Provided, however,* That the provisions of this amendment shall not apply where, (1) prior to September 21, 1961, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to September 21, 1961, or (2) where prior to September 21, 1961, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to September 21, 1961.

(2) Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Commerce. The Secretary of Commerce shall review such administration and shall annually report to the Congress with respect thereto.

(c) Motor vehicle owned by Government personnel.

Notwithstanding any other provision of law, privately owned American shipping services may be utilized for the transportation of motor vehicles owned by Government personnel whenever transportation of such vehicles at Government expense is otherwise authorized by law. (June 29, 1936, ch. 858, § 901, 49 Stat. 2015; Aug. 26, 1954, ch. 936, 68 Stat. 832; May 28, 1956, ch. 325, 70 Stat. 187; Sept. 21, 1961, Pub. L. 87–266, 75 Stat. 565; Oct. 21, 1970, Pub. L. 91–469, § 27, 84 Stat. 1034.)

REFERENCES IN TEXT

This amendment, referred to in subsec. (b), means the amendment to this section by Pub. L. 87–266. See 1961 Amendment note below.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–469 redesignated subsec. (b) as (b)(1), substituted "this paragraph" for "this subsection" following "temporary waiver of the provisions of" therein, and added subsec. (b)(2).

1961—Subsec. (b). Pub. L. 87–266 excluded from the term "privately owned United States-flag commercial vehicles" those vessels which, subsequent to Sept. 21, 1961, have been either built outside the United States, rebuilt outside the United States, or documented under foreign registry, until such vessels have been documented under the laws of the United States for 3 years.

1956—Subsec. (c). Act May 28, 1956, added subsec. (c).

1954—Subsec. (a). Act Aug. 26, 1954, designated as "(a)" the entire former section.

Subsec. (b). Act Aug. 26, 1954, added subsec. (b).

EXEMPTION OF FUNCTIONS

Functions authorized by Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

Section 3 of act Aug. 3, 1956, ch. 933, 70 Stat. 988, provided that sales of fresh fruit and the products thereof under sections 1701—1709 of Title 7, Agriculture, should be exempt from the requirements of this section.

CROSS REFERENCES

Free transportation of Government personnel in American vessels prohibited; exceptions; reduction of Government rate; penalty, see section 817b of this title.

Motor vehicles belonging to Army and Air Force personnel, transportation on Government-owned vessels, see section 2634 of Title 10, Armed Forces.

Motor vehicles belonging to Navy, Marine Corps, and Coast Guard personnel, transportation on Government-owned vessels, see section 2634 of Title 10, Armed Forces.

Transportation at Government expense of automobiles owned by civilian officers and employees prohibited, see section 5727 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2353 of this title; title 22 section 2223.

§ 1241a. Vessel operations revolving fund; establishment; uses; limitation.

There is established a working capital of $20,000,000 to remain available until expended, for the "Vessel Operations Revolving Fund", which is created for the purpose of carrying out vessel operating functions of the Secretary of Commerce, including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Commerce.

Notwithstanding any other provision of law, rates for shipping services rendered under said Fund shall be prescribed by the Secretary of Commerce and the Fund shall be credited with all receipts from vessel operating activities conducted thereunder: *Provided,* That the provisions of sections 1291 (a) (c), 1293 (c), and 1294 of Appendix to Title 50 shall be applicable in connection with such operations and to seamen employed through general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States: *Provided further,* That such sums as may be determined to be necessary by the Secretary of Commerce, with the approval of the Office of Management and Budget, but not exceeding 2 per centum of vessel operating expenses, may be advanced from this Fund to the appropriation "Salaries and expenses" for the purposes of that appropriation in connection with vessel operating functions, but without regard to the limitations on amounts as stated therein: *Provided further,* That notwithstanding any other provisions of law, the unexpended balances of any working funds or of allocation accounts established, subsequent to January 1, 1951, for the activities provided for under this appropriation, together with receipts heretofore and hereafter received from such activities, may be transferred to and consolidated with this Fund, which shall be available for the purposes of such working funds or allocation accounts.

No money made available to the Department of Commerce, for Maritime Activities, by this section or any other Act shall be used in payment for a vessel the title to which is acquired by the Government either by requisition or purchase, or the use of which is taken either by requisition or agreement, or which is insured by the Government and lost while so insured, unless the price or hire to be paid therefor, (except in cases where section 1212 of this title is applicable) is computed in accordance with subsection (a) of section 1242 of this title, as that subsection is interpreted by the General Accounting Office. (June 2, 1951, ch. 121, ch. VIII, 65 Stat. 59; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

Sections 1291 (a), (c) and 1294 of Appendix to Title 50, referred to in the text, which extended rights of American seamen on privately owned and operated American vessels to seamen employed through the War Shipping Administration, related to the making of payments to the United States or its agencies by said Administration and dealt with vessels owned by, chartered to, and operated by or for said Administration, expired with the termination on Sept. 1, 1946 of War Shipping Administration, set forth in note under former section 1291 of Appendix to Title 50, War and National Defense.

CODIFICATION

Section was enacted as a part of the Third Supplemental Appropriation Act, 1951, and not as a part of the Merchant Marine Act of 1936, which comprises this chapter.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which

also transferred all records, property, personnel and funds of the Bureau to the Office of Management and Budget.

AUTHORIZATION FOR PAYMENTS OUT OF FUND

Pub. L. 85–721, Aug. 21, 1958, 72 Stat. 710, as authorizing Secretary of Commerce to make certain payments out of Vessels Operations Revolving Fund to persons to whom he chartered vessel, see note set out under section 1738 of Appendix to Title 50, War and National Defense.

CROSS REFERENCES

Emergency foreign vessel acquisition, see sections 195–197 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1205, 1241c of this title.

§ 1241b. Same; vessels involved in mortgage-foreclosure or forfeiture proceedings; redelivery and lay-up of chartered ships; custody and husbanding of Government-owned ships.

Hereafter the vessel operations revolving fund shall be available for necessary expenses incurred, in connection with protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage-foreclosure or forfeiture proceedings instituted by the United States, including payment of prior claims and liens, expenses of sale, or other charges incident thereto; for necessary expenses incident to the redelivery and lay-up, in the United States, of ships now chartered under agreements which do not call for their return to the United States; for activation, repair and deactivation of merchant ships chartered for limited emergency purposes during the fiscal year 1957 under the jurisdiction of the Secretary of Commerce; and for payment of expenses of custody and husbanding of Government-owned ships other than those within reserve fleets. (June 30, 1955, ch. 253, title I, § 101, 69 Stat. 231; May 19, 1956, ch. 313, ch. II, § 201, 70 Stat. 162; June 20, 1956, ch. 415, title I, § 101, 70 Stat. 319.)

CODIFICATION

Section was enacted as a part of the "Department of Commerce and Related Agencies Appropriation Act, 1956" and not as a part of the Merchant Marine Act of 1936, which comprises this chapter.

AMENDMENTS

1956—Act May 19, 1956, made the fund available for activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Commerce.

LIMITATION ON FUNDS FOR FISCAL YEAR 1957

Act June 20, 1956, ch. 415, title I, § 101, 70 Stat. 319, provided in part that: "Not to exceed $5,000,000 of the funds of the vessel operations revolving fund may be used during the fiscal year 1957 for the purposes set forth in this paragraph [this section]."

Similar provisions on limitation on funds were contained in act June 30, 1955, ch. 253, title I, § 101, 69 Stat. 231.

§ 1241c. Same; expenses; receipts.

The vessel operations revolving fund created by section 1241a of this title, shall, beginning July 1, 1956, be available for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Commerce. There shall be credited to such fund all receipts on account of operations after July 1, 1956, under charters of Government-owned ships under the jurisdiction of the Secretary of Commerce. (Aug. 1, 1956, ch. 846, 70 Stat. 897.)

CODIFICATION

Section was not enacted as a part of the Merchant Marine Act of 1936, which comprises this chapter.

§ 1242. Requisition or purchase of vessels in time of emergency.

(a) Compensation; restoration; consequential damages.

Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Secretary of Commerce to requisition or purchase any vessel or other watercraft owned by citizens of the United States, or under construction within the United States, or for any period during such emergency, to requisition or charter the use of any such property. The termination of any emergency so declared shall be announced by a further proclamation by the President. When any such property or the use thereof is so requisitioned, the owner thereof shall be paid just compensation for the property taken or for the use of such property, but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use. If any property is taken and used under authority of this section, but the ownership thereof is not required by the United States, such property shall be restored to the owner in a condition at least as good as when taken, less ordinary wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the property in such condition. The owner shall not be paid for any consequential damages arising from a taking or use of property under authority of this section.

(b) Determination of value of vessel.

When any vessel is taken or used under authority of this section, upon which vessel a construction-differential subsidy has been allowed and paid, the value of the vessel at the time of its taking shall be determined as provided in section 1212 of this title, and in determining the value of any vessel taken or used, on which a construction-differential subsidy has not been paid, the value of any national defense features previously paid for by the United States shall be excluded.

(c) Charter of vessels; compensation; reimbursement for loss or damage.

If any property is taken and used under authority of this section, but the ownership thereof is not required by the United States, the Secretary of Commerce, at the time of the taking or as soon thereafter as the exigencies of the situation may permit, shall transmit to the person entitled to the possession of such property a charter setting forth the terms which, in the Secretary's judgment, should govern the relationships between the United States and such person and a statement of the rate of hire which, in the Secretary's judgment, will be just compensation for the use of such property and for the services required under the terms of such charter. If such person does not execute and deliver such charter and accept such rate of hire, the Secretary shall pay to such person as a tentative advance only, on account of such just compensation a sum equal to 75 per centum of such rate of hire as the same may from time to time be due under the terms of the

charter so tendered, and such person shall be entitled to sue the United States in a court having jurisdiction of such claims to recover such amounts as would be equal to just compensation for the use of the property and for the services required in connection with such use: *Provided, however,* That in the event of an election by such person to reject the rate of hire fixed by the Secretary and to sue in the courts, the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded. In the event of loss or damage to such property, due to operation of a risk assumed by the United States under the terms of a charter prescribed in this subsection, but no valuation of such vessel or other property or mode of compensation has been agreed to, the United States shall pay just compensation for such loss or damage, to the extent the person entitled thereto is not reimbursed therefor through policies of insurance against such loss or damage.

(d) Determination of amount of compensation.

In all cases, the just compensation authorized by this section shall be determined and paid by the Secretary of Commerce as soon as practicable, but if the amount of just compensation determined by the Secretary is unsatisfactory to the person entitled thereto; such person shall be paid, as a tentative advance only, 75 per centum of the amount so determined and shall be entitled to sue the United States to recover such amount as would equal just compensation therefor, in the manner provided for by sections 41 (20) and 250 of Title 28: *Provided, however,* That in that event of an election to reject the amount determined by the Secretary and to sue in the courts, the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded.

The existence of any valid claim by way of mortgage or maritime claim or attachment lien upon such vessel shall not prevent the taking thereof pursuant to this section: *Provided, however,* That in the event any such claim exists the Secretary of Commerce may in his discretion deposit such portion of the compensation hereunder, or advances on account thereof, as may equal but not exceed the amount of such claims in respect of the vessel, with the Treasurer of the United States, and the fund so deposited shall be available for the payment of such compensation, and shall be subject to be applied to the payment of the amount of any valid claim by way of mortgage or maritime lien or attachment lien upon such vessel, or of any stipulation therefor in a court of the United States, or of any State, subsisting at the time of such requisition or taking of title or possession; the holder of any such claim may commence prior to June 30, 1943, or within six months after the first such deposit with the Treasurer and publication of notice thereof in the Federal Register, whichever date is later, and maintain in the United States district court from whose custody such vessel has been or may be taken or in whose territorial jurisdiction the vessel was lying at the time of requisitioning or taking of title or possession, a suit in admiralty according to the principles of libels in rem against the fund, which shall proceed and be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties, and any decree in said suit shall be paid out of the first and all subsequent deposits of compensation; and such suit shall be commenced in the manner provided by section 742 of this title and service of process shall be made in the manner therein provided by service upon the United States attorney and by mailing by registered mail to the Attorney General and the Secretary of Commerce and due notice shall under order of the court be given to all interested persons, and any decree shall be subject to appeal and revision as now provided in other cases of admiralty and maritime jurisdiction.

(e) Use of vessels by Secretary; transfer to other departments or agencies; reimbursement of Secretary.

The Secretary of Commerce is authorized to repair, recondition, reconstruct, and operate, or charter for operation, any property acquired under authority of this section. The Secretary is further authorized to transfer the possession or control of any such property to any department or agency of the Government of the United States upon such terms and conditions as may be approved by the President. In case of any such transfer the department or agency to which the transfer is made shall promptly reimburse the Secretary for expenditures of the Department of Commerce on account of just compensation, purchase price, repairs, reconditioning, reconstruction, or charter hire for the property transferred. Such reimbursements shall be deposited in the construction fund established by section 1116 of this title. (June 29, 1936, ch. 858, §§ 902, 905(e), 49 Stat. 2015; Aug. 7, 1939, ch. 555, § 3, 53 Stat. 1255; Mar. 24, 1943, ch. 26, § 3(d), 57 Stat. 49; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 3, 1956, ch. 929, §§ 2, 3, 70 Stat. 985.)

REFERENCES IN TEXT

Sections 41 (20) and 250 of Title 28, referred to in subsec. (d), were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and are now covered by sections 1346, 1491, 1496, 1501, 1503, 2401, 2402, and 2501 of Title 28, Judiciary and Judicial Procedure.

CODIFICATION

"Secretary of Commerce", "Secretary" and "Secretary's" were substituted for "Commission" (which had reference to the United States Maritime Commission), in subsecs. (c) and (d) as amended by act Aug. 3, 1956, to conform to 1950 Reorg. Plan No. 21. See transfer of functions note below.

AMENDMENTS

1956—Subsec. (c). Act Aug. 3, 1956, § 2, inserted "as a tentative advance only," in the second sentence, and substituted "in a court having jurisdiction of such claims to recover such amounts as would be equal to just compensation for the use of the property and for the services required in connection with such use: *Provided, however,* That in the event of an election by such person to reject the rate of hire fixed by the Commission and to sue in the courts, the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded." for "to recover such further sum as added to such 75 per centum will make up such amount as will be just compensation for the use of the property and for the services required in connection with such use.".

Subsec. (d). Act Aug. 3, 1956, § 3, inserted "as a tentative advance only", substituted "such amount as would equal" for "such further sum as, added to said 75 per centum will make up such amount as will be" and added proviso.

1943—Subsec. (d). Act Mar. 24, 1943, added second par.

1939—Subsec. (c)—(e). Act Aug. 7, 1939, added subsecs. (c)—(e).

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of the Treasury Department.

"Secretary of Commerce", "Secretary" and "Secretary's" were substituted for "Commission", "United States Maritime Commission" and "Commission's" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (a) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CROSS REFERENCES

Emergency foreign vessel acquisition, see sections 195—197 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1160, 1241a, 1289 of this title; title 50 sections 196, 197.

§ 1242-1. Computation of price for purchase or hire of vessels by Government.

CODIFICATION

Section, Pub. L. 85-469, title I, § 101, June 25, 1958, 72 Stat. 231, was enacted as part of the Department of Commerce and Related Agencies Appropriation Act, 1959, and similar provisions in prior appropriation acts and not as a part of the Merchant Marine Act of 1936, which comprises this chapter. Section required computation of funds spent in payment for requisitioned or purchased vessels in accordance with subsec. 1242(a) of this title and was not repeated in the Department of Commerce and Related Agencies Appropriation Act, 1960, Pub. L. 86-68, July 13, 1959, 73 Stat. 201.

§ 1242a. Maintenance of and adjustment of obligations with respect to essential vessels affected by Neutrality Act.

(a) When used in this section the term "essential vessel" means any vessel (1) which is (A) security for any mortgage indebtedness to the United States or (B) constructed under this chapter, or required by the terms of a contract under this chapter to be operated on a certain essential foreign trade route, and (2) which it is necessary in the interests of commerce and national defense to maintain in condition for prompt use.

(b) For the purposes of preserving in the national interest the full availability and usefulness of essential vessels, which, under the provisions of the Neutrality Act of 1939 (or any proclamation issued thereunder), or compatibly with the national interest, cannot be operated in the service, route, or line to which such vessels are assigned pursuant to this chapter, or in which they would otherwise be operated, the Secretary of Commerce is authorized to make adjustments of obligations in respect to such vessels and to make arrangements for the maintenance of such vessels, subject to the provisions of this section and to such rules and regulations as the Secretary shall prescribe as necessary or appropriate for carrying out the purposes and provisions of this section. If the Secretary, upon written application in respect of any essential vessel, determines after such examination, investigation, and proceedings as he deems desirable, that (1) the operation of such vessel in the service, route, or line to which such vessel is assigned pursuant to this chapter, or in which it would otherwise be operated, is either (A) not lawful under the Neutrality Act of 1939 (or any proclamation issued thereunder), or (B) not compatible with the maintenance of availability of such vessel for purposes of national defense and commerce, (2) it is not feasible under existing law to employ such vessel in any other service or operation in either the foreign or domestic trades (except temporary or emergency operation under subsection (c) (5) hereof), and (3) the applicant, by reason of the restrictions of the Neutrality Act of 1939, or the withdrawal of vessels for national-defense purposes under clause (1) hereof, is not earning or will not earn a fair and reasonable return on the capital necessarily employed in its business, the Secretary may make adjustments and arrangements with the applicant as provided in subsection (c) of this section, which shall continue in effect only during the circumstances above described.

(c) Such adjustments and arrangements shall include suspension of the requirement to operate such vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement, and of the right to operating-differential subsidy in respect of such vessel, and may include any one or more of the following provisions, in whole or in part, as, and to the extent that, the Secretary of Commerce may deem to be necessary or appropriate to carry out the purposes of this chapter, or the purposes and provisions of this section:

(1) Lay-up of the vessel by the owner or, at the option of the Secretary, in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses thereof (including reasonable overhead and insurance), or in lieu of such payment or reimbursement, a fixed periodic allowance therefor;

(2) Postponement, for a period not in excess of the period or periods of lay-up, of the maturity date of each installment on account of the principal of obligations to the United States in respect of the vessel (whether or not such maturity date

shall fall within such period or periods), or rearrangement of such maturities;

(3) Postponement or cancellation of interest accruing on such obligations during such period or periods of lay-up;

(4) Extension for a period not in excess of the period or periods of lay-up, of the twenty-year life limitation in respect of the vessel, and of the period or periods of other limitations and provisions of this chapter, insofar as they are based upon a twenty-year life;

(5) Provisions for such temporary or emergency employment of the vessel in lieu of lay-up as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of such employment, as the Secretary may approve, the period or periods of such operation being included as part of the period or periods of lay-up;

(6) The payment to the Secretary, upon termination of the arrangements with the applicant hereunder, out of the applicant's net profits, earned while such arrangements were in effect, in excess of 10 per centum per annum on the capital necessarily employed in the applicant's business, in reimbursement, to the extent that the Secretary shall deem it necessary to carry out the purposes of this section, on account of obligations postponed or canceled and expenses incurred or paid by the Secretary under this subsection. For the purposes of this paragraph capital of the applicant represented by vessels of the applicant laid up or operated under this section shall not be excluded from capital necessarily employed in the applicant's business. The Secretary may require that the vessels so laid up or operated be security for reimbursement hereunder.

(d) The adjustments and arrangements made under subsection (c) of this section in respect of any vessel shall be subject to such readjustment or modification from time to time as may be deemed necessary by the Secretary of Commerce to carry out the purposes and provisions of this section.

(e) Moneys in the construction fund of the Secretary of Commerce shall be available for expenses of the Secretary incurred in adjustments or arrangements made under this section. (June 29, 1940, ch. 442, 54 Stat. 684; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

REFERENCES IN TEXT

For distribution of the Neutrality Act of 1939, see note under section 441 of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was not enacted as a part of Merchant Marine Act of 1936 which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

§ 1243. Words "United States Shipping Board" or "Board" as applicable to United States Maritime Commission.

CODIFICATION

Section, act June 29, 1936, ch. 858, § 904, 49 Stat. 2016, amended prior acts by substituting "United States Maritime Commission" for "United States Shipping Board" or "the Board", and is obsolete in view of the abolishment of the United States Maritime Commission.

§ 1244. Definitions.

When used in this chapter—

(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, except that in the context of subchapter V of this chapter concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall to the extent provided in uniform regulations promulgated by the Secretary of Commerce also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels.

(b) The term "person" includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

(c) The words "citizen of the United States" include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 802 of this title, and with respect to a corporation under subchapter VI of this chapter, all directors of the corporation are citizens of the United States and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum.

(d) The word "construction" includes outfitting and equipping.

(e) The terms "United States Maritime Commission" and "Commission" shall mean the Secretary of Commerce, the Maritime Administrator, or the Federal Maritime Commission as the context may require. (June 29, 1936, ch. 858, § 905, 49 Stat. 2016; June 23, 1938, ch. 600, § 39, 52 Stat. 964; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Sept. 21, 1959, Pub. L. 86–327, § 4, 73 Stat. 597; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 21, 1970, Pub. L. 91–469, § 28, 84 Stat. 1034.)

REFERENCES IN TEXT

The "United States Maritime Commission", referred to in subsec. (e), was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273, also referred to in such subsection, which transferred part of its functions to, and divided them between, the Federal Maritime Board, created by such plan, and the Secretary of Commerce. The plan also created, within the Department of Commerce, the Maritime Administration, with the Maritime Administrator, also referred to in such subsection, at its head, and vested power in the Secretary to authorize the performance of the functions so transferred to him, by said Administrator. The plan is set out as a note under section 1111 of this title. 1950 Reorg. Plan No. 21 was, in turn, superseded by 1961 Reorg.

Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. 1961 Reorg. Plan No. 7 abolished the Federal Maritime Board, including the offices of the members thereof, and transferred its functions either to the newly created Federal Maritime Commission or to the Secretary of Commerce. See Transfer of Functions note below.

CODIFICATION

Provisions in subsec. (e) directing that the text be conformed to Reorg. Plan No. 21 of 1950 have been omitted as executed in view of the promulgation of 1961 Reorg. Plan No. 7. See Transfer of Functions note below.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-469 expanded definition of "foreign commerce" or "foreign trade" to permit United States operators of dry and liquid bulk ships built with construction subsidy to engage in foreign-to-foreign carriage to the extent permitted by regulations issued by the Secretary of Commerce.

1959—Subsec. (c). Pub. L. 86-327 inserted requirement that all the directors of a corporation under subchapter VI of this chapter be United States citizens.

1952—Subsec. (e). Act July 17, 1959, added subsec. (e).

1938—Subsec. (a). Act June 23, 1938, added words "foreign commerce".

Subsec. (c). Act June 23, 1938, inserted provisions relating to interest of citizens of the United States in vessels operated on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States.

TRANSFER OF FUNCTIONS

"Federal Maritime Commission" has been substituted for "Federal Maritime Board" and "Commission" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

§ 1245. Separability of provisions; citation of chapter.

If any provisions of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby. This chapter may be cited as the Merchant Marine Act, 1936. (June 29, 1936, ch. 858, § 906, 49 Stat. 2016.)

§ 1246. Effective date of chapter.

Except as otherwise provided in this chapter it shall take effect thirty days after a majority of the members of the Commission have taken the oath of office. (June 29, 1936, ch. 858, § 907, 49 Stat. 2017.)

TRANSFER OF FUNCTIONS

The Commission, referred to in text, was, in the original, a reference to the United States Maritime Commission, which was abolished and its functions transferred to the Federal Maritime Board and the Secretary of Commerce by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274. See note under section 1111 of this title. 1950 Reorg. Plan No. 21 was, in turn, superseded by 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out as a note under section 1111 of this title. 1961 Reorg. Plan No. 7 abolished the Federal Maritime Board, including the offices of the members thereof, and transferred its functions either to the newly created Federal Maritime Commission or to the Secretary of Commerce. See also section 1244(e) of this title and note under such section 1244.

SUBCHAPTER X.—MARITIME LABOR RELATIONS

WORKING HOURS AND OVERTIME OF EMPLOYEES

Act May 2, 1941, ch. 84, § 4, 55 Stat. 150, as extended by Joint Res. June 16, 1942, ch. 416, 56 Stat. 370, relating to working hours and overtime of employees engaged in U. S. Maritime Commission ship construction and national defense work, formerly set out as note under this subchapter, was repealed by act May 7, 1943, ch. 93, § 5, 57 Stat. 77.

§§ 1251 to 1255. Omitted.

CODIFICATION

Sections, which related to maritime labor relations, expired at the end of four years from June 23, 1938.

Sections 1251—1253 were from acts June 29, 1936, ch. 858, §§ 1001—1003, as added June 23, 1938, ch. 600, § 45, 52 Stat. 965.

Section 1254 was from acts June 29, 1936, ch. 858, § 1004, as added June 23, 1938, ch. 600, § 45, 52 Stat. 966, and amended June 23, 1941, ch. 228, § 2, 55 Stat. 259.

Section 1255 was from acts June 29, 1936, ch. 858, title X, § 1005, as added June 23, 1938, ch. 600, § 45, 52 Stat. 967.

§ 1256. Repealed. June 23, 1941, ch. 228, § 3, 55 Stat. 259.

Section, acts June 29, 1936, ch. 858, § 1006, as added June 23, 1938, ch. 600, § 45, 52 Stat. 967, related to adjustment of agreements and disputes between Maritime employers and employees.

SAVINGS CLAUSE

Last portion of section 3 of act June 23, 1941, ch. 228, 55 Stat. 259, repealing this section and sections 1258, 1259, and last sentence of 1260 provided: "That the Maritime Labor Board may continue to act as mediator in any disputes wherein its mediation services have been requested and the mediation of which the Board has actively undertaken prior to the date of the enactment of this Act."

§ 1257. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650.

Section, act June 29, 1936, ch. 858, § 1007, as added June 23, 1938, ch. 600, § 45, 52 Stat. 967, provided for appointment, composition, tenure, pay, travel, conflict of interest, removal, and delegation of functions of Maritime Labor Board.

§§ 1258, 1259. Repealed. June 23, 1941, ch. 228, § 3, 55 Stat. 259.

Sections, acts June 29, 1936, ch. 858, §§ 1008, 1009, as added June 23, 1938, ch. 600, § 45, 52 Stat. 968, related to mediation and arbitration by the Maritime Labor Board.

SAVINGS CLAUSE

Savings clause for act June 23, 1941, ch. 228, 55 Stat. 259, see note under section 1256 of this title.

§§ 1260 to 1262. Omitted.

CODIFICATION

Sections expired at the end of four years from June 23, 1938.

Section 1260, acts June 29, 1936, ch. 858, § 1010, as added June 23, 1938, ch. 600, § 45, 52 Stat. 969, and amended June 23, 1941, ch. 228, § 3, 55 Stat. 259, related to a report by the Maritime Labor Board.

Section 1261, acts June 29, 1936, ch. 858, § 1011, as added June 23, 1938, ch. 600, § 45, 52 Stat. 969, related to appropriations.

Section 1262, acts June 29, 1936, ch. 858, § 1012, as added June 23, 1938, ch. 600, § 45, 52 Stat. 969, and amended June 23, 1941, ch. 228, § 1, 55 Stat. 259, provided for expiration of sections 1251—1262 of this title.

SUBCHAPTER XI.—FEDERAL SHIP MORTGAGE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1160, 1161 of this title; title 26 section 49.

§ 1271. Definitions.

As used in this subchapter—

(a) The term "mortgage" includes a preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended, on any vessel of the United States

(other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than two hundred gross tons), and a mortgage on such a vessel which will become a preferred mortgage when recorded and endorsed as required by the Ship Mortgage Act, 1920, as amended;

(b) The term "loan" includes any loan or advance of credit other than a mortgage loan;

(c) The term "vessel" includes all types of passenger, cargo, and combination passenger-cargo carrying vessels, tankers, tugs, towboats, barges, and dredges documented under the laws of the United States, fishing vessels, floating drydocks which have a capacity of thirty-five thousand or more lifting tons and a beam of one hundred and twenty-five feet or more between the wing walls, and oceanographic research or instruction vessels owned by citizens of the United States;

(d) The term "mortgagee" includes the original maker of a loan secured by a mortgage and his successors and assigns, except that in the case of a mortgage involving a trust indenture and an issue of bonds or notes thereunder, it means the trustee designated in such trust indenture and his successors and assigns as trustee, but does not include the holders of the bonds or notes issued under such trust indenture; and the term "lender" includes the original maker of any loan or advance of credit other than a loan secured by a mortgage, and his successors and assigns, except that in the case of a loan or advance of credit involving a trust indenture and an issue of bonds or notes thereunder, it means the trustee designated in such trust indenture and his successors and assigns as trustee, but does not include the holders of the bonds or notes issued under such trust indenture;

(e) The term "mortgagor" includes the original borrower under a mortgage and his successors and assigns approved by the Secretary of Commerce; and

(f) The term "actual cost" of a vessel as of any specified date means the aggregate as determined by the Secretary of Commerce of (i) all amounts paid by or for the account of the mortgagor or borrower on or before that date, and (ii) all amounts which the mortgagor or borrower is then obligated to pay from time to time thereafter, for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting, and equipping) of such vessel: *Provided,* That in no event shall the Secretary of Commerce pay as insurance under this subchapter in respect of the unpaid balance of the principal of a mortgage or loan an amount in excess of 75 per centum, or 87½ per centum, as the case may be, of the amount paid by or for the account of the mortgagor or borrower for the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting, and equipping) of such vessel, except that if the mortgagor or borrower creates an escrow fund as authorized by section 1279a of this title, the amount that shall be paid as insurance is the interest on and the unpaid balance of the principal of such loan or mortgage. (June 29, 1936, ch. 858, §§ 905(e), 1101, as added June 23, 1938, ch. 600, § 46, 52 Stat. 969, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Sept. 3, 1954, ch. 1265, § 1, 68 Stat. 1267; Aug. 7, 1956, ch. 1026, § 1 (a), (b), 70 Stat. 1087; July 31, 1959, Pub. L. 86-127, § 1(1), 73 Stat. 272; Sept. 2, 1960 (Pub. L. 86-685, § 1, 74 Stat. 733; Sept. 26, 1961, Pub. L. 87-303, § 2, 75 Stat. 661; Oct. 21, 1970, Pub. L. 91-469, § 29, 84 Stat. 1035.)

REFERENCES IN TEXT

The Ship Mortgage Act, 1920, as amended, referred to in subsec. (a), is classified to chapter 25 of this title.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-469 included oceanographic research or instruction vessels in definition of term "vessel".

1961—Subsec. (a). Pub. L. 87-303 excluded towboats, barges, scows, lighters, car floats, canal boats or tank vessels of less than two hundred gross tons.

1960—Subsec. (c). Pub. L. 86-685 included floating drydocks which have a capacity of 35,000 or more lifting tons and a beam of 125 feet or more between the wing walls.

1959—Subsec. (f). Pub. L. 86-127 inserted in the proviso the words "in respect of the unpaid balance of the principal of a mortgage or loan" and the exception clause.

1956—Subsec. (f). Act Aug. 7, 1956, eliminated ", except for certain special purpose vessels as provided for in subsections (a) and (b) of section 1273 of this title," in the proviso following the words "That in no event", and eliminated "90 per centum of" both preceding and following "75 per centum, or".

1954—Act Sept. 3, 1954, defined "loan" and "actual cost" and redefined "mortgagee."

TRANSFER OF FUNCTIONS

"Secretary of Commerce" was substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECRETARY OF INTERIOR: FISHING VESSEL INSURANCE

Secretary of Interior authorized to exercise authority in relation to issuance of insurance on fishing vessels comparable to authority of Secretary of Commerce under this subchapter, see note set out under section 1275 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1279e, of this title.

§ 1272. Federal ship mortgage insurance fund.

There is created a Federal Ship Mortgage Insurance Fund (hereinafter referred to as the "fund") which shall be used by the Secretary of Commerce as a revolving fund for the purpose of carrying out the provisions of this subchapter, and there shall be allocated to such fund the sum of $1,000,000 out of funds made available to the Secretary of Commerce under the appropriation authorized by section 1279 of this title. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States. (June 29, 1936, ch. 858, §§ 905(e), 1102, as added June 23, 1938, ch. 600, § 46, 52 Stat. 969, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Sept. 3, 1954, ch. 1265, § 2, 68 Stat.

1268; July 31, 1959, Pub. L. 86–123, § 1(2), 73 Stat. 269.)

AMENDMENTS

1959—Pub. L. 86–123 substituted "section 1110" for "section 1109" of act June 29, 1936, which for purposes of codification has been changed to "section 1279 of this title."

1954—Act Sept. 3, 1954, omitted provisions relating to the purchase of debentures.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1275 of this title.

§ 1273. Authorization of Secretary to insure mortgages.

(a) Limitation on per cent of mortgage.

The Secretary of Commerce, upon application by the mortgagor, is authorized to insure as hereinafter provided the interest on and of the unpaid balance of the principal of, any mortgage offered to him which is eligible for insurance as hereinafter provided and, upon such terms as the Secretary of Commerce may prescribe, is authorized to make commitments to insure any such mortgage prior to the date of execution or disbursement thereon.

(b) Loans.

The Secretary of Commerce, upon application by the borrower, is authorized to insure as hereinafter provided the interest on and of the unpaid balance of the principal of, any loan offered to him which is eligible for insurance as hereinafter provided and, upon such terms as the Secretary of Commerce may prescribe, is authorized to make commitments to insure any such loan prior to the date of execution or disbursement thereon.

(c) Beneficiary of insurance contracts.

Each insurance contract made under this section shall run to the mortgagee or lender and be for the benefit of such mortgagee or lender and the holders of the obligations secured by the mortgage or evidencing the loan, and if the mortgagee or lender is a trustee under a trust indenture, for the benefit of the holders of the bonds or notes issued under such trust indenture.

(d) Pledge of United States.

The faith of the United States is solemnly pledged to the payment of interest on and the unpaid balance of the principal amount of each mortgage and loan insured under this subchapter.

(e) Limitation on outstanding amount.

The aggregate unpaid principal amount of the mortgages and loans insured under this section and outstanding at any one time shall not exceed $3,000,000,000. (June 29, 1936, ch. 858, §§ 905 (e), 1103, as added June 23, 1938, ch. 600, § 46, 52 Stat. 969, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 15, 1953, ch. 513, § 1, 67 Stat. 626; Sept. 3, 1954, ch. 1265, § 3, 68 Stat. 1268; June 25, 1956, ch. 438, 70 Stat. 332; Aug. 7, 1956, ch. 1026, § 1 (a), (c), (d), 70 Stat. 1087; Oct. 21, 1970, Pub. L. 91–469, § 30, 84 Stat. 1035.)

AMENDMENTS

1970—Subsec. (e). Pub. L. 91–469 increased limitation on outstanding amount of mortgages and loans insured under this section from one to three billion dollars.

1956—Subsec. (a). Act Aug. 7, 1956, § 1 (a), (c), eliminated "90 per centum of" preceding "the unpaid balance" and eliminated proviso that as to special purpose vessels certified essential to national defense, Secretary of Commerce may insure 100 per centum of principal and interest on eligible mortgages.

Subsec. (b). Act Aug. 7, 1956, § 1 (a), (c), eliminated "90 per centum of" preceding "the unpaid balance" and eliminated proviso that as to special purpose vessels certified essential to national defense, Secretary of Commerce may insure 100 per centum of principal and interest on eligible loans.

Subsec. (d). Act Aug. 7, 1956, § 1(d), eliminated "the" preceding "interest on and" and the words "90 percentum of" following such words.

Subsec. (d). Act June 25, 1956, pledged the faith of the United States, in the case of special-purpose vessels, to the payment of the interest on and 100 per centum of the unpaid balance of the principal amount of each mortgage and loan insured under this subchapter.

1954—Act Sept. 3, 1954, provided for the insurance of mortgages by Secretary up to 90 per centum of unpaid balance except that vessels essential to national defense may be insured up to 100 per centum, to provide for insurance contracts, pledged the United States as security, and limited aggregate unpaid principal to $1,000,000,000.

1953—Act Aug. 15, 1953, designated existing provisions as subsec. (a), inserted after "provided" the words "90 per centum of the unpaid balance" and struck out the last sentence relating to aggregate amount of mortgage obligations, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1956 AMENDMENT

Act June 25, 1956, which amended subsec. (d) of this section, provided in part that the amendment of subsec. (d) should be effective Sept. 3, 1954.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1274. Insurance eligibility.

(a) Mortgages.

To be eligible for insurance under this subchapter a mortgage, excepting as otherwise provided in section 1276 of this title—

(1) shall have a mortgagee approved by the Secretary of Commerce as responsible and able to service the mortgage properly; and a mortgagor approved by the Secretary of Commerce as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the mortgaged property;

(2) shall involve an obligation in a principal amount which does not exceed 75 per centum of

the actual cost of the vessel, such actual cost to be determined by the Secretary of Commerce prior to the execution of the mortgage and such determination to be conclusive for the purpose of determining the principal amount of the mortgage: *Provided, however,* That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is, or in the case of a vessel to be reconstructed or reconditioned would have been, eligible for mortgage aid for construction under section 1159 of this title and in respect of which the minimum downpayment by the mortgagor required by that section would be 12½ per centum of the cost of such vessel, the obligation may be in an amount which does not exceed 87½ per centum of such actual cost; or, in the case of vessels purchased pursuant to the Merchant Ship Sales Act of 1946, as amended, for exclusive use on the Great Lakes, involve an obligation in a principal amount which does not exceed 75 per centum of the net purchase price of such vessels plus 75 per centum of the amounts expended for altering, modifying, converting, and equipping such vessels in excess of that purchase price, or 75 per centum of the amount which the Secretary of Commerce estimates will be the value of such vessel so purchased for exclusive use on the Great Lakes when the reconstruction or reconditioning is completed, whichever is the lesser;

(3) shall secure bonds, notes, or other obligations having maturity dates satisfactory to the Secretary of Commerce but not to exceed twenty-five years from the date of its execution;

(4) shall contain amortization provisions satisfactory to the Secretary of Commerce requiring periodic payments by the mortgagor;

(5) shall secure bonds, notes, or other obligations bearing interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;

(6) shall provide, in a manner satisfactory to the Secretary of Commerce, for the application of the mortgagor's periodic payments to amortization of the principal of the mortgage, exclusive of the amount allocated to interest;

(7) shall contain such terms and provisions with respect to the construction, reconstruction, reconditioning, maintenance, purchase of a vessel for use on the Great Lakes pursuant to the Merchant Ship Sales Act of 1946, as amended, or operation of the property, repairs, alterations, payment of taxes, insurance, delinquency charges, revisions, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters pertinent to the security as the Secretary of Commerce may prescribe;

(8) shall secure a loan made to aid in financing, including payment of loans previously made to finance, and reimbursement of the mortgagor for expenditures previously made for, construction (including designing, inspecting, outfitting, and equipping) of vessels under subchapter V of this chapter, or the purchase by citizens of the United States of vessels for use on the Great Lakes pursuant to the Merchant Ship Sales Act of 1946, as amended, or the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting and equipping), subsequent to the enactment of this subchapter, of vessels owned by citizens of the United States which are designed principally for research, or for commercial use (a) in the coastwise or intracoastal trade; (b) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; (c) in foreign trade; (d) in the fishing trade or industry; or (e) with respect to floating drydocks, in the construction, reconstruction, reconditioning, or repair of vessels;

(9) shall provide that the mortgagor shall pay to the mortgagee the amount required for the payment of each mortgage insurance premium charge at least sixty days before the payment of such premium charge to the Secretary of Commerce is due, and shall further provide that the failure of the mortgagor to make such payment shall be a default under the mortgage;

(10) may, in the case of a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in subchapter V of this chapter, with the approval of the Secretary of Commerce, provide that the sole recourse against the mortgagor of the United States as assignee of the mortgage for the payment of the principal of, and interest on, the mortgage and the bonds, notes or other obligations secured thereby shall be limited to repossession of the vessel and the assignment of insurance claims and that the obligation of the mortgagor for such principal and interest shall be satisfied and discharged by the surrender of the vessel and all right, title and interest therein to the United States: *Provided,* That the vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever except the lien of the preferred mortgage, (ii) in class and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the mortgagor, except that any deficiencies with respect to freedom from encumbrances, condition and class may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the United States of claims of the mortgagor under such policies; and

(11) shall contain such other provisions as may be agreed upon between the mortgagor and mortgagee, which are not inconsistent with the provisions of the preceding paragraphs of this subsection and which are not disapproved by the Secretary of Commerce.

(b) Loans.

To be eligible for insurance under this subchapter a loan—

(1) shall be made by a lender approved by the Secretary of Commerce to a borrower approved by the Secretary of Commerce as possessing the ability, experience, financial resources and other

qualifications necessary to the adequate operation and maintenance of the property;

(2) shall be made to aid in financing, including payment of loans previously made to finance, and reimbursement of the borrower for expenditures previously made for construction (including designing, inspecting, outfitting and equipping) of vessels under subchapter V of this chapter, or for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting and equipping) subsequent to the enactment of this subchapter, of vessels owned by citizens of the United States which are designed principally for research or for commercial use (a) in the coastwise or intercoastal trade; (b) on the Great Lakes or on bays, sounds, rivers, harbors, or inland lakes of the United States; (c) in foreign trade; (d) in the fishing trade or industry; or (e) with respect to floating drydocks, in the construction, reconstruction, reconditioning, or repair of vessels;

(3) shall be payable prior to or simultaneously with the execution of the mortgage;

(4) shall provide that no advance shall be made thereunder unless the sum of such advance and the principal amount of all other advances under insured loans then outstanding at the time of said advance shall not exceed 75 per centum of the actual cost of such vessel, such actual cost to be determined by the Secretary of Commerce and such determination to be conclusive for the purpose of determining the principal amount of the loan: *Provided, however,* That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is eligible for mortgage aid for construction under section 1159 of this title and in respect of which the minimum downpayment by the mortgagor required by that section would be 12½ per centum of the cost of such vessel, the advance and the principal amount of all other advances under insured loans outstanding at the time of said advance shall not exceed 87½ per centum of such actual cost;

(5) shall provide that the borrower shall pay to the lender the amount required for the payment of each loan insurance premium charge at least sixty days before the payment of such premium charge to the Secretary of Commerce is due, and which shall further provide that the failure of the borrower to make such payment shall give the lender the right to mature the loan;

(6) shall bear interest at an average interest rate not to exceed the maximum rate permitted by paragraph (5) of subsection (a) of this section; and

(7) shall contain such other provisions as may be agreed upon between the borrower and the lender which are not inconsistent with the provisions of the preceding paragraphs of this subsection and which are not disapproved by the Secretary of Commerce.

(c) Restrictions.

No commitment to insure a mortgage or loan shall be made by the Secretary of Commerce unless he finds, at or prior to the time such commitment is made, that the property or project with respect to which the mortgage or loan will be executed will be, in his opinion, economically sound, and no mortgage or loan, unless made pursuant to a prior commitment, shall be insured unless the Secretary of Commerce finds, at or prior to the time the insurance becomes effective, that the property or project with respect to which the mortgage or the loan is executed will be in his opinion economically sound.

(d) Premium charges.

The Secretary of Commerce is authorized to fix a premium charge for the insurance of mortgages and loans under this subchapter. In the case of any mortgage insured under section 1273 (a) of this title, such charge shall not be less than one-half of 1 per centum per annum nor more than 1 per centum per annum of the average principal amount of the mortgage outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1279a of this title. In the case of loans insured under section 1273 (b) of this title, such charge shall not be less than one-quarter of 1 per centum per annum nor more than one-half of 1 per centum per annum of the average principal amount of the loan outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1279a of this title. Premium payments shall be made when moneys are first advanced under the mortgage or loan agreement and on each anniversary date thereafter. All such premium charges shall be computed and shall be payable to the Secretary of Commerce under such regulations as the Secretary of Commerce may prescribe.

(e) Investigation of applications.

The Secretary of Commerce shall charge and collect such amounts as he may deem reasonable for the investigation of applications for insurance, for the appraisal of properties offered for insurance, for the issuance of commitments, for services in connection with the escrow fund authorized by section 1279a of this title and for the inspection of such properties during construction, reconstruction, or reconditioning: *Provided,* That such charges shall not aggregate more than one-half of 1 per centum of the original principal amount of the mortgage or loan to be insured. Unless otherwise agreed, the charge for any such services shall be paid by the mortgagor or the borrower.

(f) Disposition of moneys.

All moneys received under the provisions of sections 1271 to 1279 of this title shall be deposited in the fund. (June 29, 1936, ch. 858, §§ 905 (e), 1104, as added June 23, 1938, ch. 600, § 46, 52 Stat. 970, and amended Aug. 4, 1939, ch. 417, § 14, 53 Stat. 1187; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Sept. 28, 1950, ch. 1093, § 4, 64 Stat. 1078; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 15, 1953, ch. 513, § 2, 67 Stat. 626; Sept. 3, 1954, ch. 1265, § 4, 68 Stat. 1269; July 31, 1959, Pub. L. 86–123, § § 1(3), 2, 73 Stat. 269, 271; July 31, 1959, Pub. L. 86–127, § 1 (3), (4), 73 Stat. 273; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; Sept. 2, 1960, Pub. L. 86–685, §§ 2, 3, 74 Stat. 733; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961,

26 F.R. 7315, 75 Stat. 840; June 15, 1968; Pub. L. 90-341, 82 Stat. 180; Oct. 21, 1970, Pub. L. 91-469, §§ 31, 32, 84 Stat. 1035.)

REFERENCES IN TEXT

The Merchant Ship Sales Act of 1946, referred to in subsec. (a) (2), (7), (8), is classified to sections 1735—1746 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1970—Subsec. (a)(8). Pub. L. 91-469, § 31, inserted "research, or for" preceding "commercial use".

Subsec. (b). Pub. L. 91-469, § 32, inserted in par. (2) "research, or for" preceding "commercial use", substituted in par. (4) "not exceed" for "be less than", and inserted in par. (4) restriction that advance and principal amount of other advances under insured loans outstanding at time of advance shall not exceed 87½ per centum of actual cost of vessel where in the case of the approved vessel the minimum downpayment by the mortgagor required by section 1159 of this title would be 12½ per centum of cost of vessel.

1968—Subsec. (a)(5). Pub. L. 90-341 substituted provision that the maximum interest rates allowed on ship mortgages elibible for insurance coverage be at such rates on the outstanding principle obligation as determined by the Secretary of Commerce to be reasonable, taking into account the prevailing rates and the risks assumed by the Department of Commerce, for provision setting a maximum of 5 per centum per annum, or 6 per centum per annum when the Secretary determined that in certain areas or under special circumstances the mortgage or lending market demanded it.

1960—Subsec. (a)(3). Pub. L. 86-518 substituted "twenty-five years" for "twenty years."

Subsec. (a)(8). Pub. L. 86-685, § 2, inserted cl. (e).

Subsec. (b)(2). Pub. L. 86-685, § 3, inserted cl. (e).

1959—Subsec. (a)(2). Pub. L. 86-123, § 2 substituted "and which is, or in the case of a vessel to be reconstructed or reconditioned would have been, eligible for mortgage aid for construction" for "which is eligible for mortgage aid" in the proviso.

Subsec. (d). Pub. L. 86-127, § 1(3), inserted in two instances "excluding the average amount (except interest) on deposit in an escrow fund created under section 1279a of this title".

Subsec. (e). Pub. L. 86-127, § 1(4), inserted after "commitments" the words "for services in connection with the escrow fund authorized by section 1279a of this title".

Subsec. (f). Pub. L. 86-123, § 1(3), substituted "sections 1101—1110" for "sections 1101—1109" of Act June 29, 1936, which, for purposes of codification, has been changed to "sections 1271—1279 of this title."

1954—Act Sept. 3, 1954, provided standards of eligibility for both mortgages and loans, set up restrictions, and provided for premium charges.

1953—Subsec. (a)(2). Act Aug. 15, 1953, § 2(1), added "or, in the case * * * National defense features".

Subsec. (a)(8). Act Aug. 15, 1953, § 2(2), added "construction of vessels under subchapter V of this chapter".

Subsec. (a)(8) (c). Act Aug. 15, 1953, § 2(3), extended coverage to vessels engaged in foreign trade.

1950—Subsec. (a). Act Sept. 28, 1950, inserted provisions in pars. (2), (7), and (8), concerning purchase of vessels for use on the Great Lakes pursuant to the Merchant Ship Sales Act of 1946.

1939—Subsec. (a)(8). Act Aug. 4, 1939, included mortgages to secure new loans or advances made to aid financing of vessels designed for use in the fishing trade or industry.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "Federal Maritime Board" and "Secretary" has been substituted for "Board" pursuant to 1961 Reorg. Plan No. 7, set out under section 1111 of this title, which abolished the Federal Maritime Board, including the offices of the members thereof. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F. R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1275, 1276, 1276a, 1279a, 1279b of this title.

§ 1275. Defaults.

(a) Rights of mortgagee; rights of lender.

(1) In the event of any act or failure to act which gives the mortgagee the right to foreclose, any such events being herein called defaults, and failure on the part of the mortgagor to remove and remedy the default within thirty days, the mortgagee shall have the right (i) in the case of a default in respect of the payment of principal or interest or the payment of any amount to provide for the payment of premium charges for mortgage insurance, to demand at or before the expiration of sixty days after any such default, and (ii) in the case of any other default, to demand at any time during the continuance of such default, payment by the Secretary of Commerce of the unpaid principal amount of said mortgage and of the unpaid interest thereon to the date of payment: *Provided,* That an assignment of the mortgage and of the obligations secured by the mortgage be tendered to the Secretary of Commerce at the time such demand is made. The Secretary of Commerce may at any time during the continuance of any default notify the mortgagee in writing, specifying the default, that by reason of such default the Secretary of Commerce intends to terminate the insurance contract sixty days after such notice is received by the mortgagee, and the mortgagee shall be entitled to demand payment by the Secretary of Commerce as above provided at any time during said sixty-day period, whether or not the default is removed and remedied, and if the

mortgagee shall fail to make such demand, the insurance contract may be terminated by the Secretary of Commerce on or after the expiration of such period. Within a period of thirty days from the date of any such demand, the Secretary of Commerce shall accept the assignment and promptly pay to the mortgagee the unpaid principal amount of said mortgage and unpaid interest thereon to the date of payment: *Provided*, That, except in any case in which the Secretary of Commerce has given notice of intention to terminate the insurance contract pursuant to the foregoing provisions, the Secretary of Commerce shall not be required to accept such assignment if prior to the expiration of said thirty-day period he shall find that there was no default or that such default was removed and remedied prior to any such demand.

(2) In the event of an act or failure to act which gives the lender the right to mature the loan, any such events being herein called defaults, and failure on the part of the borrower to remove and remedy the default within thirty days, the lender shall have the right (i) in the case of a default in respect of the payment of principal or interest or the payment of any amount to provide for the payment of premium charges for loan insurance, to demand at or before the expiration of sixty days after any such default, and (ii) in the case of any other default, to demand at any time during the continuance of such default, payment by the Secretary of Commerce of the unpaid principal amount of said loan and of the unpaid interest thereon to the date of payment: *Provided*, That an assignment of the loan agreement and of the obligations evidencing such loan be tendered to the Secretary of Commerce at the time such demand is made. The Secretary of Commerce may at any time during the continuance of any default notify the lender in writing, specifying such default, that by reason of such default the Secretary of Commerce intends to terminate the insurance contract sixty days after such notice is received by the lender, and the lender shall be entitled to demand payment by the Secretary of Commerce as above provided at any time during said sixty-day period, whether or not the default is removed and remedied, and if the lender shall fail to make such demand, the insurance contract may be terminated by the Secretary of Commerce on or after the expiration of such period. Within a period of thirty days from the date of any such demand, the Secretary of Commerce shall accept the assignment and promptly pay to the lender the unpaid principal amount of said loan and unpaid interest thereon to the date of payment: *Provided*, That, except in any case in which the Secretary of Commerce has given notice of intention to terminate the insurance contract pursuant to the foregoing provisions, the Secretary of Commerce shall not be required to accept such assignment if prior to the expiration of said thirty-day period he shall find that there was no default or that such default was removed and remedied prior to any such demand.

(b) Cash payments; issuance of notes or obligations. Any amount required to be paid by the Secretary of Commerce pursuant to subsection (a) of this section shall be paid in cash. If at any time the moneys in the Federal Ship Mortgage Insurance Fund authorized by section 1272 of this title are not sufficient to pay any amount the Secretary of Commerce is required to pay by subsection (a) of this section, the Secretary of Commerce is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of Commerce, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the Federal Ship Mortgage Insurance Fund and redemptions of such notes and obligations shall be made by the Secretary of Commerce from such Fund.

(c) Foreclosure proceedings; action against borrower. (1) In the event the Secretary of Commerce shall accept the assignment of a mortgage upon the default of the mortgagor pursuant to subsection (a) (1) of this section, he may institute foreclosure proceedings and in connection therewith repossess the mortgaged vessel forthwith and, subject to the provisions of section 1274 (a) (10) of this title, take such other action against the mortgagor that, in his discretion, may be required to protect the interests of the United States and of the mortgagee, as they may appear. Any suit may be brought in the name of the United States or in the name of the mortgagee and the mortgagee shall make available to the United States all records and evidence necessary to prosecute any such suit. If the Secretary of Commerce shall determine that the interests of the United States do not require foreclosure of the mortgage, he may make such agreement with the mortgagor as in the opinion of the Secretary of Commerce will result in remedying the defaults. The Secretary of Commerce shall have the right in his discretion to accept a conveyance of title to and possession of the vessel from the mortgagor, and in the event of a sale under foreclosure proceedings, may purchase the vessel for an amount not greater than the unpaid principal amount of such mortgage and unpaid interest thereon. In the event the Secretary of Commerce shall receive through the sale of the vessel an amount of cash in excess of any

payment made to the mortgagee under subsection (a) (1) of this section, and the expenses of collection of such amount, he shall pay such excess to the borrower.

(2) In the event the Secretary of Commerce shall accept the assignment of a loan agreement upon the default of a borrower pursuant to subsection (a) (2) of this section, he shall take such action against the borrower or any other parties liable under the loan agreement or the obligations evidencing such loan thereunder that, in his discretion, may be required to protect the interests of the United States and of the lender as they may appear. Any suit may be brought in the name of the United States or in the name of the lender and the lender shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary of Commerce shall have the right in his discretion to accept a conveyance of title to and possession of the property from the borrower, and may purchase the property for an amount not greater than the unpaid principal amount of such loan and unpaid interest thereon. In the event the Secretary of Commerce shall receive through the sale of the property an amount of cash in excess of any payment made to the lender under subsection (a) (2) of this section and the expenses of collection of such amount, he shall pay such excess to the borrower.

(d) Secretary to complete, operate, or sell property.

Notwithstanding any other provision of law relating to the acquisition, handling or disposal of property by the United States, the Secretary of Commerce shall have the right in his discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, or sell any property acquired by him pursuant to the assignment as provided in this section and may place the mortgaged vessel in the national defense reserve or may sell the same upon competitive bids for not less than the minimum sales price provided by this chapter. The buyer shall be required to make cash payment to the Secretary of Commerce of not less than 25 per centum of the sales price, and the balance shall be paid in equal annual installments over the remaining period of the expected useful life of such vessel. Such installments shall include interest on the purchase price remaining unpaid at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such installments, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs.

(e) Termination or cancellation of insurance contract; conclusive evidence.

Any contract or commitment of insurance entered into by the Secretary of Commerce under the provisions of this subchapter shall not be terminated, canceled, or otherwise revoked for any reason, except as provided in this section, and shall be conclusive evidence that the mortgage or loan complies fully with the provisions of this subchapter and of the approval of the principal amount, interest rate, and all other terms of the mortgage or loan and of the mortgagor or borrower and of the mortgagee or lender; and any contract or commitment of insurance so entered into shall be incontestable from the date as of which such contract or commitment is entered into, except for fraud, duress, or mutual mistake of fact. (June 29, 1936, ch. 858, §§ 905(e), 1105, as added June 23, 1938, ch. 600, § 46, 52 Stat. 971, and amended 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 15, 1953, ch. 513, § 3, 67 Stat. 513; Sept. 3, 1954, ch. 1265, § 5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, § 1(e)—(g), 70 Stat. 1087; July 15, 1958, Pub. L. 85-520, 72 Stat. 358; Oct. 21, 1970, Pub. L. 91-469, § 33, 84 Stat. 1035.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c-1, and sections 757c-2, 757c-3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1970—Subsec. (d). Pub. L. 91-469 substituted provision for inclusion of interest in the installments on the purchase price remaining unpaid at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding maketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such installments, adjusted to the nearest one-eighth of 1 per centum plus an administrative cost allowance, for prior rate of 3½ per centum per annum on installments of purchase price remaining unpaid.

1958—Subsec. (b). Pub. L. 85-520 authorized the Secretary of Commerce to issue notes or obligations whenever the moneys in the Federal Ship Mortgage Insurance Fund are insufficient to pay amounts required to be paid under subsec. (a) of this section.

1956—Subsec. (a) (1), (2). Act Aug. 7, 1956, § 1(e), eliminated "the insured portion of" preceding "the unpaid principal amount", wherever appearing.

Subsec. (c)(1). Act Aug. 7, 1956, § 1(f), substituted "such excess to the borrower" for "to the mortgagee such cash amounts to the extent that the mortgagee has not been made whole through other sources for amounts advanced to the mortgagor but in no event shall such payments to the mortgagee exceed 10 per centum of the unpaid principal amount of mortgage and the interest thereon, and any excess of the amounts thus due the Government and the mortgagee shall be paid to the mortgagor".

Subsec. (c)(2). Act Aug. 7, 1956, § 1(g), substituted "such excess to the borrower" for the words "to the lender such cash amount to the extent that the lender has not been made whole through other sources for amounts advanced to the borrower but in no event shall such payment to the lender exceed 10 per centum of the unpaid principal amount of loan and the interest thereon, and any excess of the amounts thus due the Government and the lender shall be paid to the borrower".

1954—Act Sept. 3, 1954, gave new rights to both borrowers and lenders and set up new foreclosure procedures.

1953—Act Aug. 15, 1953, provided that in the event of a default in payment of either principal or interest, the lender may tender an assignment of the mortgage and all collateral to the Secretary who shall promptly pay the unpaid balance in cash, provided for the foreclosure and repossession of mortgaged vessels; allowed the Secretary to take any necessary steps to minimize the loss, and made all insurance commitments conclusive.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) and "conveyed to

the Department of Commerce" for "conveyed to it" in subsection (d) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

SECRETARY OF INTERIOR; FISHING VESSEL INSURANCE

Pub. L. 86-577, July 5, 1960, 74 Stat. 314, provided: "That in order to permit the efficient execution of functions relating to the issuance of Federal ship mortgage insurance on fishing vessels, pursuant to the Merchant Marine Act of June 29, 1936, as amended [this chapter] (49 Stat. 1985; 46 U.S.C., 1952 edition, sec. 1271 and the following), which functions relating to fishing vessels have been transferred to the Secretary of the Interior pursuant to the Fish and Wildlife Act of 1956 [section 742a et seq. of Title 16], the Secretary of the Interior hereafter may exercise authority comparable to the authority of the Secretary of Commerce under the said Merchant Marine Act of 1936 [this chapter], including, but not limited to the authority contained in the amendment to such Act of July 15, 1958 (72 Stat. 358) [amending this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1276, 1280 of this title.

§ 1276. Insurance of mortgages securing existing loans or refinancing existing mortgages.

No provision of this subchapter shall be construed to authorize the Secretary of Commerce to insure a mortgage securing any loan or advance made prior to the enactment of this subchapter, and no mortgage shall be insured for refinancing in whole or in part any existing mortgage indebtedness except as provided in section 1276a of this title or—

(1) where a substantial portion of the total amount to be secured by the new mortgage, not to extend beyond twenty-five years from the date of the original mortgage, shall be applied to new construction, reconditioning, or reconstruction of one or more of the mortgaged vessels: *Provided, however,* That the aggregate amount of all mortgages insured under this paragraph and outstanding at any one time shall not exceed $20,000,000, and provided that all of the eligibility requirements of section 1274 of this title not inconsistent with this paragraph are complied with;

(2) where the Secretary of Commerce has insured a mortgage under the provisions of this subchapter, and the mortgagor thereafter makes application to the mortgagee or another lender for an additional loan or advance for reconditioning or reconstructing the mortgaged property, the Secretary of Commerce may insure a new mortgage, not to extend beyond twenty-five years from the date of the original mortgage, in the amount of the principal outstanding balance of the original mortgage plus the amount of the additional loan, provided the amount of the additional loan is within the limits of paragraph (2) of subsection (a) of section 1274 of this title and the new mortgage conforms to the eligibility requirements of all the other paragraphs of said subsection (a) of section 1274 of this title;

(3) where the Secretary of Commerce has insured a mortgage under the provisions of this subchapter, the Secretary of Commerce may insure a new mortgage for the purpose of refunding such mortgage: *Provided,* That the principal amount of the new mortgage shall not exceed the then unpaid principal amount of the original mortgage; that the interest rate on the new mortgage shall not be higher than the interest rate on the original mortgage; that the maturity date of the new mortgage shall not be later than twenty-five years from the date of the original mortgage; and that the new mortgage shall otherwise conform to the eligibility requirements of subsection (a) of section 1274 of this title; or

(4) the Secretary of Commerce may insure mortgages given to finance the purchase of vessels thertofore acquired by the fund under the provisions of section 1275 of this title and to secure loans or advances made for reconditioning and reconstruction of such vessels.

(June 29, 1936, ch. 858, §§ 905(e), 1106, as added June 23, 1938, ch. 600, § 46, 52 Stat. 972, and amended 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Sept. 3, 1954, ch. 1265, § 6, 68 Stat. 1275; July 31, 1959, Pub. L. 86-123, § 1(4), 73 Stat. 269; June 12, 1960, Pub. L. 86-518, § 6, 74 Stat. 216.)

AMENDMENTS

1960—Pub. L. 86-518 substituted "twenty-five years from the date of the original mortgage" for "the maturity date of the original mortgage" in clauses (1), (2), and (3).

1959—Pub. L. 86-123 inserted "as provided in section 1276a of this title or" following "except" in opening provisions.

1954—Act Sept. 3, 1954, limited a new mortgage for refinancing to the same maturity date as the old mortgage, and added par. (4).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect to such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. 86-518, set out as a note under section 1125 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to the United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, and act July 17, 1952, set out as section 1244(e) of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1279b of this title.

§ 1276a. Commitment to insure mortgage; conditions.

The Secretary of Commerce is authorized, upon such terms as he may prescribe, to make a commitment to the prospective owner of a vessel who is a citizen of the United States, prior to the time when

such prospective owner has made with the shipbuilder for the construction of the vessel (or if the keel of the vessel was laid under such contract prior to the enactment of this Act, and the vessel owner or prospective owner has an unexpired commitment from the Secretary of Commerce to insure a mortgage on the vessel, issued prior to enactment of this Act under the law then existing, then prior to the expiration of such commitment), to insure the interest on and the unpaid balance of the principal of a mortgage or mortgages which such prospective owner, as mortgagor, may at any time place on the vessel in order to finance the construction, reconstruction, or reconditioning of other vessels or both to refinance a mortgage insured by the Secretary of Commerce on the vessel and to finance the construction, reconstruction, or reconditioning of other vessels, subject to the following conditions—

(1) the commitment shall not be assignable without the prior written approval of the Secretary of Commerce;

(2) the vessel is not, at the time of insuring the mortgage pursuant to the commitment, subject to a mortgage which has not been insured by the Secretary of Commerce;

(3) within a reasonable period prior to, or at the time of, insuring the mortgage pursuant to the commitment, the Secretary of Commerce makes the finding required by section 1274(c) of this title (which requires a finding that the mortgaged vessel or the project with respect to which the mortgaged vessel is to be operated will be, in the opinion of the Secretary of Commerce, economically sound);

(4) the mortgage involves a principal obligation which when added to the unpaid balance of the principal obligations of prior mortgages on the vessel (other than mortgages that are being refinanced by this mortgage) will result in a sum which will not, (a) if the vessel was not built with the aid of construction-differential subsidy and complies with the requirements of section 1159 of this title exceed (A) if the vessel has not been reconstructed or reconditioned before such mortgage is executed, 87½ per centum of all amounts the mortgagor has paid or is obligated to pay for the construction (including designing, inspecting, outfitting, or equipping) of the vessel, depreciated at the rate of 4 per centum per annum from the date the vessel was delivered by the shipbuilder to the date such mortgage is executed, or (B) if the vessel has been reconstructed or reconditioned before such mortgage is executed, 87½ per centum of all amount the mortgagor has paid or is obligated to pay for the construction (including designing, inspecting, outfitting, and equipping) of the vessel, depreciated at the rate of 4 per centum per annum from the date the vessel was delivered by the shipbuilder to the date of such reconstruction or reconditioning, and depreciated, from the date of such reconstruction or reconditioning to the date such mortgage is executed, on a straight-line basis and on the basis of a useful life of the vessel determined jointly by the Secretary of Commerce and the Secretary of the Treasury, plus 87½ per centum of all amounts the mortgagor has paid or is obligated to pay for the reconstruction or reconditioning of the vessel (if such reconstruction or reconditioning was done without aid of construction subsidy and the vessel complies with the requirements of section 1159 of this title; otherwise, 75 per centum of such amount), depreciated, from the date of such reconstruction or reconditioning to the date such mortgage is executed, on a straight-line basis and on the basis of a useful life of the vessel determined jointly by the Secretary of Commerce and the Secretary of the Treasury, and (b) if the vessel was built with the aid of construction-differential subsidy, or does not comply with the requirements of section 1159 of this title, exceed the amount computed under (a) above except that, where (a) above provides for 87½ per centum of the construction cost of the vessel, the percentage shall be 75 per centum;

(5) the mortgage has maturity dates which, if the vessel has not been reconstructed or reconditioned, do not exceed the remaining years of a useful life of the mortgaged vessel of twenty-five years computed from the date the vessel was delivered by the shipbuilder or, if the vessel has been reconstructed or reconditioned, do not exceed the remaining years of a useful life of the vessel determined jointly by the Secretary of the Treasury and the Secretary of Commerce;

(6) the loan agreement for the making of the loan secured by the mortgage, or the mortgage, provides that the underwriter or mortgagee will disburse the loan for one or more of the following purposes: (a) to pay one of the components of actual cost of the vessels to be constructed, reconstructed, or reconditioned and, if any such payment is to reimburse the operator for payments made from his capital reserve fund, to deposit such payment in his capital reserve fund, or (b) to pay part of the loan to discharge an existing mortgage which is insured by the Secretary of Commerce on the vessel that is subject to the mortgage which is to be insured, or (c) to deposit part or all of the loan in the operator's capital reserve fund, if he is a subsidized operator, and in a construction reserve fund, if he is an unsubsidized operator; if any deposit is made in a capital reserve fund, or construction reserve fund under (c) hereof, such deposit may be withdrawn only to pay one of the components of actual cost of the vessels that are to be constructed, reconstructed, or reconditioned, or if for any reason such payments do not exhaust the deposit, then to pay off the loan secured by the mortgage that is to be insured;

(7) the mortgage complies with all of the requirements of section 1274(a) of this title (which defines an eligible mortgage) except subdivision 2 thereof (which specifies the maximum principal amount of the mortgage), subdivision 3 thereof (which specifies the maximum duration of the mortgage), and subdivision 8 thereof (which specifies the purpose of the loan secured by the mortgage);

(8) the mortgaged vessel shall be in class A–1, American Bureau of Shipping, with all required

certificates, including but not limited to marine inspection certificates of the United States Coast Guard, with all outstanding requirements and recommendations necessary for retention of class accomplished, unless the Secretary of Commerce permits a deferment of such repairs, and shall be tight, stanch, strong and well and sufficiently tackled, appareled, furnished and equipped, and in every respect seaworthy and in good running condition and repair and in all respects fit for service.

(June 29, 1936, ch. 858, § 1107, as added July 31, 1959, Pub. L. 86-123, § 1(5), 73 Stat. 269, and amended June 12, 1960, Pub. L. 86-518, §§ 1, 7, 74 Stat. 216.)

REFERENCES IN TEXT

Prior to the enactment of this Act, referred to in the text, probably means prior to the enactment of Pub. L. 86-123 on July 31, 1959, which added this section.

AMENDMENTS

1960—Pub. L. 86-518 substituted "4 per centum" for "5 per centum" in two instances in cl. (4), and "twenty-five years" for "twenty years" in cl. (5).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of this section by Pub. L. 86-518 applicable only to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and with respect too such vessels shall become effective on Jan. 1, 1960, and with respect to vessels delivered by the shipbuilder before Jan. 1, 1946, the provisions of this chapter existing immediately before June 12, 1960, shall continue in effect, see section 8(a) of Pub. L. 86-518, set out as a note under section 1125 of this title.

RATE OF DEPRECIATION FOR VESSELS DELIVERED BY SHIPBUILDER ON OR AFTER JAN. 1, 1946, AND BEFORE JAN. 1, 1960

For provisions relating to computation of depreciation with respect to vessels delivered by the shipbuilder on or after Jan. 1, 1946, and before Jan. 1, 1960, see section 8(b) of Pub. L. 86-518, set out as a note under section 1125 of this title.

REVISION OF CONTRACTS, COMMITMENTS TO INSURE MORTGAGES, MORTGAGES, AND MORTGAGE INSURANCE CONTRACTS ENTERED INTO PRIOR TO JUNE 12, 1960

For provisions authorizing revision, see section 8(c) of Pub. L. 86-518, set out as a note under section 1125 of this title.

COMMERCIAL EXPECTANCY OR PERIOD OF DEPRECIATION OF TANKERS AND OTHER LIQUID BULK CARRIERS

Nothing in any amendment made by Pub. L. 86-518 to operate or be interpreted to change from 20 to 25 years the provisions of this chapter relating to the commercial expectancy or period of depreciation of any tanker or other liquid bulk carrier, see section 9 of Pub. L. 86-518, set out as a note under section 1125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1276 of this title.

§ 1277. Offenses and penalties.

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Secretary of Commerce for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by the said Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the said Secretary of Commerce under this subchapter, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be guilty of a misdemeanor and punished as provided under the first paragraph of section 1228 of this title. (June 29, 1936, ch. 858, § 1108, formerly § 1107, as added June 23, 1938, ch. 600, § 46, 52 Stat. 973, amended Sept. 3, 1954, ch. 1265, § 7, 68 Stat. 1275, and renumbered July 31, 1959, Pub. L. 86-123, § 1(1), 73 Stat. 269.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted Secretary of Commerce for Commission.

TRANSFER OF FUNCTIONS

Functions of the United States Maritime Commission were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277, set out as a note under section 1111 of this title, and act July 17, 1952, ch. 939, § 21, 66 Stat. 765, set out as section 1244(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1278. Rules and regulations.

The Secretary of Commerce is authorized and directed to make such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this subchapter. (June 29, 1936, ch. 858, § 1109, formerly § 1108, as added June 23, 1938, ch. 600, § 46, 52 Stat. 973, amended Sept. 3, 1954, ch. 1265, § 8, 68 Stat. 1276, and renumbered July 31, 1959, Pub. L. 86-123, § 1(1), 73 Stat. 269.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted Secretary of Commerce for Commission.

TRANSFER OF FUNCTIONS

Functions of the United States Maritime Commission were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277, set out as a note under section 1111 of this title, and act July 17, 1952, ch. 939, § 21, 66 Stat. 765, set out as section 1244(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1279. Appropriations.

There is authorized to be appropriated the sum of $1,000,000 and such further sums as may be necessary to carry out the provisions of this subchapter. (June 29, 1936, ch. 858, § 1110, formerly § 1109, as added June 23, 1938, ch. 600, § 46, 52 Stat. 973, amended Sept. 3, 1954, ch. 1265, § 9, 68 Stat. 1276, and renumbered July 31, 1959, Pub. L. 86-123, § 1(1), 73 Stat. 269.)

AMENDMENTS

1954—Act Sept. 3, 1954, reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1272, 1274 of this title.

§ 1279a. Escrow fund.

(a) Creation.

In connection with the insurance of loans and mortgages, which are financed by sale of bonds to the general public, the Secretary of Commerce is authorized to accept a deposit in escrow in an amount which at the time of such deposit is equal to (i) the excess of the principal of such loan or mortgage over 75 per centum, or 87½ per centum, as the case may be, of the amount paid by or for the account of the mortgagor or borrower for the construction, reconstruction, or reconditioning (including designing, inspection, outfitting, and equipping) of the vessel, (ii) with interest thereon for the period of the escrow agreement.

(b) Disbursement prior to termination of escrow agreement.

The Secretary of Commerce shall, as specified in the escrow agreement, disburse the escrow fund to pay amounts the mortgagor or borrower is obligated to pay as interest on such loan or mortgage or for the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting, and equipping) of the vessel, except that if insurance becomes payable under the insurance contract prior to the termination of the escrow agreement, all amounts in the escrow fund at the time such insurance becomes payable (including realized income which has not yet been paid to the borrower or mortgagor) shall, subject in the case of insurance on a mortgage to the application of mortgage provisions contemplated by section 1274(a)(10) of this title, be paid into the Federal Ship Mortgage Insurance Fund and (i) be credited against any amounts due or to become due to the Secretary of Commerce from the borrower or mortgagor with respect to the insured loan or mortgage and (ii) to the extent not so required, be paid to the borrower or mortgagor.

(c) Disbursement upon termination of escrow agreement.

If insurance has not become payable under the insurance contract prior to the termination of the escrow agreement, any balance of the escrow fund at the time of such termination shall be disbursed by the Secretary of Commerce to prepay the excess of the principal of the loan or mortgage over 75 per centum, or 87½ per centum, as the case may be, of the actual cost of the vessel to the extent paid, and to pay interest on such prepaid amount of principal, and the remainder of such balance of the escrow fund shall be paid to the borrower or mortgagor.

(d) Investment of fund.

The Secretary of Commerce may invest and reinvest all or any part of the escrow fund in obligations of the United States with such maturities that such fund will be available as required for purposes of the escrow agreement.

(e) Payment of income.

Any income realized on the escrow fund shall, upon receipt by the Secretary of Commerce, be paid to the borrower or mortgagor.

(f) Terms of escrow agreement.

The escrow agreement shall contain such other terms as the Secretary of Commerce may consider necessary to fully protect the interests of the United States. (June 29, 1936, ch. 858, § 1111, as added July 31, 1959, Pub. L. 86-127, § 1(2), 73 Stat. 272.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1271, 1274 of this title.

§ 1279b. Insurance of mortgage securing loan for restoration and return of American-built square-rigged merchant vessel, Kaiulani.

(a) Notwithstanding any other provision of law including sections 1271(f), 1274(a)(2), and 1274(a)(8) of this title, the Secretary of Commerce is hereby authorized to insure all or any part of the principal of and interest on any mortgage made, within the three-year period beginning on December 14, 1967, by the National Maritime Historical Society of the District of Columbia for the purpose of restoring and returning to the United States the vessel, Kaiulani, the last surviving American-built, squarrigged merchant ship presented as a gift to the people of the United States from the people of the Philippines.

(b) An insurance contract issued under this section shall be made only with respect to a mortgage which, in the opinion of the Secretary of Commerce, is economically sound and such contract and the related mortgage shall be subject to such reasonable terms and conditions as he may deem necessary to protect the interest of the United States.

(c) The Secretary of Commerce is authorized to make commitments to insure a mortgage under this section.

(d) The aggregate unpaid principal amount of any mortgage insured under this section shall not exceed $500,000.

(e) The faith of the United States is solemnly pledged to the payment of interest on and the unpaid balance of the principal amount of each mortgage insured under this section.

(f) Notwithstanding any other provision of law, the vessel Kaiulani shall be entitled to be registered or enrolled under the laws of the United States at any time, and shall be exempt from all United States customs duties and tonnage taxes, if any, upon her return to the United States.

(g) Such of the provisions of this subchapter as the Secretary of Commerce determines, shall apply to the insurance granted under this section. (June 29, 1936, ch. 858, § 1112, as added Dec. 14, 1967, Pub. L. 90-194, 81 Stat. 580.)

§ 1280. Advances to fund.

The Secretary of Commerce is authorized to advance to the Federal Ship Mortgage Insurance Fund from the "Vessel operations revolving fund", such amounts as may be required for the payment, pursuant to section 1275 of this title, of unpaid principal amounts of defaulted mortgages and loans and of unpaid interest thereon: *Provided,* That such advances shall be repaid to the "Vessel operations revolving fund" as soon as practicable consistent with the status of the Federal Ship Mortgage Insurance Fund: *Provided further,* That the total advances outstanding at any one time shall not exceed

$10,000,000. (Pub. L. 85-469, title I, § 101, June 25, 1958, 72 Stat. 231.)

CODIFICATION

Section was not enacted as part of the Merchant Marine Act, 1936, which comprises this chapter.

SUBCHAPTER XII.—WAR RISK INSURANCE

AMENDMENTS

1950—Act Sept. 7, 1950, ch. 906, 64 Stat. 773, added this subchapter.

§ 1281. Definitions.

As used in this subchapter—

(a) The term "American vessels" includes any vessel registered, enrolled, or licensed under the laws of the United States and any undocumented vessel owned or chartered by or made available to the United States or any department or agency thereof and any tug or barge or other watercraft (documented or undocumented) owned by a citizen of the United States used in essential water transportation or in the fishing trade or industry, except watercraft used exclusively in or for sport fishing.

(b) The term "transportation in the water-borne commerce of the United States" includes the operation of vessels in the fishing trade or industry, except watercraft used exclusively in or for sport fishing.

(c) The term "war risks" includes to such extent as the Secretary may determine all or any part of those losses which are excluded from marine insurance coverage under a "free of capture and seizure" clause, or analogous clauses.

(d) The term "citizen of the United States" includes corporations, partnerships, and associations existing, authorized, or organized under the laws of the United States or any State, district, Territory, or possession thereof.

(e) The term "Secretary" shall mean the Secretary of Commerce. (June 29, 1936, ch. 858, § 1201, as added Sept. 7, 1950, ch. 906, 64 Stat. 773.)

§ 1282. Authority to provide insurance; consideration of risk.

(a) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage by war risks in the manner and to the extent provided in this subchapter, whenever it appears to the Secretary that such insurance adequate for the needs of the water-borne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States.

(b) Any insurance or reinsurance issued under any of the provisions of this subchapter shall be based, insofar as practicable, upon consideration of the risk involved. (June 29, 1936, ch. 858, § 1202, as added Sept. 7, 1950, ch. 906, 64 Stat. 773.)

CROSS REFERENCES

Expiration of authority to provide insurance, see section 1294 of this title.

Insurance of interests of United States, see sections 869 and 1202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1283 of this title.

§ 1283. Persons, property, and interests insurable.

The Secretary may provide the insurance and reinsurance authorized by section 1282 of this title with respect to the following persons, property, or interest:

(a) American vessels, including vessels under construction, foreign-flag vessels owned by citizens of the United States or engaged in transportation in the water-borne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Secretary to be in the interest of the national defense or the national economy of the United States, when so engaged.

(b) Cargoes shipped or to be shipped on any such vessels, including shipments by express or registered mail; cargoes owned by citizens or residents of the United States, its Territories or possessions; cargoes imported to, or exported from, the United States, its Territories or possessions, and cargoes sold or purchased by citizens or residents of the United States, its Territories or possessions, under contracts of sale or purchase by the terms of which the risk of loss by war risks or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its Territories or possessions; cargoes shipped between ports in the United States, or between ports in the United States and its Territories and possessions, or between ports in such Territories or possessions.

(c) The disbursements, including advances to masters and general average disbursements, and freight and passage moneys of such vessels.

(d) The personal effects of the masters, officers, and crews of such vessels, and of other persons transported on such vessels.

(e) Masters, officers, members of the crews of such vessels and other persons employed or transported thereon against loss of life, injury, detention by an enemy of the United States following capture.

(f) Statutory on[1] contractual obligations or other liabilities of such vessels or of the owner or charterer of such vessels of the nature customarily covered by insurance. (June 29, 1936, ch. 858, § 1203, as added Sept. 7, 1950, ch. 906, 64 Stat. 773.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1284 of this title.

§ 1284. Risks other than war risks.

Whenever the Secretary shall insure any risk included under subsections (d), (e), or (f) of section 1283 of this title, insofar as it concerns liabilities relating to the masters, officers, and crews of such vessels or to other persons transported thereon, the insurance on such risks may include risks other than war risks to the extent that the Secretary determines to be necessary or advisable. (June 29, 1936, ch. 858, § 1204, as added Sept. 7, 1950, ch. 906, 64 Stat. 774.)

§ 1285. Insurance of property of government departments and agencies.

(a) Any department or agency of the United States may, with the approval of the President, procure from the Secretary any of the insurance as

[1] So in original. Probably should read "or".

provided for in this subchapter, except as provided in sections 721 and 722 of Title 40.

(b) The Secretary is authorized with such approval to provide such insurance at the request of the Secretary of Defense, and such other agencies as the President may prescribe, without premium in consideration of the agreement of the Secretary of Defense or such agency to indemnify the Secretary against all losses covered by such insurance, and the Secretary of Defense and such other agencies are authorized to execute such indemnity agreement with the Secretary. (June 29, 1936, ch. 858, § 1205, as added Sept. 7, 1950, ch. 906, 64 Stat. 774.)

§ 1286. Liability insurance for persons performing services or providing facilities for vessels.

The Secretary is authorized to provide insurance for any person who performs services or provides facilities for or with respect to any American- or foreign-flag vessel, public or private, against legal liabilities that may be incurred by such person in connection with the performance of such services or the providing of such facilities. Such insurance shall not be issued against liability to employees in respect of employers' liability or workmen's compensation. No such insurance shall be provided unless, in the opinion of the Secretary, such insurance is required in the prosecution of the war effort or in connection with national defense and cannot be obtained at reasonable rates or upon reasonable conditions from approved companies authorized to do insurance business in any State of the United States. (June 29, 1936, ch. 858, § 1206, as added Sept. 7, 1950, ch. 906, 64 Stat. 774, and amended Aug. 3, 1956, ch. 929, § 5, 70 Stat. 986.)

AMENDMENTS

1956—Act Aug. 3, 1956, deleted from first sentence following "authorized" the words "during any time the United States is at war or during any period of emergency declared to exist by the President of the United States".

§ 1287. Reinsurance; rates; allowances to insurance carriers.

(a) To the extent that he is authorized by this subchapter to provide marine, war risk, and liability insurance, the Secretary may reinsure, in whole or in part, any company authorized to do an insurance business in any State of the United States. The Secretary may reinsure with, or cede or retrocede to, any such company any insurance or reinsurance provided by the Secretary in accordance with the provisions of this subchapter.

(b) Reinsurance shall not be provided by the Secretary at rates less than nor obtained by the Secretary at rates more than the rates established by the Secretary on the same or similar risks or the rates charged by the insurance carrier for the insurance so reinsured whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business. (June 29, 1936, ch. 858, § 1207, as added Sept. 7, 1950, ch. 906, 64 Stat. 775.)

§ 1288. Insurance fund; investments; appropriations.

(a) The secretary shall create an insurance fund in the Treasury to enable him to carry out the provisions of this subchapter. Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter shall be deposited in the Treasury to the credit of such fund. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this subchapter shall be made from such fund through the Division of Disbursement, Treasury Department. Upon the request of the Secretary of Commerce, the Secretary of the Treasury may invest or reinvest all or any part of the fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from such securities shall be deposited to the credit of the fund.

(b) Such sums as shall be necessary to carry out the provisions of this subchapter are authorized to be appropriated to such funds. (June 29, 1936, ch. 858, § 1208, as added Sept. 7, 1950, ch. 906, 64 Stat. 775; and amended Oct. 3, 1962, Pub. L. 87–743, 76 Stat. 740.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–743 authorized the investment or reinvestment of all or part of the fund in securities of the United States or in securities guaranteed as to principal and interest by the United States, and required the interest and benefits accruing from such securities to be deposited to the credit of the fund.

§ 1288a. Transfer of funds from Vessel Operations Revolving Fund.

For the war-risk insurance revolving fund, authorized by this subchapter, the Secretary of Commerce is authorized to transfer to said fund, at such times as it may become necessary in order to place into effect the insurance coverage authorized by this subchapter, and in such amounts as he may determine, not to exceed a total of $10,000,000 from the "Vessel Operations Revolving Fund". (Nov. 1, 1951, ch. 664, Ch. VI, § 601, 65 Stat. 746.)

CODIFICATION

Section was not enacted as part of the Merchant Marine Act, 1936, which comprises this chapter.

§ 1289. Administrative provisions.

(a) Issuance of policies, rules, and regulations; settlement of claims; valuation; rejection and review of valuation.

(1) The Secretary, in the administration of this subchapter, may issue such policies, rules, and regulations as he deems proper and may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this subchapter.

(2) In respect of hull insurance, the valuation in the policy for actual or constructive total loss of the vessel insured shall be a stated valuation (exclusive of National Defense features paid for by the Government) determined by the Secretary which

shall not exceed the amount that would be payable if the vessel had been requisitioned for title under section 1242 (a) of this title at the time of the attachment of the insurance under said policy: *Provided,* That the insured shall have the right within sixty days after the attachment of the insurance under said policy, or within sixty days after determination of such valuation by the Secretary, whichever is later, to reject such valuation, and shall pay, at the rate provided for in said policy, premiums upon such asserted valuation as the insured shall specify at the time of rejection, but such asserted valuation shall not operate to the prejudice of the Government in any subsequent action on the policy. In the event of the actual or constructive total loss of the vessel, if the insured has not rejected such valuation the amount of any claim therefor which is adjusted, compromised, settled, adjudged, or paid shall not exceed such stated amount, but if the insured has so rejected such valuation, the insured shall be paid as a tentative advance only, 75 per centum of such valuation so determined by the Secretary and shall be entitled to sue the United States in a court having jurisdiction of such claims to recover such valuation as would be equal to the just compensation which such court determines would have been payable if the vessel had been requisitioned for title under section 1242 (a) of this title at the time of the attachment of the insurance under said policy: *Provided,* That in the event of an election by the insured to reject the stated valuation fixed by the Secretary and to sue in the courts, the amount of the judgment will be payable without regard to the limitations contained in section 1242–1 of this title, although the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded. In the event of such court determination, premiums under the policy shall be adjusted on the basis of the valuation as finally determined and of the rate provided for in said policy.

(b) Forms and policies; rates.

The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and rates of premium provided for in this subchapter.

(c) Commercial practice controlling; limitation on fees.

The Secretary, in administering this subchapter, may exercise his powers, perform his duties and functions, and make his expenditures, in accordance with commercial practice in the marine insurance business. Except as authorized in subsection (d) of this section, no insurance broker or other person acting in a similar intermediary capacity shall be paid any fee or other consideration by the Secretary by virtue of his participation in arranging any insurance wherein the Secretary directly insures any of the risk thereof.

(d) Underwriting agents.

The Secretary may, and whenever he finds it practical to do so shall, employ domestic companies or groups of domestic companies authorized to do a marine insurance business in any State of the United States, to act as his underwriting agent. The Secretary may allow such companies or groups of companies fair and reasonable compensation for servicing insurance written by such companies or groups of companies as underwriting agent for the Secretary. The services of such underwriting agents may be utilized in the adjustment of claims under insurance provided by this subchapter, but no claim shall be paid unless and until it has been approved by the Secretary. Such compensation may include an allowance for expenses reasonably incurred by such agent, but such allowance shall not include any payment by such agent on account of solicitation for or stimulation of insurance business.

(e) Employment of marine insurance experts.

The Secretary without regard to the laws, rules, or regulations relating to the employment of employees of the United States may appoint and prescribe the duties of such number of experts in marine insurance as he deems necessary under this subchapter.

(f) Utilization of services of other government agencies.

The Secretary with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this subchapter. (June 29, 1936, ch. 858, § 1209, as added Sept. 7, 1950, ch. 906, 64 Stat. 775, and amended Aug. 3, 1956, ch. 929, § 1, 70 Stat. 984; Aug. 22, 1964, Pub. L. 88–478, § 1, 78 Stat. 587.)

AMENDMENTS

1964—Subsec. (a) (2). Pub. L. 88–478 eliminated provisions which required for purposes of hull insurance, in the case of a construction-subsidized vessel, that the valuation determined for actual or constructive loss for the period of insurance prior to requisition for title or use, be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for the period of insurance after requisition for use limited the valuation to the amount which would be payable under section 1212 of this title.

1956—Subsec. (a). Act Aug. 3, 1956, eliminated provisions limiting settlement of claims of vessels insured under this subchapter to vessel's fair and reasonable value, designating the remaining provisions, as so amended, as subsec. (a) (1), and added provisions of subsec. (a) (2).

EFFECTIVE DATE OF 1964 AMENDMENT

Section 2 of Pub. L. 88–478 provided that: "The amendments made by this Act [to subsec. (a) (2) of this section] shall be applicable to war risk insurance coverage attaching after the date of enactment [Aug. 22, 1964]."

AMENDMENT OF INSURANCE IN FORCE ON AUG. 3, 1956

Section 4 of act Aug. 3, 1956, provided that: "All war-risk insurance issued under title XII of the Merchant Marine Act, 1936 [this subchapter], which is in force on the date of the enactment of this Act [Aug. 3, 1956] shall, as of the beginning of such date, be deemed to have been amended to conform to the requirements of section 1209 of the Merchant Marine Act, 1936 [this section], as amended by this Act unless the insured, within ten days after such date, objects to such amendment."

§ 1290. Seamen's rights unaffected.

This subchapter shall not affect rights of seamen under existing law. (June 29, 1936, ch. 858, § 1210, as added Sept. 7, 1950, ch. 906, 64 Stat. 776.)

§ 1291. Reports to Congress.

The Secretary shall include in his annual report to Congress a detailed statement of all activities and of all expenditures and receipts under this subchapter for the period covered by such report and in addition make quarterly progress reports to the Congress with reference to contracts entered into, proposed contracts, and the general progress of his insurance activities. (June 29, 1936, ch. 858, § 1211, as added Sept. 7, 1950, ch. 906, 64 Stat. 776.)

REPORT OF WAR RISK INSURANCE ACTIVITIES

Pub. L. 89–348, § 1(7), Nov. 8, 1965, 79 Stat. 1310, repealed provisions of this section which required quarterly reports of contracts entered into, proposed contracts, and general progress with respect to war risk insurance activities under the Merchant Marine Act, 1936.

§ 1292. Actions on claims for losses; jurisdiction of courts; limitation of actions.

Upon disagreement as to a loss insured under this subchapter, suit may be maintained against the United States in admiralty in the district in which the claimant or his agent resides, and this remedy shall be exclusive of any other action by reason of the same subject matter against any agent or employee of the United States employed or retained under this subchapter. If the claimant has no residence in the United States, suit may be brought in the district court of the District of Columbia or in such other district court in which the Attorney General of the United States agrees to accept service. Such suits shall be heard and determined under the provisions of sections 741 to 752 of this title. All persons having or claiming or who might have an interest in such insurance, may be made parties either initially or upon the motion of either party. In any case where the Secretary acknowledges the indebtedness of the United States on account of such insurance, and there is a dispute as to the persons entitled to receive payment, the United States may bring an action in the nature of a bill of interpleader against such parties, in the District Court for the District of Columbia, or in the district court of the district in which any such person resides. In such actions any party, if not a resident of or found within the district, may be brought in by order of court served in such reasonable manner as the court directs. If the court is satisfied that persons unknown might assert a claim on account of such insurance, it may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such suit shall discharge the United States from further liability to any parties to such action, and to all persons when service by publication upon persons unknown is directed by the court. The period within which suits may be commenced contained in sections 741 to 752 of this title shall, if claim be filed therefor within such period, be suspended from such time of filing until the claim shall have been administratively denied by the Secretary and for sixty days thereafter: *Provided, however,* That such claim shall be deemed to have been administratively denied if not acted upon within six months after the time of filing, unless the Secretary for good cause shown shall have otherwise agreed with the claimant. (June 29, 1936, ch. 858, § 1212, as added Sept. 7, 1950, ch. 906, 64 Stat. 776.)

§ 1293. Additional insurance with other underwriters.

A person having an insurable interest in a vessel may, with the approval of the Secretary, insure with other underwriters in an amount in excess of the amount insured with the Secretary of Commerce, and in that event the Secretary of Commerce shall not be entitled to the benefit of such insurance. (June 29, 1936, ch. 858, § 1213, as added Sept. 7, 1950, ch. 906, 64 Stat. 777.)

§ 1294. Expiration of authority to provide insurance.

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire September 7, 1975. (June 29, 1936, ch. 858, § 1214, as added Sept. 7, 1950, ch. 906, 64 Stat. 777, and amended Aug. 3, 1955, ch. 492, 69 Stat. 440; July 31, 1959, Pub. L. 86–20, 73 Stat. 266; July 27, 1965, Pub. L. 89–89, 79 Stat. 264; Oct. 21, 1970, Pub. L. 91–469, § 34, 84 Stat. 1035.)

AMENDMENTS

1970—Pub. L. 91–469 substituted "September 7, 1975" for "twenty years from September 7, 1950".

1965—Pub. L. 89–89 extended the authority of the Secretary to provide insurance and reinsurance for an additional five years.

1959—Pub. L. 86–120 extended the authority of the Secretary to provide insurance and reinsurance for an additional five years.

1955—Act Aug. 3, 1955, extended the authority of the Secretary to provide insurance and reinsurance for an additional five years.

Chapter 28.—CARRIAGE OF GOODS BY SEA

Sec.
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§ 1300. Bills of lading subject to chapter.

Every bill of lading or similar document of title which is evidence of a contract for the carriage of

goods by sea to or from ports of the United States, in foreign trade, shall have effect subject to the provisions of this chapter. (Apr. 16, 1936, ch. 229, 49 Stat. 1207.)

§ 1301. Definitions.

When used in this chapter—

(a) The term "carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper.

(b) The term "contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, insofar as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same.

(c) The term "goods" includes goods, wares, merchandise, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried.

(d) The term "ship" means any vessel used for the carriage of goods by sea.

(e) The term "carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship. (Apr. 16, 1936, ch. 229, § 1, 49 Stat. 1208.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1313 of this title.

§ 1302. Duties and rights of carrier.

Subject to the provisions of section 1306 of this title, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities and entitled to the rights and immunities set forth in sections 1303 and 1304 of this title. (Apr. 16, 1936, ch. 229, § 2, 49 Stat. 1208.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1313 of this title.

§ 1303. Responsibilities and liabilities of carrier and ship.

(1) Seaworthiness.

The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

(a) Make the ship seaworthy;

(b) Properly man, equip, and supply the ship;

(c) Make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage, and preservation.

(2) Cargo.

The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

(3) Contents of bill.

After receiving the goods into his charge the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage.

(b) Either the number of packages or pieces, or the quantity or weight, as the case may be, as furnished in writing by the shipper.

(c) The apparent order and condition of the goods: *Provided,* That no carrier, master, or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

(4) Bill as prima facie evidence.

Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraphs (3) (a), (b), and (c), of this section: *Provided,* That nothing in this chapter shall be construed as repealing or limiting the application of any part of sections 81 to 124 of Title 49.

(5) Guaranty of statements.

The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him; and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(6) Notice of loss or damage; limitation of actions.

Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading. If the loss or damage is not apparent, the notice must be given within three days of the delivery.

Said notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered: *Provided,* That if a notice of loss or damage, either apparent or concealed, is not given as provided for in this section, that fact shall not affect or prejudice the right of the shipper to bring suit within one year after the delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

(7) "Shipped" bill of lading.

After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading: *Provided,* That if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this section be deemed to constitute a "shipped" bill of lading.

(8) Limitation of liability for negligence.

Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this section, or lessening such liability otherwise than as provided in this chapter, shall be null and void and of no effect. A benefit of insurance in favor of the carrier, or similar clause, shall be deemed to be a clause relieving the carrier from liability. (Apr. 16, 1936, ch. 229, § 3, 49 Stat. 1208.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1304, 1306, 1313 of this title.

§ 1304. Rights and immunities of carrier and ship.

(1) Unseaworthiness.

Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of paragraph (1) of section 1303 of this title. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this section.

(2) Uncontrollable causes of loss.

Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

(a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;

(b) Fire, unless caused by the actual fault or privity of the carrier;

(c) Perils, dangers, and accidents of the sea or other navigable waters;

(d) Act of God;

(e) Act of war;

(f) Act of public enemies;

(g) Arrest or restraint of princes, rulers, or people, or seizure under legal process;

(h) Quarantine restrictions;

(i) Act or omission of the shipper or owner of the goods, his agent or representative;

(j) Strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general: *Provided,* That nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;

(k) Riots and civil commotions;

(*l*) Saving or attempting to save life or property at sea;

(m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;

(n) Insufficiency of packing;

(*o*) Insufficiency or inadequacy of marks;

(p) Latent defects not discoverable by due diligence; and

(q) Any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

(3) Freedom from negligence.

The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(4) Deviations.

Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this chapter or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom: *Provided, however,* That if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.

(5) Amount of liability; valuation of cargo.

Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the transportation of goods in an amount exceeding $500 per package lawful money of the United States, or in case of goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading. This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier, and the shipper another maximum amount than that mentioned in this paragraph may be fixed: *Provided,* That such maximum shall not be less than the figure above named. In no event shall the carrier be liable for more than the amount of damage actually sustained.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with the transportation of the goods if the nature or value thereof has been knowingly and fraudulently misstated by the shipper in the bill of lading.

(6) Inflammable, explosive, or dangerous cargo.

Goods of an inflammable, explosive, or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any. (Apr. 16, 1936, ch. 229, § 4, 49 Stat. 1210.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1306, 1313 of this title.

§ 1305. Surrender of rights; increase of liabilities; charter parties; general average.

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this chapter, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of this chapter shall not be applicable to charter parties; but if bills of lading are issued in the case of a ship under a charter party, they shall comply with the terms of this chapter. Nothing in this chapter shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average. (Apr. 16, 1936, ch. 229, § 5, 49 Stat. 1211.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1306, 1309, 1313 of this title.

§ 1306. Special agreement as to particular goods.

Notwithstanding the provisions of sections 1303 to 1305 of this title, a carrier, master or agent of the carrier, and a shipper shall, in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea: *Provided,* That in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a nonnegotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect: *Provided,* That this section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms, and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement. (Apr. 16, 1936, ch. 229, § 6, 49 Stat. 1211.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1313 of this title.

§ 1307. Agreement as to liability prior to loading or after discharge.

Nothing contained in this chapter shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea. (Apr. 16, 1936, ch. 229, § 7, 49 Stat. 1212.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1313 of this title.

§ 1308. Rights and liabilities under other provisions.

The provisions of this chapter shall not affect the rights and obligations of the carrier under the provisions of the Shipping Act, 1916, or under the provisions of sections 175, 181 to 183, and 183b to 188 of this title or of any amendments thereto; or under the provisions of any other enactment for the time being in force relating to the limitation of the liability of the owners of seagoing vessels. (Apr. 16, 1936, ch. 229, § 8, 49 Stat. 1212.)

REFERENCES IN TEXT

Shipping Act, 1916, referred to in the text, is generally classified to chapter 23 of this title.

Section 175 of this title, referred to in the text, was repealed by act Oct. 9, 1940, ch. 777, § 7, 54 Stat. 1028.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1313 of this title.

§ 1309. Discrimination between competing shippers.

Nothing contained in this chapter shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either (a) with respect to their right to demand and receive bills of lading subject to the provisions of this chapter; or (b) when issuing such bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities and liabilities pursuant to section 1305 of this title; or (c) in any other way prohibited by the Shipping Act, 1916, as amended. (Apr. 16, 1936, ch. 229, § 9, 49 Stat. 1212.)

REFERENCES IN TEXT

Shipping Act, 1916, referred to in the text, is generally classified to chapter 23 of this title.

§ 1310. Weight of bulk cargo.

Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other

than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in this chapter, the bill of lading shall not be deemed to be prima facie evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper. (Apr. 16, 1936, ch. 229, § 11, 49 Stat. 1212.)

§ 1311. Liabilities before loading and after discharge; effect on other laws.

Nothing in this chapter shall be construed as superseding any part of sections 190 to 196 of this title, or of any other law which would be applicable in the absence of this chapter, insofar as they relate to the duties, responsibilities, and liabilities of the ship or carrier prior to the time when the goods are loaded on or after the time they are discharged from the ship. (Apr. 16, 1936, ch. 229, § 12, 49 Stat. 1212.)

§ 1312. Scope of chapter; "United States"; "foreign trade".

This chapter shall apply to all contracts for carriage of goods by sea to or from ports of the United States in foreign trade. As used in this chapter the term "United States" includes its districts, territories, and possessions. The term "foreign trade" means the transportation of goods between the ports of the United States and ports of foreign countries. Nothing in this chapter shall be held to apply to contracts for carriage of goods by sea between any port of the United States or its possessions, and any other port of the United States or its possessions: *Provided, however,* That any bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea between such ports, containing an express statement that it shall be subject to the provisions of this chapter, shall be subjected hereto as fully as if subject hereto by the express provisions of this chapter: *Provided further,* That every bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea from ports of the United States, in foreign trade, shall contain a statement that it shall have effect subject to the provisions of this chapter. (Apr. 16, 1936, ch. 229, § 13, 49 Stat. 1212; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

A proviso in second sentence that the Philippine Legislature might by law exclude its application to transportation to or from ports of the Philippine Islands was omitted in view of 1946 Proc. No. 2695, set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, which proclaimed the independence of the Philippines.

§ 1313. Suspension of provisions by President.

Upon the certification of the Secretary of Commerce that the foreign commerce of the United States in its competition with that of foreign nations is prejudiced by the provisions, or any of them, of sections 1301 to 1308 of this title, or by the laws of any foreign country or countries relating to the carriage of goods by sea, the President of the United States may, from time to time, by proclamation, suspend any or all provisions of said sections for such periods of time or indefinitely as may be designated in the proclamation. The President may at any time rescind such suspension of said sections, and any provisions thereof which may have been suspended shall thereby be reinstated and again apply to contracts thereafter made for the carriage of goods by sea. Any proclamation of suspension or rescission of any such suspension shall take effect on a date named therein, which date shall be not less than ten days from the issue of the proclamation.

Any contract for the carriage of goods by sea, subject to the provisions of this chapter, effective during any period when sections 1301 to 1308 of this title, or any part thereof, are suspended, shall be subject to all provisions of law now or hereafter applicable to that part of said sections which may have thus been suspended. (Apr. 16, 1936, ch. 229, § 14, 49 Stat. 1213.)

§ 1314. Effective date; retroactive effect.

This chapter shall take effect ninety days after April 16, 1936; but nothing in this chapter shall apply during a period not to exceed one year following April 16, 1936, to any contract for the carriage of goods by sea, made before April 16, 1936, nor to any bill of lading or similar document of title issued, whether before or after such date in pursuance of any such contract as aforesaid. (Apr. 16, 1936, ch. 229, § 15, 49 Stat. 1213.)

§ 1315. Short title.

This chapter may be cited as the "Carriage of Goods by Sea Act." (Apr. 16, 1936, ch. 229, § 16. 49 Stat. 1213.)

CODIFICATION

Section 10 of the Carriage of Goods by Sea Act amended par. (4) of section 25 of Title 49, which was repealed by act Sept. 18, 1940, ch. 722, title I, § 14 (a), 54 Stat. 919.

Chapter 29.—NAUTICAL INSTRUCTION

Sec.
1331. Civilian nautical school defined.
1332. Same; examination and inspection; ratings.
1333. Same; inspection of vessels.
(a) Inspection laws relating to passenger vessels as applicable.
(b) Minimum standards for quarters.
(c) Certificate of inspection; revocation.
(d) Operation of vessels without certificate of inspection as unlawful.
(e) Fines and penalties.
1334. Same; Navy and Coast Guard vessels used by civilian nautical schools.
1335 to 1341. Repealed.

CROSS REFERENCES

Training of Merchant Marine personnel, see section 1126 of this title.

§ 1331. Civilian nautical school defined.

As used in sections 1331 to 1334 of this title the term "civilian nautical school" means any school or branch thereof operated and conducted in the United States (except State nautical schools and schools operated by the United States or any agency thereof), which offers to persons quartered on board any vessel instruction for the primary purpose of training for service in the merchant marine. (June 12, 1940, ch. 337, § 1, 54 Stat. 346.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1333 of this title.

§ 1332. Same; examination and inspection; ratings.

Every civilian nautical school shall be subject to examination and inspection by the Secretary of Commerce, and the Secretary may, under such rules and regulations as he may prescribe, provide for the rating and certification of such schools as to the adequacy of the course of instruction, the competency of the instructors, and the suitability of equipment used by or in connection with such schools. (June 12, 1940, ch. 337, § 2, 54 Stat. 346; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1276, 1277.)

TRANSFER OF FUNCTIONS

"Secretary of Commerce" and "Secretary" were substituted for "Commission" (which had reference to United States Maritime Commission) on authority of 1950 Reorg. Plan No. 21. See note under section 1111 of this title.

Functions of former United States Maritime Commission pertaining to the examination, inspection, rating and certification of civilian nautical schools were transferred to the Commandant of the Coast Guard and then to the Administrator of the War Shipping Administration by Ex. Ord. No. 9083, set out in note under section 601 of Title 50, Appendix, War and National Defense, and Ex. Ord. No. 9198, July 11, 1942, 7 F.R. 5383. War Shipping Administration terminated and its functions transferred to former United States Maritime Commission, see note under former section 1291 of Appendix to Title 50.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1331, 1333 of this title.

§ 1333. Same; inspection of vessels.

(a) Inspection laws relating to passenger vessels as applicable.

All laws covering the inspection of passenger vessels in effect on June 12, 1940 are made applicable to all vessels or other floating equipment used by or in connection with any civilian nautical school, whether such vessels or other floating equipment are being navigated or not, to such extent and upon such conditions as may be required by regulations prescribed by the Commandant of the Coast Guard.

(b) Minimum standards for quarters.

The Commandant of the Coast Guard is authorized and directed to prescribe minimum standards for the size, ventilation, plumbing, and sanitation of quarters assigned to members of the crew, passengers, cadets, students, instructors, or any other persons at any time quartered on board any vessel used by or in connection with any civilian nautical school.

(c) Certificate of inspection; revocation.

No certificate of inspection shall be issued to any such vessel until and unless the Coast Guard has found such vessel to be in compliance with all the requirements of this section and the regulations issued thereunder. Such certificates shall be subject to revocation in the manner prescribed by section 435 of this title.

(d) Operation of vessels without certificate of inspection as unlawful.

On and after ninety days from June 12, 1940, it shall be unlawful for any vessel to which sections 1331 to 1334 of this title apply to be used by or in connection with any civilian nautical school unless it is in possession of a valid, unexpired certificate of inspection, or a valid, unexpired temporary certificate of inspection.

(e) Fines and penalties.

In case of the violation of this section or of any of the regulations issued thereunder by any vessel, or any owner or officer thereof, such vessel, owner, or officer shall be fined not more than $1,000, and such owner or officer may be imprisoned for not more than one year, or subjected to both fine and imprisonment. Should the owner of such vessel be a corporation, organization, or association, each officer or director participating in the violation shall be liable to the penalty hereinabove prescribed. (June 12, 1940, ch. 337, § 3, 54 Stat. 347; 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

References to the Bureau of Marine Inspection and Navigation and the Board of Supervising Inspectors were changed to Commandant of the Coast Guard, provisions for approval of regulations by the Secretary of Commerce were omitted, and "the Coast Guard" was substituted for "a board of local inspectors" in subsec. (c), on authority of 1946 Reorg. Plan No. 3. See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1331, 1334 of this title.

§ 1334. Same; Navy and Coast Guard vessels used by civilian nautical schools.

The provisions of section 1333 of this title shall not apply to vessels of the Navy or the Coast Guard used by or in connection with civilian nautical schools. (June 12, 1940, ch. 337, § 4, 54 Stat. 347.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Plan excepted, from the transfer, the

functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1331, 1333 of this title.

§§ 1335 to 1341. Repealed. Pub. L. 85-672, § 9, Aug. 18, 1958, 72 Stat. 624.

Section 1335, acts Mar. 4, 1911, ch. 265, § 1, 36 Stat. 1353; Aug. 11, 1937, ch. 580, 50 Stat. 621; June 6, 1941, ch. 188, 55 Stat. 247, related to vessels for nautical schools at certain points, and is now covered by section 1382 of this title.

Section 1336, acts Mar. 4, 1911, ch. 265, § 2, 36 Stat. 1353; July 29, 1941, ch. 327, § 3, 55 Stat. 607, related to appropriations for nautical schools, and is now covered by section 1388 of this title.

Section 1337, acts July 29, 1941, ch. 327, § 1, 55 Stat. 607; Aug. 10, 1956, ch. 1041, § 26, 70A Stat. 631, authorized Secretary of Commerce to repair, equip, and furnish vessels, and is now covered by section 1382 of this title.

Section 1338, act July 29, 1941, ch. 327, § 2, 55 Stat. 607, related to construction by Secretary of Commerce of replacement vessels for nautical schools, and is now covered by section 1382 of this title.

Section 1339, act July 29, 1941, ch. 327, § 4, 55 Stat. 607, related to prerequisites to receipt of Federal aid by schools, and is now covered by section 1384 of this title.

Section 1340, act July 29, 1941, ch. 327, § 4, 55 Stat. 607, related to rules and regulations by Secretary of Commerce, and is now covered by section 1387 of this title.

Section 1341, act July 29, 1941, ch. 327, § 5, 55 Stat. 607, related to extension of benefits under former sections 1337—1341 of this title to State nautical schools.

Chapter 30.—PEONAGE AND SLAVE TRADE PUNISHED BY SEIZURES AND FORFEITURES

Sec.
1351. Equipping vessel for slave trade; forfeiture; moiety to informer.
1352. Same; penalty; moiety to informer.
1353. Forfeiture of vessels transporting slaves; moiety to informer.
1354. Receiving persons on board to be sold as slaves; penalty; moiety to informer.
1355. Vessels found hovering on coasts forfeited.
1356. Forfeiture of interest in slave vessels; additional penalty.
1357. Seizure of vessels in slave trade.
1358. Proceeds of condemned vessels paid into Treasury.
1359. Disposal of persons found on seized vessel.
1360. Apprehension of officers and crew.
1361. Removal of persons delivered from seized vessel.
1362. Port to which captured vessel sent.
1363. Bond by owners of foreign vessels.
1364. Instructions to masters of armed vessels.

§ 1351. Equipping vessel for slave trade; forfeiture; moiety to informer.

No person shall, for himself or for another, as master, factor, or owner, build, fit, equip, load, or otherwise prepare any vessel in any port or place within the jurisdiction of the United States, or cause any vessel to sail from any port or place within the jurisdiction of the United States, for the purpose of procuring any person from any foreign kingdom, place, or country to be transported to any port or place whatsoever to be held, sold, or otherwise disposed of as a slave, or to be held to service or labor; and every vessel so built, fitted out, equipped, laden, or otherwise prepared, with her tackle, apparel, furniture, and lading, shall be forfeited, one moiety to the use of the United States and the other to the use of the person who sues for the forfeiture and prosecutes the same to effect. (Mar. 4, 1909, ch. 321, § 254, 35 Stat. 1140.)

DERIVATION

R. S. § 5551, which was revised from acts Apr. 20, 1818, ch. 91, 3 Stat. 451; Mar. 22, 1794, ch. 11, 1 Stat. 347 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 254, act Mar. 4, 1909.

The only changes made by enactment of that code were the substitution of the words "United States" where they appear the second time in the text, for the word "same," and the substitution of the word "person" for the words "negro, mulatto, or person of color."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1352 of this title.

§ 1352. Same; penalty; moiety to informer.

Whoever so builds, fits out, equips, loads, or otherwise prepares or sends away any vessel, knowing or intending that the same shall be employed in such trade or business, contrary to the provisions of section 1351 of this title, or in any way aids or abets therein, shall, besides the forfeiture of the vessel, pay the sum of $2,000; one moiety thereof to the use of the United States and the other moiety thereof to the use of the person who sues for and prosecutes the same to effect. (Mar. 4, 1909, ch. 321, § 255, 35 Stat. 1140.)

DERIVATION

R. S. § 5552, which was revised from act Mar. 22, 1794, ch. 11, 1 Stat. 349, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 255, act Mar. 4, 1909.

§ 1353. Forfeiture of vessels transporting slaves; moiety to informer.

Every vessel employed in carrying on the slave trade or on which is received or transported any person from any foreign kingdom or country, or from sea, for the purpose of holding, selling, or otherwise disposing of such person as a slave, or of holding such person to service or labor, shall, together with her tackle, apparel, furniture, and the goods and effects which may be found on board, or which may have been imported thereon in the same voyage, be forfeited; one moiety to the use of the United States and the other to the use of the person who sues for and prosecutes the forfeiture to effect. (Mar. 4, 1909, ch. 321, § 256, 35 Stat. 1140.)

DERIVATION

R. S. § 5553, which was revised from acts Apr. 20, 1818, ch. 91, 3 Stat. 451; May 10, 1800, ch. 51, 2 Stat. 71, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 256, act Mar. 4, 1909.

The only change was the substitution of the word "person" where it first appears for the words "negro, mulatto, or person of color."

§ 1354. Receiving persons on board to be sold as slaves; penalty; moiety to informer.

Whoever, being a citizen of the United States, takes on board, receives, or transports any person for the purpose of selling such person as a slave shall, in addition to the forfeiture of the vessel,

pay for each person so received on board or transported the sum of $200, to be recovered in any court of the United States; the one moiety thereof to the use of the United States and the other moiety to the use of the person who sues for and prosecutes the same to effect. (Mar. 4, 1909, ch. 321, § 257, 35 Stat. 1140.)

DERIVATION

R. S. § 5554, which was revised from act Mar. 22, 1794, ch. 11, 1 Stat. 349, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 257, act Mar. 4, 1909.

The only changes were the substitution of the initial words "Whoever, being a citizen" for the words "If any citizen," the substitution of the word "person" where it first appears for the words, "negro, mulatto, or person of color," and the omission of the word "he," which formerly appeared after the word "slave."

§ 1355. Vessels found hovering on coasts forfeited.

Every vessel which is found in any river, port, bay, or harbor, or on the high seas, within the jurisdiction of the United States, or hovering on the coasts thereof, and having on board any person, with intent to sell such person as a slave, or with intent to land the same for that purpose, either in the United States or elsewhere, shall, together with her tackle, apparel, furniture, and the goods or effects on board of her, be forfeited to the United States. (Mar. 4, 1909, ch. 321, § 258, 35 Stat. 1140.)

DERIVATION

R. S. § 5555, which was revised from act Mar. 2, 1807, ch. 22, 2 Stat. 428, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 258, act Mar. 4, 1909.

The only changes consisted in the substitution of the words "jurisdiction of the United States" for the words "jurisdictional limits of the United States," and the substitution of the word "person" where it first appears for the words "negro, mulatto, or person of color."

§ 1356. Forfeiture of interest in slave vessels; additional penalty.

It shall be unlawful for any citizen of the United States, or other person residing therein, or under the jurisdiction thereof, directly or indirectly to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any such right or property shall be forfeited and may be libeled and condemned for the use of the person suing for the same. Whoever shall violate the prohibition of this section shall also forfeit and pay a sum of money equal to double the value of his right or property in such vessel; and shall also forfeit a sum of money equal to double the value of the interest he had in the slaves which at any time may be transported or carried in such vessels. (Mar. 4, 1909, ch. 321, § 259, 35 Stat. 1140.)

DERIVATION

R. S. § 5556, which was revised from act May 10, 1800, ch. 51, 2 Stat. 70, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 259, act Mar. 4, 1909.

Aside from slight verbal changes, the only material alteration was the addition of the words "or under the jurisdiction thereof," near the beginning of the section.

§ 1357. Seizure of vessels in slave trade.

The President is authorized, when he deems it expedient, to man and employ any of the armed vessels of the United States to cruise wherever he may judge attempts are making[1] to carry on the slave trade, by citizens or residents of the United States, in contravention of laws prohibitory of the same; and, in such case, he shall instruct the commanders of such armed vessels to seize, take, and bring into any port of the United States, to be proceeded against according to law, all American vessels, wheresoever found, which may have on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported any person, in violation of the provisions of any Act of Congress prohibiting the traffic in slaves. (Mar. 4, 1909, ch. 321, § 260, 35 Stat. 1140.)

DERIVATION

R. S. § 5557, which was revised from acts May 10, 1800, ch. 51, 2 Stat. 71; Mar. 2, 1807, ch. 22, 2 Stat. 428; Mar. 3, 1819, ch. 101, 3 Stat. 532 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 260, act Mar. 4, 1909.

The only change was the substitution of the word "person" near the end of the section for the words "negro, mulatto, or person of color."

CROSS REFERENCES

Seizure of vessels engaged in the cooly trade, see section 337 of Title 8, Aliens and Nationality.

§ 1358. Proceeds of condemned vessels paid into Treasury.

The proceeds of all vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which are so seized, prosecuted, and condemned, shall be paid into the Treasury of the United States. (Mar. 4, 1909, ch. 321, § 261, 35 Stat. 1141.)

DERIVATION

R. S. § 5558, which was revised from acts May 10, 1800, ch. 51, 2 Stat. 71; Mar. 2, 1807, ch. 22, 2 Stat. 428; Mar. 3, 1819, ch. 101, 3 Stat. 532 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 261, act Mar. 4, 1909.

Prize money having been abolished by act of Mar. 3, 1899, ch. 413, § 13, 30 Stat. 1007, the section was changed to provide that the proceeds of captured vessels shall be paid into the Treasury of the United States.

PRIOR LAW

R. S. § 5562, act of Mar. 3, 1819, ch. 101, 3 Stat. 533, was repealed by section 341 of act Mar. 4, 1909, but its provisions were not incorporated in the code, possibly because of the abolition of prize money as heretofore noted. It read as follows:

"SEC. 5562. A bounty of twenty-five dollars shall be paid to the officers and crews of the commissioned vessels of the United States, or revenue-cutters for each negro, mulatto, or person of color, who may be, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive such person; and the Secretary of the Treasury is required to pay or cause to be paid, to such officers and crews, or their agent, such bounty for each person so delivered."

[1] So in original.

§ 1359. Disposal of persons found on seized vessel.

The officers of the vessel making such seizure shall safely keep every person found on board of any vessel so seized, taken, or brought into port for condemnation, and shall deliver every such person to the marshal of the district into which he may be brought, if into a port of the United States, or if elsewhere, to such person as may be lawfully appointed by the President, in the manner directed by law, transmitting to the President, as soon as may be after such delivery, a descriptive list of such persons, in order that he may give directions for the disposal of them. (Mar. 4, 1909, ch. 321, § 262, 35 Stat. 1141.)

DERIVATION

R. S. § 5559, which was revised from act Mar. 3, 1819, ch. 101, 3 Stat. 532 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 262, act Mar. 4, 1909.

The changes consisted in the substitution of the word "person" wherever it appears, for the words "negro, mulatto, or person of color," and such verbal changes near the beginning of the section as were rendered necessary by the abolition of prize money as stated in note under section 1358 of this title.

§ 1360. Apprehension of officers and crew.

The commanders of such commissioned vessels shall cause to be apprehended and taken into custody every person found on board of such offending vessel so seized and taken, being of the officers or crew thereof, and him convey, as soon as conveniently may be, to the civil authority of the United States, to be proceeded against in due course of law. (Mar. 4, 1909, ch. 321, § 263, 35 Stat. 1141.)

DERIVATION

R. S. § 5560, which was revised from acts Mar. 3, 1819, ch. 101, 3 Stat. 532; May 10, 1800, ch. 51, 2 Stat. 71 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 263, act Mar. 4, 1909.

§ 1361. Removal of persons delivered from seized vessel.

The President is authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States of all such persons as may be so delivered and brought within its jurisdiction. (Mar. 4, 1909, ch. 321, § 264, 35 Stat. 1141.)

DERIVATION

R. S. § 5561, which was revised from act Mar. 3, 1819, ch. 101, § 2, 3 Stat. 533, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 264, act Mar. 4, 1909.

The changes consisted in the substitution of the word "person" for the words "negroes, mulattoes or persons of color," and the omission of the provision relating to the appointment of an agent in Africa.

R.S. §§ 5566, 5568. R.S. § 5566, act June 16, 1860, ch. 136, 12 Stat. 40, authorizing the President to contract with any person, society, etc., to receive on the Coast of Africa all negroes, etc., delivered from on board seized vessels, and R. S. § 5568, authorizing him to enter into arrangements with foreign governments having possessions in the West Indies or other tropical regions, were not included in the Criminal Code. The former was repealed by section 341 thereof. The latter was repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1431.)

§ 1362. Port to which captured vessel sent.

It shall be the duty of the commander of any armed vessel of the United States, whenever he makes any capture under the preceding provisions, to bring the vessel and her cargo, for adjudication, into some port of the State, Territory, or District to which such vessel so captured may belong, if he can ascertain the same; if not, then into any convenient port of the United States. (Mar. 4, 1909, ch. 321, § 265, 35 Stat. 1141.)

DERIVATION

R. S. § 5563, which was revised from act Mar. 3, 1819, ch. 101, 3 Stat. 534 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 265, act Mar. 4, 1909.

The material changes consisted in the substitution of the words "some port" for the words "some of the ports," the addition of the words "or District" after the word "Territory," and the omission of the words "to be sent," which appeared before the words "into any convenient port."

§ 1363. Bond by owners of foreign vessels.

Every owner, master, or factor of any foreign vessel clearing from any port within the jurisdiction of the United States, and suspected to be intended for the slave trade, and the suspicion being declared to the officer of the customs by any citizen, on oath, and such information being to the satisfaction of the officer, shall first give bond, with sufficient sureties, to the Treasurer of the United States that none of the natives of any foreign country or place shall be taken on board such vessel to be transported or sold as slaves in any other foreign port or place whatever, within nine months thereafter. (Mar. 4, 1909, ch. 321, § 266, 35 Stat. 1141.)

DERIVATION

R. S. § 5564, which was revised from act Mar. 22, 1794, ch. 11, 1 Stat. 349 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 266, act Mar. 4, 1909.

The only changes made were the substitution of the words "clearing from any port within the jurisdiction of the United States and" for the words "clearing out for any of the coasts or kingdoms of Africa or," and the substitution of the words "natives of any foreign country or place" for the words "natives of Africa or any other foreign country or place."

R.S. § 5565, act of May 10, 1800, ch. 51, 2 Stat. 71, relative to the disposition of forfeitures was also repealed by section 341, of the Criminal Code, but its provisions were not embodied in any one section of that Code.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2. eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of the Treasury Department.

§ 1364. Instructions to masters of armed vessels.

The President is authorized to issue instructions to the commanders of the armed vessels of the United States, directing them, whenever it is practicable, and under such rules and regulations as he may prescribe, to proceed directly to the country from which they were taken, and there hand over to the agent of the United States all such persons, delivered from on board vessels seized in the prosecution of the slave trade; and they shall afterwards bring the captured vessels and persons engaged in prosecuting such trade to the United States for trial and adjudication. (Mar. 4, 1909, ch. 321, § 267, 35 Stat. 1141.)

DERIVATION

R. S. § 5567, which was revised from act June 16, 1860, ch. 136, 12 Stat. 41 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

CODIFICATION

Section constituted Criminal Code, section 267, act Mar. 4, 1909.

The only changes consisted in the substitution of the words "to the country from which they were taken" for the words "to the coast of Africa," and the substitution of the words "such persons" for the words "negroes, mulattoes, and persons of color."

R. S. § 5569, act of July 17, 1862, ch. 197, 12 Stat. 593, authorizing the President to issue instructions to proceed directly to the place agreed upon with any foreign government, was repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1431.

Chapter 31.—MARITIME ACADEMY PROGRAM

Sec.
1381. Declaration of policy.
1382. Vessels for maritime academies.
1383. Contracts for assistance.
1384. Conditions to receiving payments or use of vessels.
1385. Subsistence payments.
1386. Detailing of certain officers; compensation.
1387. Rules and regulations.
1388. Authorization of appropriations.

§ 1381. Declaration of policy.

It is declared to be the policy of this chapter to promote the national policy with respect to the United States Merchant Marine, as set out in section 1101 of this title by assisting and cooperating with the States and Territories in the operation and maintenance of maritime academies or colleges for the training of merchant marine officers. (Pub. L. 85-672, § 2, Aug. 18, 1958, 72 Stat. 622.)

SHORT TITLE

Section 1 of Pub. L. 85-672 provided that Pub. L. 85-672, which is classified to this chapter, should be popularly known as the Maritime Academy Act of 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1382 of this title.

§ 1382. Vessels for maritime academies.

(a) In order to carry out the policy set out in section 1381 of this title, the Secretary of Commerce (hereinafter referred to as the "Secretary") may furnish any suitable vessel under his jurisdiction, or obtained under the provisions of subsection (b) of this section, or construct and furnish a suitable vessel if such a vessel is not available, to the State of Maine, the State of Massachusetts, the State of New York, the State of California, and to any other State or Territory of the United States, for use as a training vessel for a maritime academy or college meeting the requirements of this chapter. Any such vessel (1) shall be repaired, reconditioned, equipped (including all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship, (2) shall be furnished only upon application therefor in writing by the Governor of such State or Territory, (3) shall be furnished only if a suitable port for the safe mooring of such vessel is available while it is being used by such academy or colllege, (4) shall be maintained in good repair by the Secretary, and (5) shall remain the property of the United States.

(b) Any department or agency of the United States may provide to the Secretary for disposition under the provisions of this chapter any vessel (including equipment) which is suitable for the purposes of this chapter and can be spared without detriment to the service to which such vessel has been assigned. (Pub. L. 85-672, § 3, Aug. 18, 1958, 72 Stat. 622.)

§ 1383. Contracts for assistance.

The Secretary may enter into agreements with not more than one maritime academy or college, which meets the requirements of this chapter, in each State or Territory, to make annual payments to such academy or college for not in excess of four years in the case of each such agreement, to be used for the maintenance and support of such academy or college. Such payments for any year to any maritime academy or college shall be an amount equal to the amount furnished to such academy or college for its maintenance and support by the State or Territory in which such academy or college is located, except that such payments to any academy or college for any year shall not exceed $75,000, or $25,000 if such academy or college does not meet the requirement of section 1384(b) of this title. (Pub. L. 85-672, § 4, Aug. 18, 1958, 72 Stat. 622.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1384, 1385 of this title.

§ 1384. Conditions to receiving payments or use of vessels.

(a) As a condition to receiving any payments or the use of any vessel under the provisions of this chapter an academy or college shall—

(1) provide courses of instruction to youths in navigation and marine engineering, including steam and diesel propulsion, and courses in atomic or nuclear propulsion as soon as practical and possible; and

(2) shall agree in writing to conform to such standards in such course, in training facilities, in entrance requirements, and in instructors, as are established by the Secretary after consultation with superintendents of maritime academies and colleges in the United States.

(b) As a condition to receiving payment of any amount in excess of $25,000 for any year under the provisions of section 1383 of this title, a maritime academy or college shall agree to admit to such academy or college students resident in other States in such numbers as the Secretary shall prescribe, except that the number of such students prescribed for any academy or college shall not at any time

exceed one-third of the student capacity of such academy or college. (Pub. L. 85–672, § 5, Aug. 18, 1958, 72 Stat. 623.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1383 of this title.

§ 1385. Subsistence payments.

(a) The Secretary may enter into agreements, with each academy or college with which he contracts under section 1383 of this title to make payments, at a rate not in excess of $600 per academic year per student, to such academy or college, with respect to each student attending such academy or college. Such payments (1) shall be used to assist in defraying the cost of uniforms, books, and subsistence for such student, (2) shall commence to accrue on the day such student begins his first term of work at such academy or college, and (3) shall be paid to such academy or college in such installments as the Secretary shall prescribe, while such student is in attendance and until the completion of his course of instruction, but in no event for more than four academic years for any one student.

(b) If the Secretary deems it advisable in the case of any such academy or college, he may, in lieu of entering into agreements with such academy or college for payments under this section, enter into such agreements directly with each student at such academy or college and make such payments directly to each such student. (Pub. L. 85–672, § 6, Aug. 18, 1958, 72 Stat. 623.)

§ 1386. Detailing of certain officers; compensation.

When requested by the governor of any State or Territory, the President of the United States is authorized to detail, when in his opinion such detailing can be done without detriment to the public service, proper officers of the Navy or Coast Guard or United States Maritime Service instructors employed under the provisions of section 1126 of this title, as superintendents or instructors, or both, at maritime academies or colleges meeting the requirements of this chapter. Officers or instructors so detailed shall be compensated by the Federal agency ordinarily compensating them for service as such an officer or instructor. (Pub. L. 85–672, § 7, Aug. 18, 1958, 72 Stat. 623.)

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

§ 1387. Rules and regulations.

The Secretary may establish such rules and regulations as may be necessary to carry out the provisions of this chapter. (Pub. L. 85–672, § 8, Aug. 18, 1958, 72 Stat. 623.)

§ 1388. Authorization of appropriations.

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this chapter. (Pub. L. 85–672, § 10, Aug. 18, 1958, 72 Stat. 624.)

Chapter 32.—CONSTRUCTION ASSISTANCE FOR FISHING VESSELS

Sec.
1401. Authorization for payment of subsidies for construction of fishing vessels.
1402. Application for subsidy; conditions.
1403. Approval of application; contract for payment of subsidy.
1404. Repealed.
1405. Cost determination and limitation.
1406. Supervision of construction; submission of plans to Secretary of Defense.
1407. Conditions of construction.
1408. Acquisition of ownership by United States; payment for vessel; finality of determination.
1409. Transfer of vessels to other fisheries; vessels operated contrary to provisions of chapter; repayments.
1410. Rules and regulations.
1411. Definitions.
1412. Authorization of appropriations.
1413. Termination date.

§ 1401. Authorization for payment of subsidies for construction of fishing vessels.

In order to correct inequities in the construction of fishing vessels of the United States, the Secretary of the Interior is authorized to pay in accordance with this chapter a subsidy for the construction of fishing vessels in the shipyards of the United States. (Pub. L. 86–516, § 1, June 12, 1960, 74 Stat. 212; Pub. L. 88–498, § 2(1), Aug. 30, 1964, 78 Stat. 614.)

AMENDMENTS

1964—Pub. L. 88–498 restated the purpose of the subsidy as being to correct inequities in the construction of fishing vessels of the United States instead of as being to assist certain depressed segments of the fishing industry.

SHORT TITLE

Section 1 of Pub. L. 88–498 provided: "That the Act of June 12, 1960, as amended [enacting this chapter], may be cited as the 'United States Fishing Fleet Improvement Act'."

§ 1402. Application for subsidy; conditions.

Any citizen of the United States may apply to the Secretary for a construction subsidy to aid in construction of a new fishing vessel in accordance with this chapter. Any citizen of the United States may apply to the Secretary for a construction subsidy to aid in the remodeling of any vessel in accordance with this chapter. No such application shall be approved by the Secretary unless he determined that (1) the plans and specifications for the fishing vessel are suitable for use in the fishery in which that vessel will operate and suitable in the case of a new fishing vessel and, when appropriate, a remodeled vessel, for use by the United States for National Defense or military purposes in time of war or National emergency, (2) that the applicant possesses the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain the proposed fishing vessel, (3) will aid in the development of the United States fisheries under conditions that the Secretary considers to be in the public interests, (4) that the vessel, except under force majeure will deliver its full catch to a port of the United States, (5) that the applicant will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States, (6) the vessel will be documented under the laws of the

United States, (7) the vessel will be modern in design and equipment, be capable, when appropriate, to operate in expanded areas, and will not operate in a fishery if such operation would cause economic hardship to operators of efficient vessels already operating in that fishery unless such vessel will replace a vessel of the applicant operating in the same fishery during the twenty-four-month period immediately preceding the date an application is filed by the applicant, and having a comparable fishing capacity of the replacement vessel, and (8) such other conditions as the Secretary may consider to be in the public interest. (Pub. L. 86–516, § 2, June 12, 1960, 74 Stat. 212; Pub. L. 88–498, § 2(2), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91–279, § 1, June 12, 1970, 84 Stat. 307.)

AMENDMENTS

1970—Pub. L. 91–279 authorized application for construction subsidy to aid in remodeling of any vessel; inserted in cl. (1) after "and suitable" the words ", in the case of a new fishing vessel and, when appropriate, a remodeled vessel, "; deleted in cl. (2) the term "new" from the phrase "new fishing vessel"; and, in rewriting cl. (7), required the vessel to be modern in design rather than of advance design, that it be modern in equipment rather than that it be equipped with newly developed gear, and that it replace a vessel of the applicant operating in the same fishery during the twenty-four month period immediately preceding the date an application is filed by the applicant, and having a comparable fishing capacity of the replacement vessel, respectively.

1964—Pub. L. 88–498 required the Secretary to determine that the vessel will be of advance design, which will enable it to operate in expanded areas, and be equipped with newly developed gear, and will not operate in a fishery, if such operation would cause economic hardship to efficient vessel operators already operating in that fishery.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1408 of this title.

§ 1403. Approval of application; contract for payment of subsidy.

If the Secretary, in the exercise of his discretion, after notice and opportunity for a public hearing, determines that the granting of a subsidy applied for is reasonably calculated to carry out the purposes of this chapter, he may approve such application and enter into a contract or contracts with the applicant which will provide for payment by the United States of a construction subsidy in accordance with the purposes and provisions of this chapter and in accordance with any other conditions or limitations which may be prescribed by the Secretary. (Pub. L. 86–516, § 3, June 12, 1960, 74 Stat. 212; Pub. L. 88–498, § 2(3), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91–279, § 2, June 12, 1970, 84 Stat. 307.)

AMENDMENTS

1970—Pub. L. 91–279 substituted "notice and opportunity for a public hearing" for "notice and hearing".

1964—Pub. L. 88–498 inserted words "after notice and hearing" preceding "determines."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1405, 1408 of this title.

§ 1404. Repealed. Pub. L. 88–498, § 2(4), Aug. 30, 1964, 78 Stat. 614.

Section, Pub. L. 86–516, § 4, June 12, 1960, 74 Stat. 212, related to the operation of fishing vessels in fisheries suffering injury.

§ 1405. Cost determination and limitation.

(a) Within sixty days after the date of enactment of this subsection, and from time to time thereafter, the Martime[1] Administrator shall survey foreign shipyards to determine the estimated difference between the cost of constructing various classes of new fishing vessels engaged in the fisheries of the United States in such shipyards, and the cost of remodeling various classes of vessels in such shipyards, and the cost of constructing or remodeling such vessels in a shipyard of the United States.

(b) The Secretary may pay, from funds appropriated under this chapter for fiscal year 1970 and subsequent fiscal years with respect to any new fishing vessel for which an application is received in such years and approved under section 1403 of this title, a construction subsidy of not less than 35 per centum and not more than 50 per centum of the lowest responsible bid for the construction of such vessel in a shipyard of the United States, as determined and certified to the Secretary by the Maritime Administrator, excluding the costs, if any, of any feature incorporated in the vessel for national defense uses which costs shall be paid by the Department of Defense in addition to such subsidy. The amount of such subsidy for each such vessel shall be determined and certified to the Secretary by the Maritime Administrator based on the periodic survey conducted under subsection (a) of this section.

(c) The Secretary may pay, from funds appropriated under this chapter for fiscal year 1970 and subsequent fiscal years with respect to any vessel for which an application is received in such years and approved under section 1403 of this title for the remodeling of any vessel, a construction subsidy of not more than 35 per centum of the lowest responsible bid for the remodeling of such vessel as a fishing vessel in a shipyard of the United States, as determined and certified to the Secretary by the Maritime Administrator, excluding the costs, if any, of any feature incorporated in the vessel for national defense uses which costs shall be paid by the Department of Defense in addition to such subsidy. The amount of such subsidy of each such vessel shall be determined and certified to the Secretary by the Maritime Administrator based on the periodic survey conducted under subsection (a) of this section. (Pub. L. 86–516, 5, June 12, 1960, 74 Stat. 213; Pub. L. 88–498, § 2(5), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91–279, § 3, June 12, 1970, 84 Stat. 307.)

REFERENCES IN TEXT

Date of enactment of this subsection, referred to in subsec. (a), is June 12, 1970, date of enactment of Pub. L. 91–279 which amended this section.

AMENDMENTS

1970—Pub. L. 91–279, in rewriting existing paragraph, enacted provisions designated as subsec. (a) and providing for survey of foreign shipyards to determine estimated difference between construction and remodeling costs in foreign as compared with United States shipyards; incorporated in provisions designated as subsec. (b) provisions of existing paragraph for a construction subsidy for construction of fishing vessels with Defense Department payments for features for national defense uses, prescribed minimum construction subsidy payment of 35

[1] So in original. The term should read "Maritime".

per centum of lowest responsible bid for construction of such vessel in a United States shipyard, and provided for payment from appropriated funds and for determination of amount of subsidy on basis of the periodic survey; and enacted provisions designated as subsec. (c) for a construction subsidy for remodeling of fishing vessels, making applicable provisions of existing paragraph for Defense Department payments for features for national defense uses.

1964—Pub. L. 88–498 substituted "50 per cent" for "33⅓ per centum."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1407 of this title.

§ 1406. Supervision of construction; submission of plans to Secretary of Defense.

Any fishing vessel for which a construction subsidy is paid under this chapter shall be constructed under the supervision of the Maritime Administrator. The Maritime Administrator shall submit the plans and specifications for the proposed vessel to the Department of Defense for examination thereof and suggestions for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for the use of the United States Government in time of war or national emergency. If the Secretary of Defense approves such plans and specifications as submitted, or as modified, in accordance with the provisions of this subsection, he shall certify such approval to the Administrator. No construction subsidy shall be paid by the Secretary under this chapter unless all contracts between the applicant for such subsidy and the shipbuilder who is to construct such vessel contain such provisions with respect to the construction of the vessel as the Maritime Administrator determines necessary to protect the interests of the United States. (Pub. L. 86–516, § 6, June 12, 1960, 74 Stat. 213.)

§ 1407. Conditions of construction.

All construction with respect to which a construction subsidy is granted under this chapter shall be performed in a shipyard in the United States as a result of competitive bidding, after due advertising, with the rights reserved in the applicant, and in the Maritime Administrator, to disapprove any or all bids. Beginning on the date of enactment of this sentence, if the applicant disapproves the lowest responsible domestic bid certified by the Maritime Administrator for convenience or other reasons, the Secretary may permit the applicant to accept another responsible domestic bid and agree to pay a construction subsidy under subsection (b) or (c) of section 1405 of this title which shall not exceed the amount the Secretary would have paid if the applicant had accepted the lowest responsible domestic bid. In all such construction the shipbuilder, subcontractor, material men, and suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, and manufacture of the United States as defined in section 1401(k) of Title 19. No shipbuilder shall be deemed a responsible builder unless he possesses the experience, ability, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. The submitted bid shall be accompanied by all detailed estimates on which it is based, and the Maritime Administrator may require that the builder or any subcontractor submit any other pertinent data relating to such bids. (Pub. L. 86–516, § 7, June 12, 1960, 74 Stat. 213; Pub. L. 91–279, § 4, June 12, 1970, 84 Stat. 308.)

REFERENCES IN TEXT

Date of enactment of this sentence, referred to in the text, is June 12, 1970, date of enactment of Pub. L. 91–279 which amended this section.

AMENDMENTS

1970—Pub. L. 91–279 inserted provision for applicant's acceptance of another responsible domestic bid (upon disapproval of lowest responsible domestic bid for convenience or other reasons) and agreement to pay a construction subsidy which shall not exceed the amount the Secretary would have paid if the applicant had accepted the lowest responsible domestic bid.

§ 1408. Acquisition of ownership by United States; payment for vessel; finality of determination.

(a) Every contract executed by the Secretary pursuant to section 1403 of this title shall provide that in the event the United States shall, through purchase or requisition, acquire ownership of any fishing vessel on which a construction subsidy was paid, the owner shall be paid therefor the value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof (together with the actual depreciated cost of capital improvements thereon) less the depreciated amount of construction subsidy theretofore paid incident to the construction of such vessel, or the fair and reasonable scrap value of such vessel as determined by the Maritime Administrator, whichever is the greater. Such determination shall be final. In computing the depreciated value of such vessel, depreciation shall be computed on each vessel on the schedule accepted or adopted by the Internal Revenue Service for income tax purposes.

(b) The provisions of section 1402 of this title and subsection (a) of this section relating to the requisition or the acquisition of ownership by the United States shall run with the title of each fishing vessel and be binding on all owners thereof. (Pub. L. 86–516, § 8, June 12, 1960, 74 Stat. 214.)

§ 1409. Transfer of vessels to other fisheries; vessels operated contrary to provisions of chapter; repayments.

The Secretary, in the exercise of his discretion, after notice and a public hearing, may approve the transfer of any vessel constructed with the aid of a subsidy to another fishery when, as determined by the Secretary, the operations of such vessel are shown to be uneconomical or less economical either because of an actual decline of the resource in the particular fishery or fisheries in which such vessel operates, or because of changed market conditions or a combination of these factors, and where he determines that such transfer would not cause economic hardship to operators of efficient vessels already operating in the fishery to which the vessel would be transferred, or where he determines that such transfer would enable such vessel to operate in a newly developed fishery not yet utilized to its capacity by operators of efficient vessels. If any fishing vessel constructed with the aid of a construction

subsidy in accordance with the provisions of this chapter, is operated during its useful life, as determined by the Secretary, contrary to the provisions of this chapter or any regulations issued thereunder, the owner of such vessel shall repay to the Secretary, in accordance with such terms and conditions as the Secretary shall prescribe an amount not to exceed the total depreciated construction subsidy paid by the Secretary pursuant to this chapter and this shall constitute a maritime lien against such vessel. The obligations under this section shall run with the title to the vessel. (Pub. L. 86-516, § 9, June 12, 1960, 74 Stat. 214; Pub. L. 88-498, § 2(6), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91-279, § 5, June 12, 1970, 84 Stat. 308.)

AMENDMENTS

1970—Pub. L. 91-279, in amending first sentence, provide for "public" hearing and for transfer of vessels because of actual decline of the resource in the particular fishery or fisheries in which vessel operates rather than actual decline in the particular fishery for which vessel was designed, because of changed market conditions or combination of stated factors, and where Secretary determines that the transfer would enable the vessel to operate in a newly developed fishery not yet utilized to its capacity by operators of efficient vessels.

1964—Pub. L. 88-498 authorized the Secretary to approve the transfer of a vessel constructed with the aid of a construction subsidy, whose operations have become uneconomical or less economical because of an actual decline in the particular fishery for which it was designed, to another fishery where he determines that such transfer would not cause economic hardship or injury to efficient vessel operators already operating in that fishery, substituted provisions requiring repayment, if any fishing vessel constructed with the aid of a subsidy is operated during its useful life contrary to the provisions of this chapter or regulations, of an amount not more than the total depreciated construction subsidy, for provisions which required repayment, if any fishing vessel was operating in any fishery other than the particular fishery for which it was designed, of an amount which bears the same proportion to the total construction subsidy paid with respect to such vessel as the proportion that the number of years during which such vessel was not operated in the fishery for which it was designed bears to the total useful life of such vessel, and inserted provisions making such repayment a maritime lien against the vessel.

§ 1410. Rules and regulations.

The Secretary shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. (Pub. L. 86-516, § 10, June 12, 1960, 74 Stat. 214.)

§ 1411. Definitions.

As used in this chapter the terms—

(1) "Secretary" means the Secretary of the Interior,

(2) "fishing vessel" means any vessel designed to be used in catching fish, processing or transporting fish loaded on the high seas, or any vessel outfitted for such activity,

(3) "citizen of the United States" includes a corporation, partnership, or association if it is a citizen of the United States within the meaning of section 802 of this title, and the amount of interest required to be owned by a citizen of the United States shall be at least 75 per centum.

(4) "construction" includes designing, inspecting, outfitting, and equipping,

(5) "remodeling" includes the construction through the conversion or reconditioning of any vessel to a fishing vessel and through the rebuilding of any existing fishing vessel, and

(6) "Maritime Administrator" means the Maritime Administrator in the Department of Commerce.

(Pub. L. 86-516, § 11, June 12, 1960, 74 Stat. 214; Pub. L. 91-279, § 6, June 12, 1970, 84 Stat. 308.)

AMENDMENTS

1970—Par. (3). Pub. L. 91-279, § 6(a), included in definition of "citizen of the United States" provision that the amount of interest required to be owned by a citizen shall be at least 75 per centum.

Par. (5). Pub. L. 91-279, § 6(b), added par. (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 91-279, § 6(b), redesignated former par (5) as (6).

§ 1412. Authorization of appropriations.

There is authorized to be appropriated for the fiscal years 1970, 1971, and 1972, $20,000,000 per fiscal year to carry out this chapter. Such sums are authorized without fiscal year limitation. (Pub. L. 86-516, § 12, June 12, 1960, 74 Stat. 214; Pub. L. 88-498, § 2(7), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91-279, § 7, June 12, 1970, 84 Stat. 308.)

AMENDMENTS

1970—Pub. L. 91-279 substituted appropriations authorization of $20,000,000 per fiscal year for fiscal years 1970, 1971, and 1972, for prior authorization of not more than $10,000,000 annually and authorized such sums without fiscal year limitation.

1964—Pub. L. 88-498 substituted "$10,000,000" for "$2,500,000."

§ 1413. Termination date.

No application for a subsidy for the construction of a fishing vessel may be accepted by the Secretary after June 30, 1972. (Pub. L. 86-516, § 13, June 12, 1960, 74 Stat. 214; Pub. L. 88-498, § 2(8), Aug. 30, 1964, 78 Stat. 614. Pub. L. 91-279, § 8, June 12, 1970, 84 Stat. 309.)

AMENDMENTS

1970—Pub. L. 91-279 substituted "1972" for "1969".

1964—Pub. L. 88-498 substituted "may be accepted by the Secretary after June 30, 1969" for "may be accepted by the Secretary after the day which is three years after June 12, 1960."

TITLE 47.—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

Chap.		Sec.
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2.	Submarine Cables	21
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Chapter 1.—TELEGRAPHS

Sec.
1 to 6. Repealed.
7. Transmission of telegrams by railroads.
8. Repealed.
9. Subsidized companies required to construct and operate lines.
10. Equal facilities to connecting lines; discrimination in rates.
11. Powers of Federal Communications Commission.
12. Interference with liens of United States.
13. Violations; punishment; action for damages.
14. Contracts filed with Federal Communications Commission; reports; failure to make.
15. Reservation of power to alter, amend, or repeal act; power to fix rates and purchase lines.
16. Washington-Alaska Military Cable and Telegraph System; money transfers; portion of receipts withheld; bonds.
17. Establishment of telegraph or cable lines by foreigners prohibited.

§§ 1 to 6. Repealed. July 16, 1947, ch. 256, § 1, 61 Stat. 327.

Section 1, R. S. § 5263, related to use of public domain.

Section 2, R. S. § 5264, related to use of materials from public lands.

Section 3, R. S. § 5266; acts June 19, 1934, ch. 652, § 601, 48 Stat. 1101; Mar. 6, 1943, ch. 10, § 6, 57 Stat. 12, related to Government priority in transmission of messages.

Section 4, R. S. § 5267; act June 19, 1934, ch. 652, § 601, 48 Stat. 1101, related to purchase of lines.

Section 5, R. S. § 5268; act June 19, 1934, ch. 652, § 601, 48 Stat. 1101, related to acceptance of obligations to be filed.

Section 6, R. S. § 5265; act June 19, 1934, ch. 652, § 601, 48 Stat. 1101, provided that rights were not transferable.

EFFECTIVE DATE OF REPEAL

Section 3 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1—6 and 8 of this title, provided that act July 16, 1947 should take effect on the tenth day following July 16, 1947.

AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION; EFFECT OF REPEAL

Section 2 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1—6 and 8 of this title, provided: "Nothing in this Act shall limit the authority of the Federal Communications Commission under the provisions of the Communications Act of 1934, as amended [chapter 5 of this title], to prescribe charges, classifications, regulations, and practices, including priorities, applicable to Government communications."

§ 7. Transmission of telegrams by railroads.

CODIFICATION

Section, act June 23, 1879, ch. 35, § 1, 21 Stat. 31, which was dependent upon and incorporated by reference in repealed sections 1—6 and 8 of this title which sections were repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 327, was omitted as obsolete.

§ 8. Repealed. July 16, 1947, ch. 256, § 1, 61 Stat. 327.

Section, R. S. § 5269; acts Feb. 27, 1877, ch. 69, § 1, 69 Stat. 252; June 19, 1934, ch. 652, § 601, 48 Stat. 1101, related to refusal to transmit dispatches.

EFFECTIVE DATE OF REPEAL

Section 3 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1—6 and 8 of this title, provided that act July 16, 1947, should take effect on the tenth day following July 16, 1947.

AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION; EFFECT OF REPEAL

Section 2 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1—6 and 8 of this title, provided: "Nothing in this Act shall limit the authority of the Federal Communications Commission under the provisions of the Communications Act of 1934, as amended [chapter 5 of this title], to prescribe charges, classifications, regulations, and practices, including priorities, applicable to Government communications."

§ 9. Subsidized companies required to construct and operate lines.

All railroad and telegraph companies to which the United States has granted any subsidy in lands or bonds or loan of credit for the construction of either railroad or telegraph lines, which, by the acts incorporating them, or by any act amendatory or supplementary thereto, are required to construct, maintain, or operate telegraph lines, and all companies engaged in operating said railroad or telegraph lines shall, by and through their own respective corporate officers and employees, maintain, and operate, for railroad, governmental, commercial, and all other purposes, telegraph lines, and exercise by themselves alone all the telegraph franchises conferred upon them and obligations assumed by them under the acts making the grants as aforesaid. (Aug. 7, 1888, ch. 772, § 1, 25 Stat. 382.)

CROSS REFERENCES

Federal Communications Commission, jurisdiction of, see section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10, 11, 12, 15, 601 of this title.

§ 10. Equal facilities to connecting lines; discrimination in rates.

Whenever any telegraph company which shall have accepted the provisions of sections 5263 to 5269, inclusive, of the Revised Statutes, prior to the effective date of the repeal of such sections, shall extend its line to any station or office of a telegraph line belonging to any one of said railroad or telegraph companies, referred to in section 9 of this title, said telegraph company so extending its line shall have the right and said railroad or telegraph company shall allow the line of said telegraph company so extending its line to connect with the telegraph line of said railroad or telegraph company to which it is extended at the place where their

lines may meet, for the prompt and convenient interchange of telegraph business between said companies; and such railroad and telegraph companies, referred to in section 9 of this title, shall so operate their respective telegraph lines as to afford equal facilities to all, without discrimination in favor of or against any person, company, or corporation whatever, and shall receive, deliver, and exchange business with connecting telegraph lines on equal terms, and affording equal facilities, and without discrimination for or against any one of such connecting lines; and such exchange of business shall be on terms just and equitable. (Aug. 7, 1888, ch. 772, § 2, 25 Stat. 383; Sept. 3, 1954, ch. 1263, § 48, 68 Stat. 1243.)

REFERENCES IN TEXT

Sections 5263 to 5269, inclusive, of the Revised Statutes, referred to in the text, were formerly classified to sections 1—6 and 8 of this title, and were repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 377.

AMENDMENTS

1954—Act Sept. 3, 1954, amended section to make it clear that the rights and obligations of companies which accepted benefits under former sections 5263—5269 of the Revised Statutes, which have been repealed, continue irrespective of the repeal.

CROSS REFERENCES

Federal Communications Commission, jurisdiction of, see section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 15, 601 of this title.

§ 11. Powers of Federal Communications Commission.

If any railroad or telegraph company referred to in section 9 of this title, or company operating such railroad or telegraph line shall refuse or fail, in whole or in part, to maintain, and operate a telegraph line as provided herein, for the use of the Government or the public, for commercial and other purposes, without discrimination, or shall refuse or fail to make or continue such arrangements for the interchange of business with any connecting telegraph company, then any person, company, corporation, or connecting telegraph company may apply for relief to the Federal Communications Commission, whose duty it shall thereupon be, under such rules and regulations as said commission may prescribe, to ascertain the facts, and determine and order what arrangement is proper to be made in the particular case, and the railroad or telegraph company concerned shall abide by and perform such order; and it shall be the duty of the Federal Communications Commission, when such determination and order are made, to notify the parties concerned, and, if necessary, enforce the same by writ of mandamus in the courts of the United States, in the name of the United States, at the relation of either of said communication commissioners. The commissioners may institute any inquiry, upon their own motion, in the same manner and to the same effect as though complaint had been made. (Aug. 7, 1888, ch. 772, § 3, 25 Stat. 383; June 19, 1934, ch. 652, § 601, 48 Stat. 1101.)

TRANSFER OF FUNCTIONS

All duties, powers, and functions under this section relating to operation of telegraph lines by railroad and telegraph lines granted Government aid in the construction of their lines are imposed on and vested in the Federal Communications Commission by act June 19, 1934. See section 601 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Application, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of rules on this section, see note by Advisory Committee under Rule 81.

Writ of mandamus abolished, see Rule 81(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 15, 601 of this title.

§ 12. Interference with liens of United States.

In order to secure and preserve to the United States the full value and benefit of its liens upon all the telegraph lines required to be constructed by and lawfully belonging to railroad and telegraph companies referred to in section 9 of this title, and to have the same possessed, used, and operated in conformity with sections 9 to 15 of this title, it is made the duty of the Attorney General of the United States, by proper proceedings, to prevent any unlawful interference with the rights and equities of the United States under all acts of Congress relating to such railroads and telegraph lines, and to have legally ascertained and finally adjudicated all alleged rights of all persons and corporations whatever claiming in any manner any control or interest of any kind in any telegraph lines or property, or exclusive rights-of-way upon the lands of said railroad companies, or any of them, and to have all contracts and provisions of contracts set aside and annulled which have been unlawfully and beyond their powers entered into by said railroad or telegraph companies, or any of them, with any other person, company, or corporation. (Aug. 7, 1888, ch. 772, § 4, 25 Stat. 383.)

CROSS REFERENCES

Federal Communications Commission, jurisdiction of, see section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15, 601 of this title.

§ 13. Violations; punishment; action for damages.

Any officer or agent of said railroad or telegraph companies, or of any company operating the railroads and telegraph lines of said companies, who shall refuse or fail to operate the telegraph lines of said railroad or telegraph companies under his control, or which he is engaged in operating, in the manner herein directed, or who shall refuse or fail, in such operation and use, to afford and secure to the Government and the public equal facilities, or to secure to each of said connecting telegraph lines equal advantages and facilities in the interchange of business, as herein provided for, without any discrimination whatever for or adverse to the telegraph line of any or either of said connecting companies, or shall refuse to abide by or perform and carry out within a reasonable time the order or orders of the Federal Communications Commission, shall in every such case of refusal or failure be guilty of a misdemeanor, and, on conviction thereof, shall in every such case be fined in a sum of not exceeding $1,000, and may be imprisoned not less than six months; and in every such case of refusal or failure the party aggrieved may not only cause the officer or agent

guilty thereof to be prosecuted under the provisions of this section, but may also bring an action for the damages sustained thereby against the company whose officer or agent may be guilty thereof, in the district court of the United States in any State or Territory in which any portion of the road or telegraph line of said company may be situated; and in case of suit process may be served upon any agent of the company found in such State or Territory, and such service shall be held by the court good and sufficient. (Aug. 7, 1888, ch. 772, § 5, 25 Stat. 384; Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167; June 19, 1934, ch. 652, § 601, 48 Stat. 1101.)

TRANSFER OF FUNCTIONS

All duties, powers, and functions under this section relating to operation of telegraph lines by railroad and telegraph lines granted Government aid in the construction of their lines are imposed on and vested in the Federal Communications Commission by act June 19, 1934. See section 601 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under Rule 4, see note by Advisory Committee under Rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see Rule 4, Title 28, Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 15, 601 of this title.

§ 14. Contracts filed with Federal Communications Commission; reports; failure to make.

It shall be the duty of each and every one of the aforesaid railroad and telegraph companies annually to report to the Federal Communications Commission, with reasonable fullness and certainty, the nature, extent, value, and condition of the telegraph lines and property then belonging to it, the gross earnings, and all expenses of maintenance, use, and operation thereof, and its relation and business with all connecting telegraph companies during the preceding year, at such time and in such manner as may be required by a system of reports which said commission shall prescribe; and if any of said railroad or telegraph companies shall refuse or fail to make such reports or any report as may be called for by said commission, or refuse to submit its books and records for inspection, such neglect or refusal shall operate as a forfeiture, in each case of such neglect or refusal, of a sum not less than $1,000 nor more than $5,000, to be recovered by the Attorney General of the United States, in the name and for the use and benefit of the United States; and it shall be the duty of the Federal Communications Commission to inform the Attorney General of all such cases of neglect or refusal, whose duty it shall be to proceed at once to judicially enforce the forfeitures hereinbefore provided. (Aug. 7, 1888, ch. 772, § 6, 25 Stat. 384; June 19, 1934, ch. 652, § 601, 48 Stat. 1101.)

CODIFICATION

A provision in the original enactment of this section requiring filing of copies of contracts, agreements, etc., within 60 days from passage of act Aug. 7, 1888 was omitted as executed.

TRANSFER OF FUNCTIONS

All duties, powers, and functions under this section relating to operation of telegraph lines by railroad and telegraph lines granted Government aid in the construction of their lines are imposed on and vested in the Federal Communications Commission by act June 19, 1934. See section 601 of this title.

CROSS REFERENCES

Exclusive jurisdiction of district court of the United States of action for recovery of forfeiture, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 15, 601 of this title.

§ 15. Reservation of power to alter, amend, or repeal act; power to fix rates and purchase lines.

Nothing in sections 9 to 15 of this title shall be construed to affect or impair the right of Congress, at any time hereafter, to alter, amend, or repeal sections 5263 to 5269, inclusive, of the Revised Statutes; and sections 9 to 15 of this title shall be subject to alteration, amendment, or repeal as, in the opinion of Congress, justice or the public welfare may require; and nothing herein contained shall be held to deny, exclude, or impair any right or remedy in the premises now or hereafter existing in the United States, or the authority of the Federal Communications Commission under the provisions of the Communications Act of 1934, as amended, to prescribe charges, classifications, regulations, and practices, including priorities, applicable to Government communications. (Aug. 7, 1888, ch. 772, § 7, 25 Stat. 385; Sept. 3, 1954, ch. 1263, § 49, 68 Stat. 1244.)

REFERENCES IN TEXT

Sections 5263 to 5269, inclusive, of the Revised Statutes, referred to in the text, were formerly classified to sections 1—6 and 8 of this title, and were repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 377.

The Communications Act of 1934, as amended, referred to in the text, is classified to chapter 5 of this title.

AMENDMENTS

1954—Act Sept. 3, 1954, corrected references and eliminated obsolete material.

CROSS REFERENCES

Federal Communications Commission, jurisdiction of, see section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12, 601 of this title.

§ 16. Washington-Alaska Military Cable and Telegraph System; money transfers; portion of receipts withheld; bonds.

After May 20, 1926, such amount of money as may be authorized by the Secretary of the Army may be withheld temporarily from the receipts of the Washington-Alaska Military Cable and Telegraph System by the auditor of said system as a working balance from which to make payments of money transfers from and to Alaska and between points within Alaska, to be accounted for accordingly; and the expenses of procuring necessary official bonds, as determined by the Secretary of the Army, of enlisted men employed in connection with such money transfers, shall be paid out of the receipts of such system as an operating expense. (May 20, 1926, ch. 345, 44 Stat. 576.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section

53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 17. Establishment of telegraph or cable lines by foreigners prohibited.

No telegraph or cable lines owned or operated or controlled by persons not citizens of the United States, or by any foreign corporation or government shall be established in or permitted to enter Alaska. (May 26, 1900, ch. 586, 31 Stat. 206.)

CROSS REFERENCES

Alaska communications disposal, disqualifications of aliens, see section 782 of Title 40, Public Buildings, Property, and Works.

Chapter 2.—SUBMARINE CABLES

Sec.
21. Submarine cables; willful injury to; punishment.
22. Same; negligent injury to; punishment.
23. Same; injury in efforts to save life excepted.
24. Vessels laying cables; signals; avoidance of buoys.
25. Fishing vessels; duty to keep nets from cables.
26. Duties of commanders of warships.
27. Offending vessels to show nationality.
28. Penalties not to bar suits for damages.
29. Master of offending vessel punishable.
30. Definitions.
31. Summary trials.
32. Application.
33. Jurisdiction and venue of actions and offenses.
34. Licenses for landing or operating cables connecting United States with foreign country; necessity for.
35. Same; withholding or revoking by President; terms and conditions of licenses.
36. Same; preventing landing or operating of cables.
37. Same; violations; punishment.
38. Same; definitions.
39. Same; amendment, modification, etc., of rights granted.

§ 21. Submarine cables; willful injury to; punishment.

Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, a submarine cable in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, § 1, 25 Stat. 41.)

SHORT TITLE

Sections 21 to 33 of this title are popularly known as the "Submarine Cable Act".

INTERNATIONAL CONVENTION

The protection of submarine cables was made the subject of an international convention between the United States and Germany, Argentine Confederation, Austria-Hungary, Belgium, Brazil, Costa Rica, Denmark, Dominican Republic, Spain, United States of Colombia, France, Great Britain, Guatemala, Greece, Italy, Turkey, Netherlands, Persia, Portugal, Roumania, Russia, Salvador, Servia, Sweden and Norway, Uruguay, and the British Colonies. It was concluded March 14, 1884, ratified January 26, 1885, ratifications exchanged April 16, 1885, and proclaimed May 22, 1885. Its provisions were set forth in 33 of this title.

CROSS REFERENCES

Offense punishable by imprisonment for term in excess of one year deemed a felony, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23, 28, 29, 30, 32, 33 of this title.

§ 22. Same; negligent injury to; punishment.

Any person who by culpable negligence shall break or injure a submarine cable in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, § 2, 25 Stat. 41.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32, 33 of this title.

§ 23. Same; injury in efforts to save life excepted.

The provisions of sections 21 and 22 of this title shall not apply to a person who breaks or injures a cable in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel: *Provided,* That he takes reasonable precautions to avoid such breaking or injury. (Feb. 29, 1888, ch. 17, § 3, 25 Stat. 41.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32, 33 of this title.

§ 24. Vessels laying cables; signals; avoidance of buoys.

The master of any vessel which, while engaged in laying or repairing submarine cables, shall fail to observe the rules concerning signals that have been or shall be adopted by the parties to the convention described in section 30 of this title with a view to preventing collisions at sea; or the master of any vessel that, perceiving, or being able to perceive the said signals displayed upon a telegraph ship engaged in repairing a cable, shall not withdraw to or keep at distance of at least one nautical mile; or the master of any vessel that seeing or being able to see buoys intended to mark the position of a cable when being laid or when out of order or broken, shall not keep at a distance of at least a quarter of a nautical mile, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding one month, or to a fine of not exceeding $500. (Feb. 29, 1888, ch. 17, § 4, 25 Stat. 41.)

REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1948

The Regulations for Preventing Collisions at Sea, 1948, adopted by act Oct. 11, 1951, ch. 495, 65 Stat. 406, are set forth under chapter 2 of Title 33, Navigation and Navigable Waters.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 31, 32, 33 of this title.

§ 25. Fishing vessels; duty to keep nets from cables.

The master of any fishing vessel who shall not keep his implements or nets at a distance of at least one nautical mile from a vessel engaged in laying or repairing a cable; or the master of any fishing vessel who shall not keep his implements or nets at a distance of at least a quarter of a nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding ten days, or to a fine not exceeding $250, or to both such fine and imprisonment, at the discretion of the court. Fishing vessels, on perceiving or being able to perceive the said signals displayed on a telegraph ship, shall be allowed such time as may be necessary to obey the notice thus given, not exceeding twenty-four hours, during which period no obstacle shall be placed in the way of their operations. (Feb. 29, 1888, ch. 17, § 5, 25 Stat. 42.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 31, 32, 33 of this title.

§ 26. Duties of commanders of warships.

For the purpose of carrying into effect the convention described in section 30 of this title a person commanding a ship of war of the United States or of any foreign state for the time being bound by the convention, or a ship specially commissioned by the Government of the United States or by the government of such foreign state, may exercise and perform the duties with respect to requiring exhibition of documents evidencing the nationality of offending vessels and making reports of infractions vested in and imposed on such officer by the convention. (Feb. 29, 1888, ch. 17, § 6, 25 Stat. 42.)

CODIFICATION

The original enactment of this section did not contain the words, "with respect to requiring exhibition of documents evidencing the nationality of offending vessels and making reports of infractions," which are inserted in view of the powers conferred on commanders of vessels of war contained in article 10 of the Convention, 24 Stat. 996. See note to section 27 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32, 33 of this title.

§ 27. Offending vessels to show nationality.

Any person having the custody of the papers necessary for the preparation of the statements provided for in article 10 of the said convention with respect to reports of infractions, by officers commanding vessels of war or vessels especially commissioned, who shall refuse to exhibit them or shall violently resist persons having authority according to article 10 of said convention to draw up statements of facts in the exercise of their functions, shall be guilty of a misdemeanor, and on conviction thereof shall be liable to imprisonment not exceeding two years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, § 7, 25 Stat. 42.)

CODIFICATION

The original enactment of this section did not contain the words, "with respect to reports of infractions, by officers commanding vessels of war or vessels especially commissioned," which have been inserted in view of article 10 of the Convention, referred to in the text, and set forth below.

PROVISION OF INTERNATIONAL CONVENTION

Article 10 of the International Convention for the Protection of Submarine Cables, made at Paris on May (March) 14, 1884, and proclaimed by the President of the United States on May 22, 1885, 24 Stat. 996, referred to in this section, read as follows:

"Evidence of violations of this convention may be obtained by all methods of securing proof that are allowed by the laws of the country of the court before which a case has been brought.

"When the officers commanding the vessels of war or the vessels specially commissioned for that purpose, of one of the High Contracting Parties, shall have reason to believe that an infraction of the measures provided for by this Convention has been committed by a vessel other than a vessel of war, they may require the captain or master to exhibit the official documents furnishing evidence of the nationality of the said vessel. Summary mention of such exhibition shall at once be made on the documents exhibited.

"Reports may, moreover, be prepared by the said officers, whatever may be the nationality of the inculpated vessel. These reports shall be drawn up in the form and in the language in use in the country to which the officer drawing them up belongs; they may be used as evidence in the country in which they shall be invoked, and according to the laws of such country. The accused parties and the witnesses shall have the right to add or to cause to be added thereto, in their own language, any explanations that they may deem proper; these declarations shall be duly signed."

CROSS REFERENCES

Offense punishable by imprisonment for term in excess of one year deemed a felony, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32, 33 of this title.

§ 28. Penalties not to bar suits for damages.

The penalties provided in sections 21 to 33 of this title for the breaking or injury of a submarine cable shall not be a bar to a suit for damages on account of such breaking or injury. (Feb. 29, 1888, ch. 17, § 8, 25 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 30, 32, 33 of this title.

§ 29. Master of offending vessel punishable.

When an offense against sections 21 to 33 of this title shall have been committed by means of a vessel, or of any boat belonging to a vessel, the master of such vessel shall, unless some other person is shown to have been in charge of and navigating such vessel or boat, be deemed to have been in charge of and navigating the same, and be liable to be punished accordingly. (Feb. 29, 1888, ch. 17, § 9, 25 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 30, 32, 33 of this title.

§ 30. Definitions.

Unless the context of sections 21 to 33 of this title otherwise requires, the term "vessel" shall be taken to mean every description of vessel used in navigation, in whatever way it is propelled; the term "master" shall be taken to include every person hav-

ing command or charge of a vessel; and the term "person" to include a body of persons, corporate or incorporate. The term "convention" shall be taken to mean the International Convention for the Protection of Submarine Cables, made at Paris on the 14th day of May [March], 1884, and proclaimed by the President of the United States on the 22d day of May, 1885. (Feb. 29, 1888, ch. 17, § 10, 25 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 26, 28, 29, 32, 33 of this title.

§ 31. Summary trials.

The provisions of sections 391 to 396 of Title 33 shall extend to the trial of offenses against the provisions of sections 24 and 25 of this title. (Feb. 29, 1888, ch. 17, § 11, 25 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32, 33 of this title.

§ 32. Application.

The provisions of sections 21 to 33 of this title shall be held to apply only to cables to which the convention for the time being applies. (Feb. 29, 1888, ch. 17, § 12, 25 Stat. 42.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 33 of this title.

§ 33. Jurisdiction and venue of actions and offenses.

The district courts of the United States shall have jurisdiction over all offenses against sections 21 to 33 of this title and of all suits of a civil nature arising thereunder, whether the infraction complained of shall have been committed within the territorial waters of the United States or on board a vessel of the United States outside of said waters. From the decrees and judgments of the district courts in actions and suits arising under said sections appeals shall be allowed as provided by law in other cases. Criminal actions and proceedings for a violation of the provisions of said sections shall be commenced and prosecuted in the district court for the district within which the offense was committed, and when not committed within any judicial district, then in the district court for the district within which the offender may be found; and suits of a civil nature may be commenced in the district court for any district within which the defendant may be found and shall be served with process. (Feb. 29, 1888, ch. 17, § 13, 25 Stat. 42; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54.)

CROSS REFERENCES

Venue in civil actions generally, see section 1391 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Venue in criminal proceedings, see rule 18 et seq., Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 29, 30, 32 of this title.

§ 34. Licenses for landing or operating cables connecting United States with foreign country; necessity for.

No person shall land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country, or connecting one portion of the United States with any other portion thereof, unless a written license to land or operate such cable has been issued by the President of the United States. The conditions of sections 34 to 39 of this title shall not apply to cables, all of which, including both terminals, lie wholly within the continental United States. (May 27, 1921, ch. 12, § 1, 42 Stat. 8.)

DELEGATION OF FUNCTIONS

For delegation of functions, vested in the President by sections 34—39 of this title, to the Federal Communications Commission, see section 5 (a) of Ex. Ord. No. 10530, May 10, 1954, 19 F.R. 2709, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36, 37, 38, 39 of this title.

§ 35. Same; withholding or revoking by President; terms and conditions of licenses.

The President may withhold or revoke such license when he shall be satisfied after due notice and hearing that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States, or may grant such license upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed. The license shall not contain terms or conditions granting to the licensee exclusive rights of landing or of operation in the United States. Nothing herein contained shall be construed to limit the power and jurisdiction of the Federal Communications Commission with respect to the transmission of messages. (May 27, 1921, ch. 12, § 2, 42 Stat. 8; June 19, 1934, ch. 652, § 602 (c), 48 Stat. 1102.)

AMENDMENTS

1934—Act June 19, 1934, substituted "of the Federal Communications Commission" for "heretofore granted the Interstate Commerce Commission."

DELEGATION OF FUNCTIONS

For delegation of functions vested in the President by this section to the Federal Communications Commission, see note under section 34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 36, 38, 39, 308 of this title.

§ 36. Same; preventing landing or operating of cables.

The President is empowered to prevent the landing of any cable about to be landed in violation of sections 34 to 39 of this title. When any such cable is about to be or is landed or is being operated without a license, any district court of the United States exercising jurisdiction in the district in which such cable is about to be or is landed, or any district court of the United States having jurisdiction of the parties, shall have jurisdiction, at the suit of the United States, to enjoin the landing or operation of such cable or to compel, by injunction, the removal thereof. (May 27, 1921, ch. 12, § 3, 42 Stat. 8.)

DELEGATION OF FUNCTIONS

For delegation of functions vested in the President by this section to the Federal Communications Commission, see note under section 34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 38, 39 of this title.

§ 37. Same; violations; punishment.

Whoever knowingly commits, instigates, or assists in any act forbidden by section 34 of this title shall be guilty of a misdemeanor and shall be fined not more than $5,000, or imprisoned for not more than one year, or both. (May 27, 1921, ch. 12, § 4, 42 Stat. 8.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 36, 38, 39 of this title.

§ 38. Same; definitions.

The term "United States" as used in sections 34 to 39 of this title includes the Canal Zone and all territory continental or insular, subject to the jurisdiction of the United States of America. (May 27, 1921, ch. 12, § 5, 42 Stat. 8; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352.

CODIFICATION

Words, "the Philippine Islands", were omitted from this section on authority of Proc. No. 2695 issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 36, 39 of this title.

§ 39. Same; amendment, modification, etc., of rights granted.

No right shall accrue to any government, person, or corporation under the terms of sections 34 to 39 of this title that may not be rescinded, changed, modified, or amended by the Congress. (May 27, 1921, ch. 12, § 6, 42 Stat. 9.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 36, 38 of this title.

Chapter 3.—RADIOTELEGRAPHS

CROSS REFERENCES

Communications Act of 1934, see chapter 5 of this title.

§§ 51 to 63. Repealed. Feb. 23, 1927, ch. 169, § 39, 44 Stat. 1174.

Section 51, act Aug. 13, 1912, ch. 287, § 1, 37 Stat. 302, required license for operation of apparatus for radio communication and transmission of radiograms or signals, revocable for cause, described its interstate, foreign and local aspects, exempted the United States from its requirement and provided for special call letters for every Government station and penalties and forfeiture of offending apparatus. See sections 301, 305, 312, 501 and 503 of this title.

Sections 52, act Aug. 13, 1912, ch. 287, § 2, 37 Stat. 303, related to form of license, United States citizenship of licensee, and contents of license, including statement of restrictions, ownership, location, purpose, wave length, and hours for work of station, subjection to rules and regulations and to closing by the President in time of war, public peril or disaster or Government use or control with payment of just compensation. See sections 307–309 of this title.

Section 53, act Aug. 13, 1912, ch. 287, § 3, 37 Stat. 303, required that operators of radio apparatus be licensed, provided for one year period of suspension of license for noncompliance with rules and regulations, declared the employment of unlicensed operators to be unlawful and provided penalty therefor and authorized the issuance of temporary permits in emergencies by collector of customs to operators on a vessel. See sections 308 and 318 of this title.

Section 54, act Aug. 13, ch. 287, § 4, 37 Stat. 304, subjected private and commercial stations to certain specific regulations, provided for enforcement and waiver of regulations, for grant of special temporary licenses to conduct radio tests and experiments, and presribed general penalty for violation of regulations and reduction and remittance of such penalty and suspension or revocation of license. The Regulations, numbered First-Nineteenth, related to: (1) normal wave length; (2) other wave lengths; (3) use of a pure wave; (4) use of a sharp wave; (5) use of a standard distress wave; (6) signal of distress; (7) use of broad interfering wave for distress signals (see section 321(a) of this title); (8) distance requirement for distress signals; (9) right of way for distress signals (see section 321(b) of this title); (10) reduced power for ships near a Government station; (11) intercommunication (see section 322 of this title); (12) division of time (see section 323(a) of this title); (13) Government stations to observe divisions of time (see section 323(b) of this title); (14) use of unnecessary power (see section 324 of this title); (15) general restrictions on private stations; (16) special restrictions in the vicinities of Government stations; (17) ship stations to communicate with nearest shore stations; (18) limitations for future installations in vicinities of Government statons; (19) secrecy of messages and penalty for violations (see sections 501 and 605 of this title). See, also, sections 502 and 504 of this title.

Section 55, act Aug. 13, 1912, ch. 287, § 5, 37 Stat. 308, required license to prescribe that operator shall not willfully or maliciously interfere with any other radio communications and provided penalty for such violations. See sections 308 and 501 of this title.

Section 56, act Aug. 13, 1912, ch. 287, § 6, 37 Stat. 308, defined radio communication. See section 153(b) of this title.

Section 57, act of Aug. 13, 1912, ch. 287, § 7, 37 Stat. 308, prohibited uttering or transmitting false or fraudulent signals and prescribed penalty therefor. See sections 325 and 501 of this title.

Section 58, act Aug. 13, 1912, ch. 287, § 8, 37 Stat. 308, related to restriction of use of apparatus for radio communication on foreign ships. See section 306 of this title.

Section 59, act Aug. 13, 1912, ch. 287, § 9, 37 Stat. 308, related to jurisdictions of offenses. See section 505 of this title.

Section 60, act Aug. 13, 1912, ch. 287, § 10, 37 Stat. 308, declared the radiotelegraph provisions to be inapplicable to the Philippine Islands. See section 152 of this title.

Section 61, act June 5, 1920, ch. 269, § 1, 41 Stat. 1061, related to use of Government-owned radio stations and apparatus for official business, compass reports and safety of ships. See section 305 of this title.

Section 62, acts June 5, 1920, ch. 269, § 2, 41 Stat. 1061; Apr. 14, 1922, ch. 132, 42 Stat. 495; Feb. 28, 1925, ch. 378, fully or maliciously interfere with any other radio commercial messages and rates thereof. See section 327 of this title.

Section 63, act June 5, 1920, ch. 269, § 3, 41 Stat. 1061, declared the radiotelegraph provisions to be applicable to Government owned stations, except as otherwise provided therein. See section 305 of this title.

Chapter 4.—RADIO ACT OF 1927

CROSS REFERENCES

Communications Act of 1934, see chapter 5 of this title.

§§ 81 to 83. Repealed. June 19, 1934, ch. 652, § 602 (a), 48 Stat. 1102.

Section 81, act Feb. 23, 1927, ch. 169, § 1, 44 Stat. 1162, related to regulation of interstate and foreign radio communications and grant of license. See section 301 of this title.

Section 82, act Feb. 23, 1927, ch. 169, § 2, 44 Stat. 1162, related to division of United States into five zones.

Section 83, acts Feb. 23, 1927, ch. 169, § 3, 44 Stat. 1162; Mar. 28, 1928, ch. 263, § 2, 45 Stat. 373; Mar. 4, 1929, ch. 701, § 2 45 Stat. 1559; Dec. 18, 1929, c. 7 § 2, 46 Stat. 50, related to creation of Federal Radio Commission, composition, qualifications, appointments, meetings, employees, seal, reports and compensation. See sections 151 and 154 of this title and section 5311 et seq. of Title 5, Government Organization and Employees.

§§ 83a to 83e. Omitted.

CODIFICATION

Sections 83a to 83d, act June 30, 1932, ch. 314, §§ 511–514, 47 Stat. 417, abolished the Radio Division of the Department of Commerce and transferred its powers, duties, personnel and appropriations to Federal Radio Commission and continued orders, rules, regulations, laws, etc. The Federal Radio Commission was in turn abolished by sections 603 and 604 of this title.

Section 83e, act Mar. 28, 1934, ch. 102, Title I, § 1, 48 Stat. 513, related to adjustment of classification or compensation of employees. See section 603 of this title.

§ 84. Repealed. June 19, 1934, ch. 652, § 602 (a), 48 Stat. 1102.

Section, act Feb. 23, 1927, ch. 169, § 4, 44 Stat. 1163, defined powers and duties of Federal Radio Commission. See sections 154(g), 303 and 409 of this title.

§§ 84a, 84b. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 647.

Section 84a, act Mar. 4, 1929, ch. 701, § 5, 45 Stat. 1559, provided for appointment and pay of a general counsel, assistants to the general counsel, and other legal assistants to the Federal Radio Commission.

Section 84b, act Dec. 18, 1929, ch. 7, § 3, 46 Stat. 50, provided for appointment and pay of a chief engineer, assistants to the chief engineer, and other technical assistants to the Federal Radio Commission.

§§ 85 to 119. Repealed. June 19, 1934, ch. 652, § 602(a), 48 Stat. 1102.

Section 85, acts Feb. 23, 1927, ch. 169, § 5, 44 Stat. 1164; Mar. 28, 1928, ch. 263, § 1, 45 Stat. 373; Mar. 4, 1929, ch. 701, § 1, 45 Stat. 1559; Dec. 18, 1929, ch. 7, § 1, 46 Stat. 50; May 19, 1932, ch. 192, 47 Stat. 160 related to powers and authority of Secretary of Commerce, appeals to Federal Radio Commission, grant of station license, and waiver affecting wave length. See sections 155, 303 (*l*)–(p), 304 and 307–309 of this title.

Section 86, act Feb. 23, 1927, ch. 169, § 6, 44 Stat. 1165, related to government radio stations, regulations, control of all stations by government in national emergency and stations on vessels. See sections 305 (a), (b) and 606(c) of this title.

Section 87, act Feb. 23, 1927, ch. 169, § 7, 44 Stat. 1165, related to compensation by government for use or control of stations during national emergency. See section 606(e) of this title.

Section 88, act Feb. 23, 1927, ch. 169, § 8, 44 Stat. 1166, related to special call letters for stations and application of former section 81 of this title to foreign ships. See sections 305(c) and 306 of this title.

Sections 89, acts Feb. 23, 1927, ch. 169, § 9, 44 Stat. 1166; Mar. 28, 1928, ch. 263, §§ 3, 5, 45 Stat. 373; Mar. 4, 1929, ch. 701, § 3, 45 Stat. 1559, related to grant and renewal of station licenses and period thereof. See section 307 of this title.

Section 90, act Feb. 23, 1927, ch. 169, § 10, 44 Stat. 1166, related to application for station license and conditions and restrictions therein. See section 308 of this title.

Section 91, acts Feb. 23, 1927, ch. 169, § 11, 44 Stat. 1167; Mar. 28, 1928, ch. 263, § 1, 45 Stat. 373; Mar. 4, 1929, ch. 701, § 1, 45 Stat. 1559; Dec. 18, 1929, ch. 7, § 1, 46 Stat. 50, related to issuance, renewal or modification of station licenses, hearing, form and terms of license. See section 309 (a), (b), (d) of this title.

Section 92, act Feb. 23, 1927, ch. 169, § 12, 44 Stat. 1167, related to restrictions on grants and transfers of station licenses. See section 310 of this title.

Sec. 93, act Feb. 23, 1927, ch. 169, § 13, 44 Stat. 1167, related to refusal of station license to persons guilty of monopoly and liability to prosecution under laws against monopoly. See section 311 of this title.

Section 94, act Feb. 23, 1927, ch. 169, § 14, 44 Stat. 1168, related to revocation of station license, notice of revocation and hearing. See section 312 of this title.

Section 95, act Feb. 23, 1927, ch. 169, § 15, 44 Stat. 1168, related to application of laws against monopolies to radio combinations and revocation of licenses. See section 313 of this title.

Section 96, acts Feb. 23, 1927, ch. 169, § 16, 44 Stat. 1169; July 1, 1930, ch. 788, 46 Stat. 844, related to appeals in matters affecting permit and licenses. See section 402 of this title.

Section 97, act Feb. 23, 1927, ch. 169, § 17, 44 Stat. 1169, related to control by radio interests of cable, wire, telegraph or telephone system and prohibition thereof. See section 314 of this title.

Section 98, act Feb. 23, 1927, ch. 169, § 18, 44 Stat. 1170, related to use of broadcasting stations by legally qualified candidates and censorship over material for broadcast. See section 315(a) of this title.

Section 99, act Feb. 23, 1927, ch. 169, § 19, 44 Stat. 1170, related to broadcasting matter for valuable consideration and announcement of person furnishing. See section 317 of this title.

Section 100, act Feb. 23, 1927, ch. 169, § 20, 44 Stat. 1170, related to operation of transmitting apparatus in radio station and operator's license. See section 318 of this title.

Section 101, act Feb. 23, 1927, ch. 169, § 21, 44 Stat. 1170, related to permits for construction and licenses for operation of stations. See section 319 of this title.

Section 102, act Feb. 23, 1927, ch. 169, § 22, 44 Stat. 1171, related to stations interfering with distress signals of ships and regulation thereof. See section 320 of this title.

Section 103, act Feb. 23, 1927, ch. 169, § 23, 44 Stat. 1171, related to radio stations or ships and equipment and regulation thereof. See section 321 of this title.

Section 104, act Feb. 23, 1927, ch. 169, § 24, 44 Stat. 1171, related to shore stations and ships stations and exchanging radio communications and signals. See section 322 of this title.

Section 105, act Feb. 23, 1927, ch. 169, § 25, 44 Stat. 1172, related to proximity of Government and private or commercial stations causing interference and regulation thereof. See section 323 of this title.

Section 106, act Feb. 23, 1927, ch. 169, § 26, 44 Stat. 1172, related to limit on amount of power used at stations. See section 324 of this title.

Section 107, act Feb. 23, 1927, ch. 169, § 27, 44 Stat. 1172, related to divulging and publishing radio communications. See section 605 of this title.

Section 108, act Feb. 23, 1927, ch. 169, § 28, 44 Stat. 1172, related to false and fraudulent signals of distress and communications and rebroadcasting programs without authority. See section 325(a) of this title.

Section 109, act Feb. 23, 1927, ch. 169, § 29, 44 Stat. 1172, related to censorship over radio communications and signals, protection of free speech and obscene language. See section 326 of this title.

Section 110, act Feb. 23, 1927, ch. 169, § 30, 44 Stat. 1173, related to use of United States owned radio stations and apparatus by Secretary of Navy for transmission of press messages, etc. See section 327 of this title.

Section 111, act Feb. 23, 1927, ch. 169, § 31, 44 Stat. 1173, defined radio communication. See section 153(b) of this title.

Section 112, act Feb. 23, 1927, ch. 169, § 32, 44 Stat. 1173, related to penalties for violation of rules of licensing authority, etc. See section 502 of this title.

Section 113, act Feb. 23, 1927, ch. 169, § 33, 44 Stat. 1173, related to penalties for violation of statutory provisions and perjury. See section 501 of this title and section 1621 of Title 18, Crimes and Criminal Procedure.

Section 114, act Feb. 23, 1927, ch. 169, § 34, 44 Stat. 1173, related to jurisdiction of offenses. See section 505 of this title.

Section 115, act Feb. 23, 1927, ch. 169, § 35, 44 Stat. 1174, related to application of former chapter 4 of this title to Philippine Islands and Canal Zone. See section 328 of this title.

Section 116, act Feb. 23, 1927, ch. 169, § 36, 44 Stat. 1174, related to administration of radio laws in Territories and insular possessions. See section 329 of this title.

Section 117, act Feb. 23, 1927, ch. 169, § 38, 44 Stat. 1174, related to invalidity of part of chapter and effect as to remainder. See section 608 of this title.

Section 118, act Feb. 23, 1927, ch. 169, § 39, 44 Stat. 1174, related to repeal of sections 51–63 and effect of repeal on existing rights. See section 602 of this title.

Section 119, act Feb. 23, 1927, ch. 169, § 41, 44 Stat. 1174, related to citation of former chapter 4 of this title as "Radio Act of 1927."

§§ 120, 121. Omitted.

CODIFICATION

Sections, act July 5, 1932, ch. 421, §§ 1, 2, 47 Stat. 576, which related to Canal Zone, equipment on ocean-going vessels using ports of Canal Zone, jurisdiction of violations, and penalties, were transferred to sections 361 and 362 of Title 2, Canal Zone Code.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 923; title 14 section 829; title 18 section 2511.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 151. Purposes of chapter; Federal Communications Commission created.

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is created a commission to be known as the "Federal Communications Commission", which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this chapter. (June 19, 1934, ch. 652, § 1, 48 Stat. 1064; May 20, 1937, ch. 229, § 1, 50 Stat. 189.)

AMENDMENTS

1937—Act May 20, 1937 inserted words "for the purpose of promoting safety of life and property through the use of wire and radio communication".

COMMISSION ON GOVERNMENTAL USE OF INTERNATIONAL TELECOMMUNICATIONS

Joint Res. July 29, 1954, ch. 647, 68 Stat. 587, established the Commission on Governmental Use of International Telecommunications to examine, study and report on the objectives, operations, and effectiveness of information programs with respect to the prompt development of techniques, methods, and programs for greatly expanded and far more effective operations in this vital area of foreign policy through the use of foreign telecommunications. The Commission was required to make a report of its findings and recommendations on or before Dec. 31, 1954, and the Commission ceased to exist 90 days after submission of its report to the Congress.

COMMUNICATION PRIVILEGES TO PARTICIPANTS IN WORLD TELECOMMUNICATION CONFERENCES

Act May 13, 1947, ch. 51, 61 Stat. 83, provided that nothing in this chapter, or in any other provision of law should be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences which were held in the United States in 1947.

EXECUTIVE ORDER No. 10460

Ex. Ord. No. 10460, June 18, 1953, 18 F.R. 3513, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971, which related to the performance of telecommunication functions by Director of the Office of Civil and Defense Mobilization, was revoked by section 4 of Ex. Ord. No. 10995, Feb. 16, 1962, 27 F.R. 1519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 607 of this title.

§ 152. Application of chapter.

(a) The provisions of this chapter shall apply to all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided; but it shall not apply to persons engaged in wire or radio communication or transmission in the Canal Zone, or to wire or radio communication or transmission wholly within the Canal Zone.

(b) Subject to the provisions of section 301 of this title, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) of this subsection would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico; except that sections 201 to 205 of this title shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4) of this subsection. (June 19, 1934, ch. 652, § 2, 48 Stat. 1064; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Apr. 27, 1954, ch. 175, § 1, 68 Stat. 63.)

CODIFICATION

Words, "the Philippine Islands or", were omitted from this section on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

AMENDMENTS

1954—Subsec. (b). Act Apr. 27, 1954, made it clear that intrastate communication service, whether by "wire or radio", would not be subject to the Commission's jurisdiction over charges, classifications, etc., and added clauses (3) and (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 153 of this title.

§ 153. Definitions.

For the purposes of this chapter, unless the context otherwise requires—

(a) "Wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(b) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(c) "Licensee" means the holder of a radio station license granted or continued in force under authority of this chapter.

(d) "Transmission of energy by radio" or "radio transmission of energy" includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

(e) "Interstate communication" or "interstate transmission" means communication or transmission (1) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (2) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (3) between points within the United States but through a foreign country; but shall not with respect to the provisions of subchapter II of this chapter (other than section 223 of this title), include wire or radio communication between points in the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

(f) "Foreign communication" or "foreign transmission" means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

(g) "United States" means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

(h) "Common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

(i) "Person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(j) "Corporation" includes any corporation, joint-stock company, or association.

(k) "Radio station" or "station" means a station equipped to engage in radio communication or radio transmission of energy.

(*l*) "Mobile station" means a radio-communication station capable of being moved and which ordinarily does move.

(m) "Land station" means a station, other than a mobile station, used for radio communication with mobile stations.

(n) "Mobile service" means the radio-communication service carried on between mobile stations and land stations, and by mobile stations communicating among themselves.

(o) "Broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

(p) "Chain broadcasting" means simultaneous broadcasting of an identical program by two or more connected stations.

(q) "Amateur station" means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

(r) "Telephone exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge.

(s) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

(t) "State commission" means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.

(u) "Connecting carrier" means a carrier described in clauses (2), (3), or (4) of section 152(b) of this title.

(v) "State" includes the District of Columbia and the Territories and possessions.

(w) (1) "Ship" or "vessel" includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

(2) A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers.

(3) A cargo ship means any ship not a passenger ship.

(4) A passenger is any person carried on board a ship or vessel except (1) the officers and crew actually employed to man and operate the ship, (2) persons employed to carry on the business of the ship, and (3) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like or similar situations or by reason of any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

(5) "Nuclear ship" means a ship provided with a nuclear powerplant.

(x) "Radiotelegraph auto alarm" on a ship of the United States subject to the provisions of sections 351 to 362 of this title means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the Commission. "Radiotelegraph auto alarm" on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided,* That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus. Nothing in this chapter or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with sections 351 to 362 of this title, on a foreign ship subject to such sections, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

(y) (1) "Operator" on a ship of the United States means, for the purpose of sections 351 to 362 and 381 to 386 of this title, a person holding a radio operator's license of the proper class as prescribed and issued by the Commission.

(2) "Operator" on a foreign ship means, for the purpose of sections 351 to 362 of this title, a person holding a certificate as such of the proper class complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

(z) (1) "Radio officer" on a ship of the United States means, for the purpose of sections 351 to 362 of this title, a person holding at least a first or second class radiotelegraph operator's license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, he is also required to be licensed as a "radio officer" in accordance with the Act of May 12, 1948.

(2) "Radio officer" on a foreign ship means, for the purpose of sections 351 to 362 of this title, a person holding at least a first or second class radiotelegraph operator's certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

(aa) "Harbor" or "port" means any place to which ships may resort for shelter or to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

(bb) "Safety convention" means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

(cc) "Station license", "radio station license", or "license" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus for transmission of energy, or communications, or signals by

radio, by whatever name the instrument may be designated by the Commission.

(dd) "Broadcast station", "broadcasting station", or "radio broadcast station" means a radio station equipment to engage in broadcasting as herein defined.

(ee) "Construction permit" or "permit for construction" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter for the construction of a station, or the installation of apparatus, for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

(ff) "Great Lakes Agreement" means the Agreement for the Promotion of Safety on the Great Lakes by Means of Radio in force and the regulations referred to therein. (June 19, 1934, ch. 652, § 3, 48 Stat. 1065; May 20, 1937, ch. 229, § 2, 50 Stat. 189; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; July 16, 1952, ch. 879, § 2, 66 Stat. 711; Apr. 27, 1954, ch. 175, §§ 2, 3, 68 Stat. 64; Aug. 13, 1954, ch. 729, § 3, 68 Stat. 707; Aug. 13, 1954, ch. 735, § 1, 68 Stat. 729; Aug. 6, 1956, ch. 973, § 3, 70 Stat. 1048; Aug. 13, 1965, Pub. L. 89-121, § 1, 79 Stat. 511; May 3, 1968, Pub. L. 90-299, § 2, 82 Stat. 112.)

REFERENCES IN TEXT

The Act of May 12, 1948, referred to in subsec. (z), is act May 12, 1948, ch. 286, 62 Stat. 232, and is classified to sections 229a to 229h of Title 46, Shipping.

CODIFICATION

References to Philippine Islands in subsecs. (e) and (g) of this section were omitted on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which proclamation recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-299 inserted "(other than section 223 of this title)" following "subchapter II of this chapter".

1965—Subsec. (w). Pub. L. 89-121, § 1(1), added par. (5).

Subsec. (x). Pub. L. 89-121, § 1(2), among other changes, substituted "radiotelegraph auto alarm" for "auto-alarm" wherever appearing, "receiving apparatus which responds to the radiotelegraph alarm signal" for "receiver" in two instances, and "country in which the ship is registered" for "country to which the ship belongs" and for "country of origin."

Subsec. (y). Pub. L. 89-121, § 1(3), eliminated the term "qualified operator" from pars. (1) and (2), and substituted "country in which the ship is registered" for "country to which the ship belongs."

Subsec. (z). Pub. L. 89-121, § 1(4) (D), (E), added subsec. (z) and redesignated former subsec. (z) as (aa).

Subsec. (aa). Pub. L. 89-121, § 1(4) (A), (D), redesignated former subsec. (z) as (aa) and former subsec. (aa) as (bb).

Subsecs. (bb)—(dd). Pub. L. 89-121, § 1(4)(A), redesignated former subsecs. (aa)—(cc) as (bb)—(dd) and former subsec. (dd) as (ee).

Subsec. (ee). Pub. L. 89-121, § 1(4) (A), (B), redesignated former subsec. (dd) as (ee), and repealed former subsec. (ee) which defined "existing installation."

Subsec. (ff). Pub. L. 89-121, § 1(4) (B), (C), redesignated former subsec. (gg) as (ff) and repealed former subsec. (ff) which defined new installation.

Subsec. (gg). Pub. L. 89-121, § 1(4)(C), redesignated former subsec. (gg) as (ff).

1956—Subsec. (v)(2). Act Aug. 6, 1956, inserted "and 381—386" following "351—362".

1954—Subsec. (e). Act Apr. 27, 1954, § 2, obviated any possible construction that the Commission is empowered to assert common-carrier jurisdiction over point-to-point communication by radio between two points within a single State when the only possible claim that such an operation constitutes an interstate communication rests on the fact that the signal may traverse the territory of another State.

Subsec. (u). Act Apr. 27, 1954, § 3, inserted the reference to clauses (3) and (4) of section 152(b) of this title.

Subsec. (ee), "Existing installation". Act Aug. 13, 1954, ch. 729 added the provision.

Subsec. (ff), "New installation". Act Aug. 13, 1954, ch. 729 added the provision.

Subsec. (ee), "Great Lakes Agreement". Act Aug. 13, 1954, ch. 735 added the provision. Probably should be subsec. (gg).

1952—Subsecs. (bb), (cc), and (dd). Act July 16, 1952, added subsecs. (bb), (cc), and (dd).

1937—Subsecs. (w)—(aa). Act May 20, 1937, added subsecs. (w)—(aa).

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsec. (y)(2) effective Mar. 1, 1957, see note set out under section 381 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Subsec. (ee), "Great Lakes Agreement", added by act Aug. 13, 1954, ch. 735, effective November 13, 1954, see note under section 507 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 19 of act July 16, 1952, provided that: "This Act [amending sections 153-155, 307-312, 315, 316, 319, 402, 405, 409, and 410 of this title, and adding section 1343 of Title 18, Crimes and Criminal Procedure] shall take effect on the date of its enactment [July 16, 1952], but—

"(1) Insofar as the amendments made by this Act to the Communications Act of 1934 [this chapter] provide for procedural changes, requirements imposed by such changes shall not be mandatory as to any agency proceeding (as defined in the Administrative Procedure Act) [now covered by sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] with respect to which hearings have been commenced prior to the date of enactment of this Act [July 16, 1952].

"(2) The amendments made by this Act to section 402 of the Communications Act of 1934 [section 402 of this title] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952]."

SHORT TITLE

Congress in enacting amendments to sections 153—155, 307—312, 315, 316, 319, 402, 405, 409, and 410 of this title, and adding section 1343 of Title 18, Crimes and Criminal Procedure, provided by section 1 of act July 16, 1952, that they should be popularly known as the "Communications Act Amendments, 1952".

GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954, 3 UST 4926.

SAFETY CONVENTION

The United States is a party to the multilateral Convention or the Safety of Life at Sea, signed at London May 31, 1929, entered into force as to the United States, Nov. 7, 1936, 50 Stat. 1121, 1306.

CROSS REFERENCES

Charges or services, see section 202(b) of this title.

Contest for purposes of provisions relating to prohibited practices in contests of knowledge, skill, or chance, see section 509 of this title.

Employee as used in provisions relating to franks and passes, see section 210 of this title.

Line, see section 214(a) of this title.

Listening or viewing public for purposes of provisions relating to prohibited practices in contests of knowledge, skill, or chance, see section 509 of this title.

Overcharges as used in limitations of action provisions, see section 415 of this title.

Service or other valuable consideration as used in provisions relating to disclosure of payments to individuals connected with broadcasts, see section 508 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 924; title 18 section 2510.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 23–541 of the District of Columbia Code.

§ 154. Federal Communications Commission.

(a) Number of commissioners; appointment.

The Federal Communications Commission (in this chapter referred to as the "Commission") shall be composed of seven commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

(b) Qualifications.

Each member of the Commission shall be a citizen of the United States. No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this chapter, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this chapter. Such commissioners shall not engage in any other business, vocation, profession, or employment. Any such commissioner serving as such after one year from July 16, 1952, shall not for a period of one year following the termination of his services as a commissioner represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party.

(c) Terms of office; vacancies.

The commissioners first appointed under this chapter shall continue in office for the terms of one, two, three, four, five, six, and seven years, respectively, from the date of the taking effect of this chapter, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years and until their successors are appointed and have qualified, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office; except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

(d) Omitted.

(e) Principal office; special sessions.

The principal office of the Commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States.

(f) Employees and assistants; compensation of members of Field Engineering and Monitoring Bureau.

(1) The Commission shall have authority, subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

(2) Without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, each commissioner may appoint a legal assistant, an engineering assistant, and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, an administrative assistant who shall perform such duties as the chairman shall direct.

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of sections 351 to 362 of this title or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime exceeds beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided,* That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further,* That to the extent that the annual appropriations which are authorized to be made from the general fund of the Treasury are insufficient, there are authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary to the extent that the amounts

of such receipts are in excess of the amounts appropriated: *Provided further,* That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further,* That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed.

(g) Expenditures.

The Commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for office supplies, law books, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding $25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as from time to time may be appropriated for by Congress. All expenditures of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees, under their orders, in making any investigation or upon any official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission or by such other member or officer thereof as may be designated by the Commission for that purpose.

(h) Quorum; seal.

Four members of the Commission shall constitute a quorum thereof. The Commission shall have an official seal which shall be judicially noticed.

(i) Duties and powers.

The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.

(j) Conduct of proceedings; hearings.

The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the Commission and be heard in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

(k) Annual reports to Congress.

The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain—

(1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

(2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment;

(3) Repealed. Pub. L. 86–533, § 1(24), June 29, 1960, 74 Stat. 249.

(4) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this chapter or elsewhere under which such expenditures were made; and

(5) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Office of Management and Budget.

(*l*) Record of reports.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier or licensee that may have been complained of.

(m) Publication of reports; admissibility as evidence.

The Commission shall provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

(n) Compensation of appointees.

Rates of compensation of persons appointed under this section shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

(*o*) Use of communications in safety of life and property.

For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems. (June 19, 1934, ch. 652, § 4, 48 Stat. 1066; Jan. 22, 1936, ch. 25, 49 Stat. 1098; May 20, 1937, ch. 229, §§ 3, 4, 50 Stat. 190; Mar. 23, 1941, ch. 24, 55 Stat. 46; July 16, 1952, ch. 879, § 3, 66 Stat. 711;

Aug. 13, 1954, ch. 735, § 2, 68 Stat. 729; June 29, 1960, Pub. L. 86–533, § 1(24), 74 Stat. 249; July 12, 1960, Pub. L. 86–619, § 2, 74 Stat. 407; Sept. 13, 1960, Pub. L. 86–752, § 2, 74 Stat. 889; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

The civil service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954.

CODIFICATION

Subsec. (d) of this section which prescribed the basic compensation of the commissioners was omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5311 et seq. of Title 5, Government Organization and Employees.

Provisos in pars. (2) and (3) of subsec. (k), which required certain information to be contained in the first and second annual reports following July 16, 1952, were omitted as obsolete.

AMENDMENTS

1960—Subsec. (b). Pub. L. 86–752 deleted from subsec. (b) a provision that permitted commissioners to accept "reasonable honorarium or compensation" for "the presentation or delivery of publications or papers".

Subsec. (c). Pub. L. 86–619 provided for continuation in office of the commissioners upon termination of their term until their successors are appointed and have qualified, not beyond expiration of next session of Congress subsequent to the expiration of said fixed term of office.

Subsec. (k). Pub. L. 86–533 repealed par. (3), which required the report to contain information with respect to all persons taken into the employment of the Commission during the preceding year, together with the names of those persons who left the employ of the Commission during the year.

1954—Subsec. (f) (3). Act Aug. 13, 1954, substituted "engineers" for "inspectors" and "Field Engineering and Monitoring Bureau of the Federal Communications Commission" for "Field Division of the Engineering Department of the Federal Communications Commission" and extended provisions to include inspections required pursuant to the Great Lakes Agreement.

1952—Subsec. (b). Act July 16, 1952, § 3(a), prohibited commissioners from engaging in any other work except that they may present or deliver papers for an honorarium, and prohibited any commissioner from appearing before the Commission in a professional capacity for 1 year after termination of his services except that this prohibition would not apply where commissioner has completed his full term.

Subsec. (f). Act July 16, 1952, § 3(b), allowed the Commission to appoint employees, allowed each commissioner to appoint a legal assistant, and a secretary, and allowed the Chairman to appoint an administrative assistant.

Subsec. (g). Act July 16, 1952, § 3(c), authorized Commission to acquire land for monitoring stations and related facilities.

Subsec. (k). Act July 16, 1952, § 3(d), required Commission to make more detailed reports to Congress.

1941—Subsec. (f). Act Mar. 23, 1941, designated the existing paragraph as "(1)", and added paragraph (2).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment of subsec. (f)(3) by act Aug. 13, 1954, effective November 13, 1954, see note under section 507 of this title.

SHORT TITLE

Section 1 of Pub. L. 86–752 provided that Pub. L. 86–752, which added sections 508 and 509, and amended sections 154, 307, 309, 311, 312, 313, 317, 319, 405, 503 and 504 of this title, and enacted provisions set out as notes under sections 309 and 405 of this title, may be cited as the "Communications Act Amendments, 1960".

REPEALS

Act Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, which was formerly set out in the credit to this section, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

COMPENSATION OF CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Compensation of Chairman, see section 5314 of Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 44 on this section, see note by Advisory Committee under Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Proof of official records, see Rule 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 607 of this title and title 5 section 5549

§ 155. Commission.

(a) Chairman; duties; vacancy.

The member of the Commission designated by the President as chairman shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the Commission, to represent the Commission in all matters relating to legislation and legislative reports, except that any commissioner may present his own or minority views or supplemental reports, to represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies, and generally to coordinate and organize the work of the Commission in such manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission. In the case of a vacancy in the office of the chairman of the Commission, or the absence or inability of the chairman to serve, the Commission may temporarily designate one of its members to act as chairman until the cause or circumstance requiring such designation shall have been eliminated or corrected.

(b) Organization of staff.

Within six months after July 16, 1952, and from time to time thereafter as the Commission may find necessary, the Commission shall organize its staff into (1) integrated bureaus, to function on the

basis of the Commission's principal workload operations, and (2) such other divisional organizations as the Commission may deem necessary. Each such integrated bureau shall include such legal, engineering, accounting, administrative, clerical, and other personnel as the Commission may determine to be necessary to perform its functions.

(c) Repealed. Pub. L. 87-192, § 1, Aug. 31, 1961, 75 Stat. 420.

(d) Delegation of functions; exceptions to initial orders; force, effect and enforcement of orders; administrative and judicial review; qualifications and compensation of delegates; assignment of cases; separation of review and investigative or prosecuting functions; secretary; seal.

(1) When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by published rule or by order, delegate any of its functions (except functions granted to the Commission by this paragraph and by paragraphs (4), (5), and (6) of this subsection) to a panel of commissioners, an individual commissioner, an employee board, or an individual employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter; except that in delegating review functions to employees in cases of adjudication (as defined in the Administrative Procedure Act), the delegation in any such case may be made only to an employee board consisting of three or more employees referred to in paragraph (8) of this subsection. Any such rule or order may be adopted, amended, or rescinded only by a vote of a majority of the members of the Commission then holding office. Nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in clauses (2) and (3) of section 1006(a) of Title 5, of any hearing to which such section 1006(a) applies.

(2) As used in this subsection the term "order, decision, report, or action" does not include an initial, tentative, or recommended decision to which exceptions may be filed as provided in section 409(b) of this title.

(3) Any order, decision, report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4) of this subsection, shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as orders, decisions, reports, or other actions of the Commission.

(4) Any person aggrieved by any such order, decision, report or action may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe, and every such application shall be passed upon by the Commission. The Commission, on its own initiative, may review in whole or in part, at such time and in such manner as it shall determine, any order, decision, report, or action made or taken pursuant to any delegation under paragraph (1) of this subsection.

(5) In passing upon applications for review, the Commission may grant, in whole or in part, or deny such applications without specifying any reasons therefor. No such application for review shall rely on questions of fact or law upon which the panel of commissioners, individual commissioner, employee board, or individual employee has been afforded no opportunity to pass.

(6) If the Commission grants the application for review, it may affirm, modify, or set aside the order, decision, report, or action, or it may order a rehearing upon such order, decision, report, or action in accordance with section 405 of this title.

(7) The filing of an application for review under this subsection shall be a condition precedent to judicial review of any order, decision, report, or action made or taken pursuant to a delegation under paragraph (1) of this subsection. The time within which a petition for review must be filed in a proceeding to which section 402(a) of this title applies, or within which an appeal must be taken under section 402(b) of this title, shall be computed from the date upon which public notice is given of orders disposing of all applications for review filed in any case.

(8) The employees to whom the Commission may delegate review functions in any case of adjudication (as defined in the Administrative Procedure Act) shall be qualified, by reason of their training, experience, and competence, to perform such review functions, and shall perform no duties inconsistent with such review functions. Such employees shall be in a grade classification or salary level commensurate with their important duties, and in no event less than the grade classification or salary level of the employee or employees whose actions are to be reviewed. In the performance of such review functions such employees shall be assigned to cases in rotation so far as practicable and shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency.

(9) The secretary and seal of the Commission shall be the secretary and seal of each panel of the Commission, each individual commissioner, and each employee board or individual employee exercising functions delegated pursuant to paragraph (1) of this subsection.

(e) Meetings; reports.

Meetings of the Commission shall be held at regular intervals, not less frequently than once each calendar month, at which times the functioning of the Commission and the handling of its work load shall be reviewed and such orders shall be entered and other action taken as may be necessary or appropriate to expedite the prompt and orderly conduct of the business of the Commission with the objective of rendering a final decision (1) within three months from the date of filing in all original application, renewal, and transfer cases in which it will not be necessary to hold a hearing, and (2) within six months from the final date of the hearing in all hearing cases; and the Commission shall promptly report to the Congress each such case which has been pending before it more than such three- or six-month period, respectively, stating the reasons therefor. (June 19, 1934, ch. 652, § 5, 48

Stat. 1068; July 16, 1952, ch. 879, § 4, 66 Stat. 712; Aug. 31, 1961, Pub. L. 87–192, §§ 1, 2, 75 Stat. 420.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (d)(1) and (8), classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

Section 1006(a) of Title 5, referred to in subsec. (d)(1), was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general revision of Title 5 and is now covered by section 556(b) of Title 5.

AMENDMENTS

1961—Subsec. (c). Pub. L. 87–192, § 1, repealed subsec. (c), which provided for establishment of review staff, its composition, responsibility and duties.

Subsec. (d)(1). Pub. L. 87–192, § 2, substituted provisions which authorized the delegation of functions by published rule or by order to a panel of commissioners, an individual commissioner, an employee board, or an individual employee, and of review functions to an employee board of three or more employees, enumerated the functions to be delegated, with stated exceptions, and prescribed majority vote for orders delegating review functions for former provision which authorized the assignment of reference of work, business or functions by order to an individual commissioner or commisioners or to a board of one or more employees and eliminated provision concerning force, effect and enforcement of orders, now incorporated in par. (3) of this subsection.

Subsec. (d)(2). Pub. L. 87–192, § 2, added par. (2). The subject matter was formerly covered by the introductory words of former par. (1) of this subsection which read "Except as provided in section 409 of this title." Sentences 1 and 2 of former par. (2) redesignated pars. (4) and (6), respectively.

Subsec. (d)(3). Pub. L. 87–192, § 2, redesignated the second sentence of former par. (1) as par. (3) and substituted therein "report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4), shall have" and "other actions" for "report made, or other action taken, pursuant to any such order of assignment or reference shall, unless reviewed pursuant to paragraph (2), have" and "action", respectively. Former par. (3) redesignated (9).

Subsec. (d)(4). Pub. L. 87–192, § 2, redesignated the first sentence of former par. (2) as par. (4), included "action" in the enumeration, and added provision for review on initiative of the Commission.

Subsec. (d)(5). Pub. L. 87–192, § 2, added par. (5).

Subsec. (d)(6). Pub. L. 87–192, § 2, redesignated the second sentence of former par. (2) as par. (6), inserting "for review" following "applications" and substituting "the Commission", "the order", "it may order" and "in accordance with" for "it", "such order", "may order" and "under", respectively.

Subsec. (d) (7), (8). Pub. L. 87–192, § 2, added pars. (7) and (8).

Subsec. (d)(9). Pub. L. 87–192, § 2, redesignated former par. (3) as (9) and made it applicable to each panel of the Commission, each employee board instead of each board, and each individual employee.

1952—Act July 16, 1952, amended section generally to provide for the organization of the staff, integrated bureaus, and for a review staff.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 405, 409 of this title.

SUBCHAPTER II.—COMMON CARRIERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 153 of this title.

§ 201. Service and charges.

(a) It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes.

(b) All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful: *Provided,* That communications by wire or radio subject to this chapter may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as the Commission may decide to be just and reasonable, and different charges may be made for the different classes of communications: *Provided further,* That nothing in this chapter or in any other provision of law shall be construed to prevent a common carrier subject to this chapter from entering into or operating under any contract with any common carrier not subject to this chapter, for the exchange of their services, if the Commission is of the opinion that such contract is not contrary to the public interest: *Provided further,* That nothing in this chapter or in any other provision of law shall prevent a common carrier subject to this chapter from furnishing reports of positions of ships at sea to newspapers of general circulation, either at a nominal charge or without charge, provided the name of such common carrier is displayed along with such ship position reports. The Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter. (June 19, 1934, ch. 652, § 201, 48 Stat. 1070; May 31, 1938, ch. 296, 52 Stat. 588.)

AMENDMENTS

1938—Subsec. (b). Act May 31, 1938, added proviso relating to reports of positions of ships at sea.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 401 of this title.

§ 202. Discriminations and preferences.

(a) It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

(b) Charges or services, whenever referred to in this chapter, include charges for, or services in connection with, the use of common carrier lines of communication, whether derived from wire or radio facilities, in chain broadcasting or incidental to radio communication of any kind.

(c) Any carrier who knowingly violates the provisions of this section shall forfeit to the United

States the sum of $500 for each such offense and $25 for each and every day of the continuance of such offense. (June 19, 1934, ch. 652, § 202, 48 Stat. 1070; Sept. 13, 1960, Pub. L. 86-751, 74 Stat. 888.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86-751 substituted "common carrier lines of communication, whether derived from wire or radio facilities," for "wires."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 401 of this title.

§ 203. Schedules of charges; filing with Commission; changes in schedules; overcharges and rebates; penalty for violations.

(a) Every common carrier, except connecting carriers, shall, within such reasonable time as the Commission shall designate, file with the Commission and print and keep open for public inspection schedules showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communication between the different points on its own system, and between points on its own system and points on the system of its connecting carriers or points on the system of any other carrier subject to this chapter when a through route has been established, whether such charges are joint or separate, and showing the classifications, practices, and regulations affecting such charges. Such schedules shall contain such other information, and be printed in such form, and be posted and kept open for public inspection in such places, as the Commission may by regulation require, and each such schedule shall give notice of its effective date; and such common carrier shall furnish such schedules to each of its connecting carriers, and such connecting carriers shall keep such schedules open for inspection in such public places as the Commission may require.

(b) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after thirty days' notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe; but the Commission may, in its discretion and for good cause shown, modify the requirements made by or under authority of this section in particular instances or by a general order applicable to special circumstances or conditions.

(c) No carrier, unless otherwise provided by or under authority of this chapter, shall engage or participate in such communication unless schedules have been filed and published in accordance with the provisions of this chapter and with the regulations made thereunder; and no carrier shall (1) charge, demand, collect, or receive a greater or less or different compensation for such communication, or for any service in connection therewith, between the points named in any such schedule than the charges specified in the schedule then in effect, or (2) refund or remit by any means or device any portion of the charges so specified, or (3) extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulations, or practices affecting such charges, except as specified in such schedule.

(d) The Commission may reject and refuse to file any schedule entered for filing which does not provide and give lawful notice of its effective date. Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

(e) In case of failure or refusal on the part of any carrier to comply with the provisions of this section or of any regulation or order made by the Commission thereunder, such carrier shall forfeit to the United States the sum of $500 for each such offense, and $25 for each and every day of the continuance of such offense. (June 19, 1934, ch. 652, § 203, 48 Stat. 1070.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 401 of this title.

§ 204. Hearings on new charges; suspension pending hearing; refunds.

Whenever there is filed with the Commission any new charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, but not for a longer period than three months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed change of charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed increased charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased charges as by its decision shall be found not justified. At any hearing involving a charge increased, or sought to be increased, after the organization of the Commission, the burden of proof to show that the increased charge, or proposed increased charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. (June 19, 1934, ch. 652, § 204, 48 Stat. 1071.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 401, of this title.

§ 205. Commission authorized to prescribe just and reasonable charges; penalties for violations.

(a) Whenever, after full opportunity for hearing, upon a complaint or under an order for investigation and hearing made by the Commission on its own initiative, the Commission shall be of opinion that any charge, classification, regulation, or practice of

any carrier or carriers is or will be in violation of any of the provisions of this chapter, the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable charge or the maximum or minimum, or maximum and minimum, charge or charges to be thereafter observed, and what classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent that the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any charge other than the charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

(b) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of this section shall forfeit to the United States the sum of $1,000 for each offense. Every distinct violation shall be a separate offense, and in case of continuing violation each day shall be deemed a separate offense. (June 19, 1934, ch. 652, § 205, 48 Stat. 1072.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 401 of this title.

§ 206. Carriers' liability for damages.

In case any common carrier shall do, or cause or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this chapter, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case. (June 19, 1934, ch. 652, § 206, 48 Stat. 1072.)

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 54 on this section, see note by Advisory Committee under Rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see Rule 54.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 207. Recovery of damages.

Any person claiming to be damaged by any common carrier subject to the provisions of this chapter may either make complaint to the Commission as hereinafter provided for, or may bring suit for the recovery of the damages for which such common carrier may be liable under the provisions of this chapter, in any district court of the United States of competent jurisdiction; but such person shall not have the right to pursue both such remedies. (June 19, 1934, ch. 652, § 207, 48 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 208. Complaints to Commission; investigations.

Any person, any body politic, or municipal organization, or State commission, complaining of anything done or omitted to be done by any common carrier subject to this chapter, in contravention of the provisions thereof, may apply to said Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been caused, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. (June 19, 1934, ch. 652, § 208, 48 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 209. Orders for payment of money.

If, after hearing on a complaint, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this chapter, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named. (June 19, 1934, ch. 652, § 209, 48 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 210. Franks and passes; free service to governmental agencies in connection with national defense.

(a) Nothing in this chapter or in any other provision of law shall be construed to prohibit common carriers from issuing or giving franks to, or exchanging franks with each other for the use of, their officers, agents, employees, and their families, or, subject to such rules as the Commission may prescribe, from issuing, giving, or exchanging franks and passes to or with other common carriers not subject to the provisions of this chapter, for the use of their officers, agents, employees, and their families. The term "employees", as used in this section, shall include furloughed, pensioned, and superannuated employees.

(b) Nothing in this chapter or in any other provision of law shall be construed to prohibit common carriers from rendering to any agency of the Government free service in connection with the preparation for the national defense: *Provided*, That such free service may be rendered only in accordance with such rules and regulations as the Commission may prescribe therefor. (June 19, 1934, ch. 652, § 210, 48 Stat. 1073; June 25, 1940, ch. 422, 54 Stat. 570.)

AMENDMENTS

1940—Act June 25, 1940, designated original section as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 211. Contracts of carriers; filing with Commission.

(a) Every carrier subject to this chapter shall file with the Commission copies of all contracts, agreements, or arrangements with other carriers, or with common carriers not subject to the provisions of this chapter, in relation to any traffic affected by the provisions of this chapter to which it may be a party.

(b) The Commission shall have authority to require the filing of any other contracts of any carrier, and shall also have authority to exempt any carrier from submitting copies of such minor contracts as the Commission may determine. (June 19, 1934, ch. 652, § 211, 48 Stat. 1073.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 212. Interlocking directorates; officials dealing in securities.

After sixty days from June 19, 1934, it shall be unlawful for any person to hold the position of officer or director of more than one carrier subject to this chapter, unless such holding shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby: *Provided,* That the Commission may authorize persons to hold the position of officer or director in more than one such carrier, without regard to the requirements of this section, where it has found that one of the two or more carriers directly or indirectly owns more than 50 per centum of the stock of the other or others, or that 50 per centum or more of the stock of all such carriers is directly or indirectly owned by the same person. After this section takes effect it shall be unlawful for any officer or director of any carrier subject to this chapter to receive for his own benefit directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such carriers from any funds properly included in capital account. (June 19, 1934, ch. 652, § 212, 48 Stat. 1074; Aug. 2, 1956, ch. 874, § 1, 70 Stat. 931.)

AMENDMENTS

1956—Act Aug. 2, 1956, inserted proviso that Commission may authorize persons to hold position of officer or director in more than one carrier, where carrier owns more than 50 percent of the stock of the other carriers, or that 50 percent or more of the stock of all such carriers is owned by the same person, eliminated the word "such" preceding the word "carrier" in the sentence following the proviso, inserted "subject to this chapter" after that word, and substituted "carriers" for "carrier" toward the end of said sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 213. Valuation of property of carrier.

(a) The Commission may from time to time, as may be necessary for the proper administration of this chapter, and after opportunity for hearing, make a valuation of all or of any part of the property owned or used by any carrier subject to this chapter, as of such date as the Commission may fix.

(b) The Commission may at any time require any such carrier to file with the Commission an inventory of all or of any part of the property owned or used by said carrier, which inventory shall show the units of said property classified in such detail, and in such manner, as the Commission shall direct, and shall show the estimated cost of reproduction new of said units, and their reproduction cost new less depreciation, as of such date as the Commission may direct; and such carrier shall file such inventory within such reasonable time as the Commission by order shall require.

(c) The Commission may at any time require any such carrier to file with the Commission a statement showing the original cost at the time of dedication to the public use of all or of any part of the property owned or used by said carrier. For the showing of such original cost said property shall be classified, and the original cost shall be defined, in such manner as the Commission may prescribe; and if any part of such cost cannot be determined from accounting or other records, the portion of the property for which such cost cannot be determined shall be reported to the Commission; and, if the Commission shall so direct, the original cost thereof shall be estimated in such manner as the Commission may prescribe. If the carrier owning the property at the time such original cost is reported shall have paid more or less than the original cost to acquire the same, the amount of such cost of acquisition, and any facts which the Commission may require in connection therewith, shall be reported with such original cost. The report made by a carrier under this subsection shall show the source or sources from which the original cost reported was obtained, and such other information as to the manner in which the report was prepared, as the Commission shall require.

(d) Nothing shall be included in the original cost reported for the property of any carrier under subsection (c) of this section on account of any easement, license, or franchise granted by the United States or by any State or political subdivision thereof, beyond the reasonable necessary expense lawfully incurred in obtaining such easement, license, or franchise from the public authority aforesaid, which expense shall be reported separately from all other costs in such detail as the Commission may require; and nothing shall be included in any valuation of the property of any carrier made by the Commission on account of any such easement, license, or franchise, beyond such reasonable necessary expense lawfully incurred as aforesaid.

(e) The Commission shall keep itself informed of all new construction, extensions, improvements, retirements, or other changes in the condition, quantity, use, and classification of the property of common carriers, and of the cost of all additions and betterments thereto and of all changes in the investment therein, and may keep itself informed of current changes in costs and values of carrier properties.

(f) For the purpose of enabling the Commission to make a valuation of any of the property of any such carrier, or to find the original cost of such

property, or to find any other facts concerning the same which are required for use by the Commission, it shall be the duty of each such carrier to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and to cooperate with and aid the Commission in the work of making any such valuation or finding in such manner and to such extent as the Commission may require and direct, and all rules and regulations made by the Commission for the purpose of administering this section shall have the full force and effect of law. Unless otherwise ordered by the Commission, with the reasons therefor, the records and data of the Commission shall be open to the inspection and examination of the public. The Commission, in making any such valuation, shall be free to adopt any method of valuation which shall be lawful.

(g) Notwithstanding any provision of this chapter the Interstate Commerce Commission, if requested to do so by the Commission, shall complete, at the earliest practicable date, such valuations of properties of carriers subject to this chapter as are now in progress, and shall thereafter transfer to the Commission the records relating thereto.

(h) Nothing in this section shall impair or diminish the powers of any State commission. **(June 19, 1934, ch. 652, § 213, 48 Stat. 1074.)**

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 214. Extension of lines; certificate of public convenience and necessity; discontinuance of service.

(a) No carrier shall undertake the construction of a new line or of an extension of any line, or shall acquire or operate any line, or extension thereof, or shall engage in transmission over or by means of such additional or extended line, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line: *Provided,* That no such certificate shall be required under this section for the construction, acquisition, or operation of (1) a line within a single State unless such line constitutes part of an interstate line, (2) local, branch, or terminal lines not exceeding ten miles in length, or (3) any line acquired under section 221 or 222 of this title: *Provided further,* That the Commission may, upon appropriate request being made, authorize temporary or emergency service, or the supplementing of existing facilities, without regard to the provisions of this section. No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby; except that the Commission may, upon appropriate request being made, authorize temporary or emergency discontinuance, reduction, or impairment of service, or partial discontinuance, reduction, or impairment of service, without regard to the provisions of this section. As used in this section the term "line" means any channel of communication established by the use of appropriate equipment, other than a channel of communication established by the interconnection of two or more existing channels: *Provided, however,* That nothing in this section shall be construed to require a certificate or other authorization from the Commission for any installation, replacement, or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided.

(b) Upon receipt of an application for any such certificate, the Commission shall cause notice thereof to be given to, and shall cause a copy of such application to be filed with, the Secretary of the Army, the Secretary of the Navy, and the Governor of each State in which such line is proposed to be constructed, extended, acquired, or operated, or in which such discontinuance, reduction, or impairment of service is proposed, with the right to those notified to be heard; and the Commission may require such published notice as it shall determine.

(c) The Commission shall have power to issue such certificate as applied for, or to refuse to issue it, or to issue it for a portion or portions of a line, or extension thereof, or discontinuance, reduction, or impairment of service, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. After issuance of such certificate, and not before, the carrier may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, extension, acquisition, operation, or discontinuance, reduction, or impairment of service covered thereby. Any construction, extension, acquisition, operation, discontinuance, reduction, or impairment of service contrary to the provisions of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, the State commission, any State affected, or any party in interest.

(d) The Commission may, after full opportunity for hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier, party to such proceeding, to provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier and to extend its line or to establish a public office; but no such authorization or order shall be made unless the Commission finds, as to such provision of facilities, as to such establishment of public offices, or as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier which refuses or neglects to comply with any order

of the Commission made in pursuance of this subsection shall forfeit to the United States $100 for each day during which such refusal or neglect continues. (June 19, 1934, ch. 652, § 214, 48 Stat. 1075; Mar. 6, 1943, ch. 10, §§ 2—5, 57 Stat. 11.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1943—Subd. (a). Act Mar. 6, 1943, § 2, among other changes added all after "no carrier shall discontinue", etc.

Subd. (b). Act Mar. 6, 1943, § 3, among other changes provided notice should be filed with Secretary of War and the Secretary of the Navy.

Subd. (c). Act Mar. 6, 1943, § 4, extended provisions to include discontinuance, reduction, or impairment of service.

Subd. (d). Act Mar. 6, 1943, § 5, affected first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 721 of this title.

§ 215. Services, equipment, etc.; examination of transactions by Commission.

(a) The Commission shall examine into transactions entered into by any common carrier which relate to the furnishing of equipment, supplies, research, services, finances, credit, or personnel to such carrier and/or which may affect the charges made or to be made and/or the services rendered or to be rendered by such carrier, in wire or radio communication subject to this chapter, and shall report to the Congress whether any such transactions have affected or are likely to affect adversely the ability of the carrier to render adequate service to the public, or may result in any undue or unreasonable increase in charges or in the maintenance of undue or unreasonable charges for such service; and in order to fully examine into such transactions the Commission shall have access to and the right of inspection and examination of all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, of persons furnishing such equipment, supplies, research, services, finances, credit, or personnel. The Commission shall include in its report its recommendations for necessary legislation in connection with such transactions, and shall report specifically whether in its opinion legislation should be enacted (1) authorizing the Commission to declare any such transactions void or to permit such transactions to be carried out subject to such modification of their terms and conditions as the Commission shall deem desirable in the public interest; and/or (2) subjecting such transactions to the approval of the Commission where the person furnishing or seeking to furnish the equipment, supplies, research, services, finances, credit, or personnel is a person directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier; and/or (3) authorizing the Commission to require that all or any transactions of carriers involving the furnishing of equipment, supplies, research, services, finances, credit, or personnel to such carrier be upon competitive bids on such terms and conditions and subject to such regulations as it shall prescribe as necessary in the public interest.

(b) The Commission shall investigate the methods by which and the extent to which wire telephone companies are furnishing wire telegraph service and wire telegraph companies are furnishing wire telephone service, and shall report its findings to Congress, together with its recommendations as to whether additional legislation on this subject is desirable.

(c) The Commission shall examine all contracts of common carriers subject to this chapter which prevent the other party thereto from dealing with another common carrier subject to this chapter, and shall report its findings to Congress, together with its recommendations as to whether additional legislation on this subject is desirable. (June 19, 1934, ch. 652, § 215, 48 Stat. 1076.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 216. Receivers and trustees; application of chapter.

The provisions of this chapter shall apply to all receivers and operating trustees of carriers subject to this chapter to the same extent that it applies to carriers. (June 19, 1934, ch. 652, § 216, 48 Stat. 1077.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 217. Agents' acts and omissions; liability of carrier.

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or user as well as that of the person. (June 19, 1934, ch. 652, § 217, 48 Stat. 1077.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 218. Management of business; inquiries by Commission.

The Commission may inquire into the management of the business of all carriers subject to this chapter, and shall keep itself informed as to the manner and method in which the same is conducted and as to technical developments and improvements in wire and radio communication and radio transmission of energy to the end that the benefits of new inventions and developments may be made available to the people of the United States. The Commission may obtain from such carriers and from persons directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created. (June 19, 1934, ch. 652, § 218, 48 Stat. 1077.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 219. Reports by carriers; contents and requirements generally.

(a) The Commission is authorized to require annual reports from all carriers subject to this chapter, and from persons directly or indirectly controlling or controlled by, or under direct or indirect common control with any such carrier, to prescribe the manner in which such reports shall be made, and to require from such persons specific answers to all questions upon which the Commission may need information. Except as otherwise required by the Commission, such annual reports shall show in detail the amount of capital stock issued, the amount and privileges of each class of stock, the amounts paid therefor, and the manner of payment for the same; the dividends paid and the surplus fund, if any; the number of stockholders (and the names of the thirty largest holders of each class of stock and the amount held by each); the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the names of all officers and directors, and the amount of salary, bonus, and all other compensation paid to each; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to charges or regulations concerning charges, or agreements, arrangements, or contracts affecting the same, as the Commission may require.

(b) Such reports shall be for such twelve months' period as the Commission shall designate and shall be filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time is granted in any case by the Commission; and if any person subject to the provisions of this section shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission, for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such person shall forfeit to the United States the sum of $100 for each and every day it shall continue to be in default with respect thereto. The Commission may by general or special orders require any such carriers to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission is authorized or required by law to act. If any such carrier shall fail to make and file any such periodical or special report within the time fixed by the Commission, it shall be subject to the forfeitures above provided. (June 19, 1934, ch. 652, § 219, 48 Stat. 1077; Aug. 2, 1956, ch. 874, § 2, 70 Stat. 931; Apr. 27, 1962, Pub. L. 87–444, §§ 1, 2, 76 Stat. 63.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–444, § 1, deleted "under oath" following "require annual report."

Subsec. (b). Pub. L. 87–444, § 2, eliminated provisions that the periodical or special reports be under oath whenever the Commission so required.

1956—Subsec. (a). Act Aug. 2, 1956, substituted "Except as otherwise required by the Commission, such" for the word "Such" at the beginning of the second sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 220. Accounts, records, and memoranda; depreciation charges; forfeitures and penalties.

(a) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this chapter, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys.

(b) The Commission shall, as soon as practicable, prescribe for such carriers the classes of property for which depreciation charges may be properly included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. Such carriers shall not, after the Commission has prescribed the clasess[1] of property for which depreciation charges may be included, charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or after the Commission has prescribed percentages of depreciation, charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses.

(c) The Commission shall at all times have access to and the right of inspection and examination of all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry and the Commission may suspend a charge or credit pending submission of proof by such person. Any provision of law prohibiting the disclosure of the contents of messages or communications shall not be deemed to prohibit the disclosure of any matter in accordance with the provisions of this section.

(d) In case of failure or refusal on the part of any such carrier to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, memoranda, documents, papers, and correspondence as are kept to the inspection of the Commission or any of its authorized agents, such carrier shall forfeit to the United States the sum of $500 for each day of the continuance of each such offense.

[1] So in original. Probably should read "classes".

(e) Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by any such carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction, to a fine of not less than $1,000 or more than $5,000 or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, or documents which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

(f) No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

(g) After the Commission has prescribed the forms and manner of keeping of accounts, records, and memoranda to be kept by any person as herein provided, it shall be unlawful for such person to keep any other accounts, records, or memoranda than those so prescribed or such as may be approved by the Commission or to keep the accounts in any other manner than that prescribed or approved by the Commission. Notice of alterations by the Commission in the required manner or form of keeping accounts shall be given to such persons by the Commission at least six months before the same are to take effect.

(h) The Commission may classify carriers subject to this chapter and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

(i) The Commission, before prescribing any requirements as to accounts, records, or memoranda, shall notify each State commission having jurisdiction with respect to any carrier involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

(j) The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissions with respect to matters to which this section relates. (June 19, 1934, ch. 652, § 220, 48 Stat. 1078.)

CROSS REFERENCES

Offense punishable by imprisonment for term in excess of one year deemed a felony, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

§ 221. Telephone companies; consolidation; State jurisdiction over services, charges, etc., unaffected; determination of property used in interstate toll service; valuation.

(a) Upon application of one or more telephone companies for authority to consolidate their properties or a part thereof into a single company, or for authority for one or more such companies to acquire the whole or any part of the property of another telephone company or other telephone companies or the control thereof by the purchase of securities or by lease or in any other like manner, when such consolidated company would be subject to this chapter, the Commission shall give reasonable notice in writing to the governor of each of the States in which the physical property affected, or any part thereof, is situated, and to the State commission having jurisdiction over telephone companies, and to such other persons as it may deem advisable, and shall afford such parties a reasonable opportunity to submit comments on the proposal. A public hearing shall be held in all cases where a request therefor is made by a telephone company, an association of telephone companies, a State commission, or local governmental authority. If the Commission finds that the proposed consolidation, acquisition, or control will be of advantage to the persons to whom service is to be rendered and in the public interest, it shall certify to that effect; and thereupon any Act or Acts of Congress making the proposed transaction unlawful shall not apply. Nothing in this subsection shall be construed as in anywise limiting or restricting the powers of the several States to control and regulate telephone companies.

(b) Subject to the provisions of section 301 of this title, nothing in this chapter shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local governmental authority.

(c) For the purpose of administering this chapter as to carriers engaged in wire telephone communication, the Commission may classify the property of any such carrier used for wire telephone communication, and determine what property of said carrier shall be considered as used in interstate or foreign telephone toll service. Such classification shall be made after hearing, upon notice to the carrier, the State commission (or the Governor, if the State has no State commission) of any State in which the property of said carrier is located, and such other persons as the Commission may prescribe.

(d) In making a valuation of the property of any wire telephone carrier the Commission, after making the classification authorized in this section, may in its discretion value only that part of the property of such carrier determined to be used in interstate or foreign telephone toll service. (June 19, 1934, ch. 652, § 221, 48 Stat. 1080; Apr. 27, 1954, ch.

175, § 4, 68 Stat. 64; Aug. 2, 1956, ch. 874, § 3, 70 Stat. 931.)

AMENDMENTS

1956—Subsec. (a). Act Aug. 2, 1956, inserted provisions relating to submission of comments by parties and required a public hearing upon request, in lieu of former provisions requiring hearing upon application.

1954—Subsec. (b). Act Apr. 27, 1954, included mobile or point-to-point radio telephone exchange service within the exclusions provided for in such subsection, where it is subject to regulation by a State commission or by local governmental authority, and made it clear that the Commission retains its licensing authority over the radio stations that might be involved in such service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 401 of this title.

§ 222. Consolidations and mergers of telegraph carriers.

(a) Definitions.

As used in this section—

(1) The term "consolidation or merger" includes the legal consolidation or merger of two or more corporations, and the acquisition by a corporation through purchase, lease, or in any other manner, of the whole or any part of the property, securities, facilities, services, or business of any other corporation or corporations, or of the control thereof, in exchange for its own securities, or otherwise.

(2) The term "domestic telegraph carrier" means any common carrier by wire or radio, the major portion of whose traffic and revenues is derived from domestic telegraph operations; and such term includes a corporation owning or controlling any such common carrier.

(3) The term "international telegraph carrier" means any common carrier by wire or radio, the major portion of whose traffic and revenues is derived from international telegraph operations; and such term includes a corporation owning or controlling any such common carrier.

(4) The term "consolidated or merged carrier" means any carrier by wire or radio which acquires or operates the properties and facilities unified and integrated by consolidation or merger.

(5) The term "domestic telegraph operations" includes acceptance, transmission, reception, and delivery of record communications by wire or radio which either originate or terminate at points within the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico, or Newfoundland and terminate or originate at points within the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico, or Newfoundland, and includes acceptance, transmission, reception, or delivery performed within the continental United States between points of origin within and points of exit from, and between points of entry into and points of destination within, the continental United States with respect to record communications by wire or radio which either originate or terminate outside the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico, and Newfoundland, and also includes the transmission within the continental United States of messages which both originate and terminate outside but transit through the continental United States: *Provided*, That nothing in this section shall prevent international telegraph carriers from accepting and delivering international telegraph messages in the cities which constitute gateways approved by the Commission as points of entrance into or exit from the continental United States, under regulations prescribed by the Commission, and the incidental transmission or reception of the same over its own or leased lines or circuits within the continental United States.

(6) The term "international telegraph operations" includes acceptance, transmission, reception, and delivery of record communications by wire or radio which either originate or terminate at points outside the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico, and Newfoundland, but does not include acceptance, transmission, reception, and delivery performed within the continental United States between points of origin within and points of exit from, and between points of entry into, and points of destination within, the continental United States with respect to such communications, or the transmission within the continental United States of messages which both originate and terminate outside but transit through the continental United States.

(7) The terms "domestic telegraph properties" and "domestic telegraph facilities" mean properties and facilities, respectively, used or to be used in domestic telegraph operations.

(8) The term "employee" or "employees" (i) shall include any individual who is absent from active service because of furlough, illness, or leave of absence, except that there shall be no obligation upon the consolidated or merged carrier to reemploy any employee who is absent because of furlough, except in accordance with the terms of his furlough, and (ii) shall not include any employee of any carrier which is a party to a consolidation or merger pursuant to this section to the extent that he is employed in any business which such carrier continues to operate independently of the consolidation or merger.

(9) The term "representative" includes any individual or labor organization.

(10) The term "continental United States" means the District of Columbia and the States of the Union, except Hawaii.

(b) Consolidation or merger authorized; acquisition of facilities.

(1) It shall be lawful, upon application to and approval by the Commission as hereinafter provided, for any two or more domestic telegraph carriers to effect a consolidation or merger; and for any domestic telegraph carrier, as a part of any such consolidation or merger or thereafter, to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier which is not primarily a telegraph carrier: *Provided*, That, except as provided in paragraph (2) of this subsection, no domestic telegraph carrier shall effect a consolidation or merger with

any international telegraph carrier, and no international telegraph carrier shall effect a consolidation or merger with any domestic telegraph carrier.

(2) As a part of any such consolidation or merger, or thereafter upon application to and approval by the Commission as hereinafter provided, the consolidated or merged carrier may acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any international telegraph carrier.

(c) Application to Commission; public hearings; determination of public interest; approval; divestment of international operations.

(1) Whenever any consolidation or merger is proposed under subsection (b) of this section, the telegraph carrier or telegraph carriers seeking authority therefor shall submit an application to the Commission, and thereupon the Commission shall order a public hearing to be held with respect to such application and shall give reasonable notice thereof, in writing, and an opportunity to be heard, to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, the Secretary of the Army, the Attorney General of the United States, the Secretary of the Navy, representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable. If, after such public hearing, the Commission finds that the proposed consolidation or merger, or an amended proposal for consolidation or merger, (1) is authorized by subsection (a) of this section, (2) conforms to all other applicable provisions of this section, (3) is in the public interest, the Commission shall enter an order approving and authorizing such consolidation or merger, and thereupon any law or laws making consolidations and mergers unlawful shall not apply to the proposed consolidation or merger. In finding whether any proposed consolidation or merger is in the public interest the Commission shall give due consideration, among other things, to the financial soundness of the carrier resulting from such consolidation or merger.

(2) Any proposed consolidation or merger of domestic telegraph carriers shall provide for the divestment of the international telegraph operations theretofore carried on by any party to the consolidation or merger, within a reasonable time to be fixed by the Commission, after the consideration for the property to be divested is found by the Commission to be commensurate with its value, and as soon as the legal obligations, if any, of the carrier to be so divested will permit. The Commission shall require at the time of the approval of such consolidation or merger that any such party exercise due diligence in bringing about such divestment as promptly as it reasonably can.

(d) Alien ownership of capital stock.

No proposed consolidation or merger of telegraph carriers pursuant to this section shall be approved by the Commission if, as a result of such consolidation or merger, more than one-fifth of the capital stock of any carrier which is subject to the jurisdiction of the Commission will be owned or controlled, or voted, directly or indirectly, (1) by any alien or the representative of any alien, (2) by any foreign government or the representative thereof, (3) by any corporation organized under the laws of any foreign government, or (4) by any corporation of which any officer or director is an alien, or of which more than one-fifth of the capital stock is owned or controlled, or voted, directly or indirectly, by any alien or the representative of any alien, by any foreign government or the representative thereof, or by any corporation organized under the laws of a foreign government.

(e) Distribution of telegraph traffic among international carriers; contiguous foreign country defined; intervention of Commission; international and domestic operations construed.

(1) In the case of any consolidation or merger of telegraph carriers pursuant to this section, the consolidated or merged carrier shall, except as provided in paragraph (2) of this subsection, distribute among the international telegraph carriers, telegraph traffic by wire or radio destined to points without the continental United States, and divide the charges for such traffic, in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve: *Provided, however,* That in case the interested carriers should fail to agree upon a formula which the Commission approves as above provided, the Commission, after due notice and hearing, shall prescribe in its order approving and authorizing the proposed consolidation or merger a formula which it finds will be just, reasonable, equitable, and in the public interest, will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers, and will effectuate the purposes of this subsection.

(2) In the case of any consolidation or merger pursuant to this section of telegraph carriers which immediately prior to such consolidation or merger, interchanged traffic with telegraph carriers in a contiguous foreign country, the consolidated or merged carrier shall distribute among such foreign telegraph carriers, telegraph traffic by wire or radio destined to points in such contiguous foreign country and shall divide the charges therefor, in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve: *Provided, however,* That in case the interested carriers should fail to agree upon a formula which the Commission approves as above provided, the Commission, after due notice and hearing, shall prescribe in its order approving and authorizing the proposed consolidation or merger a formula which it finds will be just, reasonable, equitable, and in the public interest, will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers, and will effectuate the purposes of this subsection. As used in this paragraph, the term "contiguous foreign country" means Canada, Mexico, or Newfoundland.

(3) Whenever, upon a complaint or upon its own initiative, and after a full hearing, the Commission finds that any such distribution of telegraph traffic among telegraph carriers, or any such division of charges for such traffic, which is being made or which

is proposed to be made, is or will be unjust, unreasonable, or inequitable, or not in the public interest, the Commission shall by order prescribe the distribution of such telegraph traffic, or the division of charges therefor, which will be just, reasonable, equitable, and in the public interest, and will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers.

(4) For the purposes of this subsection, the international telegraph operations of any domestic telegraph carrier shall be considered to be the operations of an independent international telegraph carrier, and the domestic telegraph operations of any international telegraph carrier shall be considered to be the operations of an independent domestic telegraph carrier.

(f) Protection of employees.

(1) Each employee of any carrier which is a party to a consolidation or merger pursuant to this section who was employed by such carrier immediately preceding the approval of such consolidation or merger, and whose period of employment began on or before March 1, 1941, shall be employed by the carrier resulting from such consolidation or merger for a period of not less than four years from the date of the approval of such consolidation or merger, and during such period no such employee shall, without his consent, have his compensation reduced or be assigned to work which is inconsistent with his past training and experience in the telegraph industry.

(2) If any employee of any carrier which is a party to any such consolidation or merger, who was employed by such carrier immediately preceding the approval of such consolidation or merger, and whose period of employment began after March 1, 1941, is discharged as a consequence of such consolidation or merger by the carrier resulting therefrom, within four years from the date of approval of the consolidation or merger, such carrier shall pay such employee at the time he is discharged severance pay in cash equal to the amount of salary or compensation he would have received during the full four-week period immediately preceding such discharge at the rate of compensation or salary payable to him during such period, multiplied by the number of years he has been continuously employed immediately preceding such discharge by one or another of such carriers who were parties to such consolidation or merger, but in no case shall any such employee receive less severance pay than the amount of salary or compensation he would have received at such rate if he were employed during such full four-week period: *Provided, however,* That such severance pay shall not be required to be paid to any employee who is discharged after the expiration of a period, following the date of approval of the consolidation or merger, equal to the aggregate period during which such employee was in the employ, prior to such date of approval, of one or more of the carriers which are parties to the consolidation or merger.

(3) For a period of four years after the date of approval of any such consolidation or merger, any employee of any carrier which is a party to such consolidation or merger who was such an employee on such date of approval, and who is discharged as a result of such consolidation or merger, shall have a preferential hiring and employment status for any position for which he is qualified by training and experience over any person who has not theretofore been an employee of any such carrier.

(4) If any employee is transferred from one community to another, as a result of any such consolidation or merger, the carrier resulting therefrom shall pay, in addition to such employee's regular compensation as an employee of such carrier, the actual traveling expenses of such employee and his family, including the cost of packing, crafting, drayage, and transportation of household goods and personal effects.

(5) In the case of any consolidation or merger pursuant to this section, the consolidated or merged carrier shall accord to every employee or former employee, or representative or beneficiary of an employee or former employee, of any carrier which is a party to such consolidation or merger, the same pension, health, disability, or death insurance benefits, as were provided for prior to the date of approval of the consolidation or merger, under any agreement or plan of any carrier which is a party to the consolidation or merger which covered the greatest number of the employees affected by the consolidation or merger; except that in any case in which, prior to the date of approval of the consolidation or merger, an individual has exercised his right of retirement, or any right to health, disability, or death insurance benefits has accrued, under any agreement or plan of any carrier which is a party to the consolidation or merger, pension, health, disability, or death insurance benefits. as the case may be, shall be accorded in conformity with the agreement or plan under which such individual exercised such right of retirement or under which such right to benefits accrued. For purposes of determining and according the rights and benefits specified in this paragraph, any period spent in the employ of the carrier of which such individual was an employee at the time of the consolidation or merger shall be considered to have been spent in the employ of the consolidated or merged carrier. The application for approval of any consolidation or merger under this section shall contain a guaranty by the proposed consolidated carrier that there will be no impairment of any of the rights or benefits specified in this paragraph.

(6) Any employee who, since August 27, 1940, has left a position, other than a temporary position, in the employ of any carrier which is a party to any such consolidation or merger, for the purpose of entering the military or naval forces of the United States, shall be considered to have been in the employ of such carrier during the time he is a member of such forces, and, upon making an application for employment with the consolidated or merged carrier within forty days from the time he is relieved from service in any of such forces under honorable conditions, such former employee shall be employed by the consolidated or merged carrier and entitled to the benefits to which he would have been entitled if

he had been employed by one of such carriers during all of such period of service with such forces; except that this paragraph shall not require the consolidated or merged carrier, in the case of any such individual, to pay compensation, or to accord health, disability, or death insurance benefits, for the period during which he was a member of such forces. If any such former employee is disabled and because of such disability is no longer qualified to perform the duties of his former position but otherwise meets the requirements for employment, he shall be given such available employment at an appropriate rate of compensation as he is able to perform and to which his service credit shall entitle him.

(7) No employee of any carrier which is a party to any such consolidation or merger shall, without his consent, have his compensation reduced, or (except as provided in paragraphs (2) and (8) of this subsection) be discharged or furloughed during the four-year period after the date of the approval of such consolidation or merger. No such employee shall, without his consent, have his compensation reduced, or be discharged or furloughed, in contemplation of such consolidation and merger, during the six-month period immediately preceding such approval.

(8) Nothing contained in this subsection shall be construed to prevent the discharge of any employee for insubordination, incompetency, or any other similar cause.

(9) All employees of any carrier resulting from any such consolidation or merger, with respect to their hours of employment, shall retain the rights provided by any collective bargaining agreement in force and effect upon the date of approval of such consolidation or merger until such agreement is terminated, executed, or superseded. Notwithstanding any other provision of this chapter, any agreement not prohibited by law pertaining to the protection of employees may hereafter be entered into by such consolidated or merged carrier and the duly authorized representative or representatives of its employees selected according to existing law.

(10) For purposes of enforcement or protection of rights, privileges, and immunities granted or guaranteed under this subsection, the employees of any such consolidated or merged carrier shall be entitled to the same remedies as are provided by the National Labor Relations Act in the case of employees covered by that Act; and the National Labor Relations Board and the courts of the United States (including the courts of the District of Columbia) shall have jurisdiction and power to enforce and protect such rights, privileges, and immunities in the same manner as in the case of enforcement of the provisions of the National Labor Relations Act.

(11) Nothing contained in this subsection shall apply to any employee of any carrier which is a party to any such consolidation or merger whose compensation is at the rate of more than $5,000 per annum.

(12) Notwithstanding the provisions of paragraphs (1) and (7) of this subsection, the protection afforded therein for the period of four years from the date of approval of the consolidation or merger shall not, in the case of any particular employee, continue for a longer period, following such date of approval, than the aggregate period during which such employee was in the employ, prior to such date of approval, of one or more of the carriers which are parties to the consolidation or merger. As used in paragraphs (1), (2), and (7) of this subsection, the term "compensation" shall not include compensation attributable to overtime not guaranteed by collective bargaining agreements. (June 19, 1934, ch. 652, § 222, as added Mar. 6, 1943, ch. 10, § 1, 57 Stat. 5, and amended July 12, 1960, Pub. L. 86-624, § 36, 74 Stat. 421.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (f)(10), is classified to chapter 7 of Title 29, Labor.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1960—Subsec. (a)(10). Pub. L. 86-624 substituted "the District of Columbia and the States of the Union, except Hawaii" for "the several States and the District of Columbia."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 401 of this title; title 26 section 46.

§ 223. Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications.

Whoever—

(1) in the District of Columbia or in interstate or foreign communication by means of telephone—

(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent;

(B) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number;

(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(D) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

(2) knowingly permits any telephone under his control to be used for any purpose prohibited by this section,

shall be fined not more than $500 or imprisoned not more than six months, or both. (June 19, 1934, ch. 652, title II, § 223, as added May 3, 1968, Pub. L. 90-299, § 1, 82 Stat. 112.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 153 of this title.

SUBCHAPTER III.—SPECIAL PROVISIONS RELATING TO RADIO

PART I.—GENERAL PROVISIONS

§ 301. License for radio communication or transmission of energy.

It is the purpose of this chapter, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license. No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District; or (b) from any State, Territory, or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel; or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its borders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or (e) upon any vessel or aircraft of the United States; or (f) upon any other mobile stations within the jurisdiction of the United States, except under and in accordance with this chapter and with a license in that behalf granted under the provisions of this chapter. (June 19, 1934, ch. 652, § 301, 48 Stat. 1081.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 221, 303, 305, 306, 310, 328, 329, 360, 361 of this title.

§ 302. Repealed. June 5, 1936, ch. 511, § 1, 49 Stat. 1475.

Section, act June 19, 1934, ch. 652, § 302, 48 Stat. 1081, divided the United States into five zones for purposes of this subchapter.

§ 302a. Devices which interfere with radio reception; regulations; restrictions; exceptions.

(a) The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications. Such regulations shall be applicable to the manufacture, import, sale, offer for sale, shipment, or use of such devices.

(b) No person shall manufacture, import, sell, offer for sale, ship, or use devices which fail to comply with regulations promulgated pursuant to this section.

(c) The provisions of this section shall not be applicable to carriers transporting such devices without trading in them, to devices manufactured solely for export, to the manufacture, assembly, or installation of devices for its own use by a public utility engaged in providing electric service, or to devices for use by the Government of the United States or any agency thereof. Devices for use by the Government of the United States or any agency thereof shall be developed, procured, or otherwise acquired, including offshore procurement, under United States Government criteria, standards, or specifications designed to achieve the common objective of reducing interference to radio reception, taking into account the unique needs of national defense and security. (June 19, 1934, ch. 652, title III, § 302, as added July 5, 1968, Pub. L. 90–379, 82 Stat. 290.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 303. Powers and duties of Commission.

Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

(a) Classify radio stations;

(b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;

(c) Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;

(d) Determine the location of classes of stations or individual stations;

(e) Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein;

(f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this chapter: *Provided, however,* That changes in the frequencies, authorized power, or in the times of operation of any station, shall not be made without the consent of the station licensee unless, after a public hearing, the Commission shall determine that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this chapter will be more fully complied with;

(g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;

(h) Have authority to establish areas or zones to be served by any station;

(i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;

(j) Have authority to make general rules and regulations requiring stations to keep such records

of programs, transmissions of energy, communications, or signals as it may deem desirable;

(k) Have authority to exclude from the requirements of any regulations in whole or in part any radio station upon railroad rolling stock, or to modify such regulations in its discretion;

(*l*) (1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States, or citizens of the Trust Territory of the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory, as the Commission finds qualified, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;

(2) Notwithstanding section 301 of this title and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms and it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided,* That when an application for an authorization is received by the Commission, it shall noify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further,* That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(m) (1) Have authority to suspend the license of any operator upon proof sufficient to satisfy the Commission that the licensee—

(A) has violated any provision of any Act, treaty, or convention binding on the United States, which the Commission is authorized to administer, or any regulation made by the Commission under any such Act, treaty, or convention; or

(B) has failed to carry out a lawful order of the master or person lawfully in charge of the ship or aircraft on which he is employed; or

(C) has willfully damaged or permitted radio apparatus or installations to be damaged; or

(D) has transmitted superfluous radio communications or signals or communications containing profane or obscene words, language, or meaning, or has knowingly transmitted—

(1) false or deceptive signals or communications, or

(2) a call signal or letter which has not been assigned by proper authority to the station he is operating; or

(E) has willfully or maliciously interfered with any other radio communications or signals; or

(F) has obtained or attempted to obtain, or has assisted another to obtain or attempt to obtain, an operator's license by fraudulent means.

(2) No order of suspension of any operator's license shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee who may make written application to the Commission at any time within said fifteen days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have fifteen days in which to mail the said application. In the event that physical conditions prevent mailing of the application at the expiration of the fifteen-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be held in abeyance until the conclusion of the hearing which shall be conducted under such rules as the Commission may prescribe. Upon the conclusion of said hearing the Commission may affirm, modify, or revoke said order of suspension.

(n) Have authority to inspect all radio installations associated with stations required to be licensed by any Act or which are subject to the provisions of any Act, treaty, or convention binding on the United States, to ascertain whether in construction, installation, and operation they conform to the requirements of the rules and regulations of the Commission, the provisions of any Act, the terms of any treaty or convention binding on the United States, and the conditions of the license or other instrument of authorization under which they are constructed, installed, or operated.

(*o*) Have authority to designate call letters of all stations;

(p) Have authority to cause to be published such call letters and such other announcements and data as in the judgment of the Commission may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this chapter;

(q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation. The permittee or licensee shall maintain the painting and/or illumination of the tower as prescribed by the Commission pursuant to this section. In the event that the tower ceases to be licensed by the Commission for the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled, and the Commission

may require the owner to dismantle and remove the tower when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that it may constitute a menace to air navigation.

(r) Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter, or any international radio or wire communications treaty or convention, or regulations annexed thereto, including any treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party.

(s) Have authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting when such apparatus is shipped in interstate commerce; or is imported from any foreign country into the United States, for sale or resale to the public. (June 19, 1934, ch. 652, § 303, 48 Stat. 1082; May 20, 1937, ch. 229, §§ 5, 6 (a), (b), 50 Stat. 190, 191; Aug. 28, 1958, Pub. L. 85–817, § 1, 72 Stat. 981; Apr. 27, 1962, Pub. L. 87–445, 76 Stat. 64; July 10, 1962, Pub. L. 87–529, § 1, 76 Stat. 150; May 28, 1964, Pub. L. 88–313, § 1, 78 Stat. 202; Aug. 22, 1964, Pub. L. 88–487, § 2, 78 Stat. 602; Oct. 19, 1965, Pub. L. 89–268, 79 Stat. 990.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (*l*) (2), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1965—Subsec. (q). Pub. L. 89–268 required abandoned or unused radio towers to continue to meet the same painting and lighting requirements that would be applicable if such towers were being used in connection with transmission of radio energy pursuant to a license issued by the Commission and authorized the Commission to direct dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that they may constitute a menace to air navigation.

1964—Subsec. (*l*). Pub. L. 88–487 inserted "or citizens of the Trust Territory of the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory."

Pub. L. 88–313 designated existing provisions of subsec. (*l*) as par. (1), and added par. (2).

1962—Subsec. (*l*). Pub. L. 87–445 inserted "or nationals" following "citizens."

Subsec. (s). Pub. L. 87–529 added subsec. (s).

1958—Subsec. (*l*). Pub. L. 85–817 authorized Commission to waive citizenship requirement in issuing licenses for operation of radio stations on aircraft.

1937—Subsecs. (m) and (n). Act May 20, 1937, §§ 5, 6(a) amended subsecs. (m) and (n) generally.

Subsec. (r). Act May 20, 1937, § 6(b) added subsec. (r).

CROSS REFERENCES

Radiotelegraph operators licensed as ship's officers, see sections 229a to 229h of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 328, 329, 330, 360, 361 of this title.

§ 304. Waiver by license of claims to particular frequency or of ether.

No station license shall be granted by the Commission until the applicant therefor shall have signed a waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise. (June 19, 1934, ch. 652, § 304, 48 Stat. 1083.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 305. Government owned stations; regulations; stations on vessels; call letters; stations operated by foreign governments.

(a) Radio stations belonging to and operated by the United States shall not be subject to the provisions of sections 301 and 303 of this title. All such Government stations shall use such frequencies as shall be assigned to each or to each class by the President. All such stations, except stations on board naval and other Government vessels while at sea or beyond the limits of the continental United States, when transmitting any radio communication or signal other than a communication or signal relating to Government business, shall conform to such rules and regulations designed to prevent interference with other radio stations and the rights of others as the Commission may prescribe.

(b) Radio stations on board vessels of the Secretary of Commerce or the Inland and Coastwise Waterways Service shall be subject to the provisions of this title.

(c) All stations owned and operated by the United States, except mobile stations of the Army of the United States, and all other stations on land and sea, shall have special call letters designated by the Commission.

(d) The provisions of sections 301 and 303 of this title notwithstanding, the President may, provided he determines it to be consistent with and in the interest of national security, authorize a foreign government, under such terms and conditions as he may prescribe, to construct and operate at the seat of government of the United States a low-power radio station in the fixed service at or near the site of the embassy or legation of such foreign government for transmission of its messages to points outside the United States, but only (1) where he determines that the authorization would be consistent with the national interest of the United States and (2) where such foreign government has provided reciprocal privileges to the United States to construct and operate raido stations within territories subject to its jurisdiction. Foreign government stations authorized pursuant to the provisions of this subsection shall conform to such rules and regulations as the President may prescribe. The authorization of such stations, and the renewal, modification, suspension, revocation, or other termination of such authority shall be in accordance with such procedures as may be established by the President and shall not be subject to the other provisions of this chapter or of the Administrative Procedure Act. (June 19, 1934, ch. 652, § 305, 48 Stat. 1083; June 29, 1936, ch. 858, §§ 203, 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Oct. 11, 1962, Pub. L. 87–795, 76 Stat. 903.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (d), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1962—Subsec. (d). Pub. L. 87-795 added subsec. (d).

TRANSFER OF FUNCTIONS

Words, "United States Shipping Board Bureau or the United States Shipping Board Merchant Fleet Corporation", were omitted and "Secretary of Commerce" substituted therefor on authority of Ex. Ord. No. 6166, § 12, eff. June 10, 1933, which abolished the United States Shipping Board, act June 29, 1936, which dissolved the United States Shipping Board Merchant Fleet Corporation and transferred its property to the United States Maritime Commission, 1950 Reorg. Plan No. 21, under which the United States Maritime Commission was abolished and its functions and part of the functions of its Chairman transferred to the Federal Maritime Board and the Chairman thereof, such Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and under which the remainder of such Commission's functions and the functions of its Chairman were transferred to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the chairman of said Federal Maritime Board should, ex officio, be such Administrator, and 1961 Reorg. Plan No. 7, which abolished the Federal Maritime Board, including the offices of the members of the Board and transferred its functions either to the Federal Maritime Commission or to the Secretary of Commerce.

EXECUTIVE ORDER NO. 10995

Ex. Ord. No. 10995, Feb. 19, 1962, 27 F.R. 1519, as amended by Ex Ord. No. 11084, Feb. 18, 1963, 28 F.R. 1531, which related to the assignment of telecommunications management functions, was revoked by Ex. Ord. No. 11556, Sept. 14, 1970, 35 F.R. 14193, set out as a note under this section.

EX. ORD. NO. 11556. ASSIGNMENT OF TELECOMMUNICATION FUNCTIONS

Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970 [set out as a note under this section], it is hereby ordered as follows:

SECTION 1. *Amended and superseded orders.* Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos.10695-A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1963, to the extent not heretofore made inapplicable, are hereby revoked.

SEC. 2. *General functions.* Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission on telecommunications policy matters.

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advce and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) Coordinate the telecommunications activities of the executive branch and formulate policies and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(f) Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(g) Review telecommunications research and development system improvement and expansion programs, and programs for the testing, operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(*l*) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

SEC. 3. *Frequency assignments.* The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

SEC. 4. *War powers.* Executive Order No. 10705 of April 17, 1957 [set out as a note under section 606 of this title], headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, the authority vested in the President by subsections 606 (a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), (c), and (d)), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness."

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a) [section 606(a) of this title]".

SEC. 5. *Foreign government radio stations.* The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)), is hereby delegated to the Director. Authorization for the

construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

SEC. 6. *Office of Emergency Preparedness.* (a) Executive Order No. 11051 of September 27, 1962 [set out as a note under section 2271 of Title 50, Appendix, War and National Defense], headed "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301(4).

(2) Substituting for section 306 the following:

"SEC. 306. *Emergency telecommunication.* The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency."

(3) Deleting section 406.

SEC. 7. *Emergency preparedness.* Executive Order No. 11490 of October 28, 1969 [set out as a note under section 2292 of Title 50, Appendix, War and National Defense], headed "Assigning emergency preparedness functions to Federal departments and agencies," as amended, is hereby further amended (1) by substituting "Policy (35 F.R. 6421)" for "Management (OEP)" in section 401 (27), and (2) by substituting the number of this order for "10995" in section 1802 and in section 2002(3).

SEC. 8. *National Communications System.* The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall:"

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

SEC. 9. *Communications Satellite Act of 1962.* Executive Order No. 11191 of January 4, 1965 [set out as a note under section 721 of this title], headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy.", and

(b) Substituting the following for the catchline of section 2: *"Director of the Office of Telecommunications Policy."*

SEC. 10. *Advisory committees.* As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by laws, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SEC. 11. *Rules and regulations.* The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities delegated to or vested in him by this order.

SEC. 12. *Agency assistance.* All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

SEC. 13. *Functions of the Secretary of Commerce.* The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibiilties for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

SEC. 14. *Retention of existing authority.* (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON

OFFICE OF EMERGENCY PREPAREDNESS

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90–608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

ABOLITION OF OFFICE OF ASSISTANT DIRECTOR OF OFFICE OF EMERGENCY PREPAREDNESS

The office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Ex. Ord. No. 10995, Feb. 16, 1962, 27 F.R. 1519, formerly set out as a note under this section, was abolished by section 5 of the Reorganization Plan No. 1 of 1970, set out as a note under this section.

REORGANIZATION PLAN NO. 1 OF 1970

EFF. APR. 20, 1970, 35 F.R. 6421, 84 STAT.——.

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, February 9, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF TELECOMMUNICATIONS POLICY

SECTION 1. TRANSFER OF FUNCTIONS

The functions relating to assigning frequencies to radio stations belonging to and operated by the United States, or to classes thereof, conferred upon the President by the provisions of section 305(a) of the Communications Act of 1934, 47 U.S.C. 305(a), are hereby transferred to the Director of the Office of Telecommunications Policy hereinafter provided for.

SEC. 2. ESTABLISHMENT OF OFFICE

There is hereby established in the Executive Office of the President the Office of Telecommunications Policy, hereinafter referred to as the Office.

SEC. 3. DIRECTOR AND DEPUTY

(a) There shall be at the head of the Office the Director of the Office of Telecommunications Policy, hereinafter

referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) There shall be in the Office a Deputy Director of the Office of Telecommunications Policy who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director may from time to time prescribe and, unless the President shall designate another person to so act, shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

SEC. 4. PERFORMANCE OF FUNCTIONS OF DIRECTOR

(a) The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

(b) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function transferred to him hereunder by any other officer, or by any organizational entity or employee, of the Office.

SEC. 5. ABOLITION OF OFFICE

That office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Executive Order No. 10995 of February 16, 1962, as amended, is abolished. The Director of the Office of Emergency Preparedness shall make such provisions as he may deem to be necessary with respect to winding up any outstanding affairs of the office abolished by the foregoing provisions of this section.

SEC. 6. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, or used by, or available or to be made available to, the Office of Emergency Preparedness in connection with functions affected by the provisions of this reorganization plan as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine shall be transferred to the Office of Telecommunications Policy at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. INTERIM DIRECTOR

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Telecommunications Policy until the office of Director is for the first time filled pursuant to the provisions of section 3 of this reorganization plan or by recess appointment, as the case may be. The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office of Director. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We live in a time when the technology of telecommunications is undergoing rapid change which will dramatically affect the whole of our society. It has long been recognized that the executive branch of the Federal government should be better equipped to deal with the issues which arise from telecommunications growth. As the largest single user of the nation's telecommunications facilities, the Federal government must also manage its internal communications operations in the most effective manner possible.

Accordingly, I am today transmitting to the Congress Reorganization Plan No. 1 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code.

That plan would establish a new Office of Telecommunications Policy in the Executive Office of the President. The new unit would be headed by a Director and a Deputy Director who would be appointed by the President with the advice and consent of the Senate. The existing office held by the Director of Telecommunications Management in the Office of Emergency Preparedness would be abolished.

In addition to the functions which are transferred to it by the reorganization plan, the new Office would perform certain other duties which I intend to assign to it by Executive order as soon as the reorganization plan takes effect. That order would delegate to the new Office essentially those functions which are now assigned to the Director of Telecommunications Management. The Office of Telecommunications Policy would be assisted in its research and analysis responsibilities by the agencies and departments of the Executive Branch including another new office, located in the Department of Commerce.

The new Office of Telecommunications Policy would play three essential roles:

1. It would serve as the President's principal adviser on telecommunications policy, helping to formulate government policies concerning a wide range of domestc and international telecommunications issues and helping to develop plans and programs which take full advantage of the nation's technological capabilities. The speed of economic and technological advance in our time means that new questions concerning communications are constantly arising, questions on which the government must be well informed and well advised. The new Office will enable the President and all government officials to share more fully in the experience, the insights, and the forecasts of government and non-government experts.

2. The Office of Telecommunications Policy would help formulate policies and coordinate operations for the Federal government's own vast communications systems. It would, for example, set guidelines for the various departments and agencies concerning their communications equipment and services. It would regularly review the ability of government communications systems to meet the security needs of the nation and to perform effectively in time of emergency. The Office would direct the assignment of those portions of the radio spectrum which are reserved for government use, carry out responsibilities conferred on the President by the Communications Satellite Act, advise State and local governments, and provide policy direction for the National Communications System.

3. Finally, the new Office would enable the executive branch to speak with a clearer vote and to act as a more effective partner in discussions of communications policy with both the Congress and the Federal Communications Commission. This action would take away none of the prerogatives or functions assigned to the Federal Communications Commission by the Congress. It is my hope, however, that the new Office and the Federal Communications Commission would cooperate in achieving certain reforms in telecommunications policy, especially in their procedures for allocating portions of the radio spectrum for government and civilian use. Our current procedures must be more flexible if they are to deal adequately with problems such as the worsening spectrum shortage.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the government to the fullest extent practicable."

The reorganization provided for in this plan make necessary the appointment and compensation of new officers, as specified in sections 3(a) and 3(b) of the plan. The rates of compensation fixed for these officers are com-

parable to those fixed for other officers in the executive branch who have similar responsibilities.

This plan should result in the more efficient operation of the government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

The public interest requires that government policies concerning telecommunications be formulated with as much sophistication and vision as possible. This reorganization plan—and the executive order which would follow it—are necessary instruments if the government is to respond adequately to the challenges and opportunities presented by the rapid pace of change in communications. I urge that the Congress allow this plan to become effective so that these necessary reforms can be accomplished.

RICHARD NIXON.

THE WHITE HOUSE, February 9, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361, of this title.

§ 306. Foreign ships; application of section 301.

Section 301 of this title shall not apply to any person sending radio communications or signals on a foreign ship while the same is within the jurisdiction of the United States, but such communications or signals shall be transmitted only in accordance with such regulations designed to prevent interference as may be promulgated under the authority of this chapter. (June 19, 1934, ch. 652, § 306, 48 Stat. 1083.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 307. Licenses; allocation of facilities; terms; renewals.

(a) The Commission, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this chapter, shall grant to any applicant therefor a station license provided for by this chapter.

(b) In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

(c) Omitted.

(d) No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed three years in the case of broadcasting licenses, and not to exceed five years in the case of other licenses, if the Commission finds that public interest, convenience, and necessity would be served thereby. In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings. Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 of this title, the Commission shall continue such license in effect. Consistently with the foregoing provisions of this subsection, the commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, public interest, convenience, or necessity would be served by such action.

(e) No renewal of an existing station license in the broadcast or the common carrier services shall be granted more than thirty days prior to the expiration of the original license. (June 19, 1934, ch. 652, § 307, 48 Stat. 1083; June 5, 1936, ch. 511, § 2, 49 Stat. 1475; July 16, 1952, ch. 879, § 5, 66 Stat. 714; Sept. 13, 1960, Pub. L. 86-752, § 3, 74 Stat. 889; Apr. 27, 1962, Pub. L. 87-439, 76 Stat. 58.)

CODIFICATION

Subsec. (c), which required the Commission to study proposal that Congress allocate fixed percentages of broadcasting facilities to nonprofit activities and report recommendations, with reasons, to Congress not later than Feb. 1, 1935, was omitted as executed.

AMENDMENTS

1962—Subsec. (e). Pub. L. 87-439 inserted "in the broadcast or the common carrier services" preceding "shall be granted."

1960—Subsec. (d). Pub. L. 86-752 added the last sentence dealing with the Commission's authority to grant licenses for periods shorter than 3 years.

1952—Subsec. (d). Act July 16, 1952, provided that upon the expiration of any license, any renewal applied for may be granted "if the Commission finds that public interest, convenience, and necessity would be served thereby", and provided that pending a hearing and final decision on an application for renewal and the disposition of any petition for a rehearing the Commission shall continue the license in effect.

1936—Subsec. (b). Act June 5, 1936 amended subsec. (b) generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 320, 329, 360, 361 of this title.

§ 308. Same; application; conditions and restrictions in license for foreign communication.

(a) The Commission may grant construction permits and station licenses, or modifications or renewals thereof, only upon written application therefor received by it: *Provided*, That (1) in cases of emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, or (3) in cases of emergency where the Commission finds, in the nonbroadcast services, that it would not be feasible to secure renewal applications from existing licensees

or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, during the emergency so found by the Commission or during the continuance of any such national emergency or war, in such manner and upon such terms and conditions as the Commission shall by regulation prescribe, and without the filing of a formal application, but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it: *Provided further,* That the Commission may issue by cable, telegraph, or radio a permit for the operation of a station on a vessel of the United States at sea, effective in lieu of a license until said vessel shall return to a port of the continental United States.

(b) All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of any such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee.

(c) The Commission in granting any license for a station intended or used for commercial communication between the United States or any Territory or possession, continental or insular, subject to the jurisdiction of the United States, and any foreign country, may impose any terms, conditions, or restrictions authorized to be imposed with respect to submarine-cable licenses by section 35 of this title. (June 19, 1934, ch. 652, § 308, 48 Stat. 1084; July 16, 1952, ch. 879, § 6, 66 Stat. 714; Apr. 27, 1962. Pub. L. 87-444, § 3, 76 Stat. 63.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-444 deleted the requirement that applications or statements of fact were to be signed under oath or affirmation.

1952—Subsec. (a). Act July 16, 1952, § 6(a) provided that the Commission may grant construction permits and station licenses, or modifications or renewals, only upon written application except that during war or emergency periods no formal application need be filed.

Subsec. (b). Act July 16, 1952, § 6(b), substituted "All applications for station licenses or modifications or renewals thereof, shall set forth" in lieu of "All such applications shall set forth."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 309, 310, 312, 328, 329, 360, 361 of this title.

§ 309. Application for license.

(a) Considerations in granting application.

Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 of this title applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

(b) Time of granting application.

Except as provided in subsection (c) of this section, no such application—

(1) for an instrument of authorization in the case of a station in the broadcasting or common carrier, services, or

(2) for an instrument of authorization in the case of a station in any of the following categories:

(A) fixed point-to-point microwave stations (exclusive of control and relay stations used as integral parts of mobile radio systems),

(B) industrial radio positioning stations for which frequencies are assigned on an exclusive basis,

(C) aeronautical en route stations,

(D) aeronautical advisory stations,

(E) airdrome control stations,

(F) aeronautical fixed stations, and

(G) such other stations or classes of stations, not in the broadcasting or common carrier services, as the Commission shall by rule prescribe,

shall be granted by the Commission earlier than thirty days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof.

(c) Applications not affected by subsection (b).

Subsection (b) of this section shall not apply—

(1) to any minor amendment of an application to which such subsection is applicable, or

(2) to any application for—

(A) A minor change in the facilities of an authorized station,

(B) consent to an involuntary assignment or transfer under section 310(b) of this title or to an assignment or transfer thereunder which does not involve a substantial change in ownership or control,

(C) a license under section 319(c) of this title or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license,

(D) extension of time to complete construction of authorized facilities,

(E) an authorization of facilities for remote pickups, studio links and similar facilities for use in the operation of a broadcast station,

(F) authorizations pursuant to section 325(b) of this title where the programs to be transmitted are special events not of a continuing nature,

(G) a special temporary authorization for nonbroadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed or not to exceed sixty days pending the filing of an application for such regular operation, or

(H) an authorization under any of the proviso clauses of section 308(a) of this title.

(d) Petition to deny application; time; contents; reply; findings.

(1) Any party in interest may file with the Commission a petition to deny any application (whether as originally filed or as amended) to which subsection (b) of this section applies at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing; except that with respect to any classification of applications, the Commission from time to time by rule may specify a shorter period (no less than thirty days following the issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof), which shorter period shall be reasonably related to the time when the applications would normally be reached for processing. The petitioner shall serve a copy of such petition on the applicant. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with subsection (a) of this section. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant shall be given the opportunity to file a reply in which allegations of fact or denials thereof shall similarly be supported by affidavit.

(2) If the Commission finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there are no substantial and material questions of fact and that a grant of the application would be consistent with subsection (a) of this section, it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition, which statement shall dispose of all substantial issues raised by the petition. If a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a) of this section, it shall proceed as provided in subsection (e) of this section.

(e) Hearings; intervention; evidence; burden of proof.

If, in the case of any application to which subsection (a) of this section applies, a substantial and material question of fact is presented or the Commission for any reason is unable to make the finding specified in such subsection, it shall formally designate the application for hearing on the ground or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. When the Commission has so designated an application for hearing, the parties in interest, if any, who are not notified by the Commission of such action may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

(f) Temporary authorization of emergency operations under subsection (b).

When an application subject to subsection (b) of this section has been filed, the Commission, notwithstanding the requirements of such subsection, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring emergency operations in the public interest and that delay in the institution of such emergency operations would seriously prejudice the public interest, grant a temporary authorization, accompanied by a statement of its reasons therefor, to permit such emergency operations for a period not exceeding ninety days, and upon making like findings may extend such temporary authorization for one additional period not to exceed ninety days. When any such grant of a temporary authorization is made, the Commission shall give expeditious treatment to any timely filed petition to deny such application and to any petition for rehearing of such grant filed under section 405 of this title.

(g) Classification of applications.

The Commission is authorized to adopt reasonable classifications of applications and amendments in order to effectuate the purposes of this section.

(h) Form and conditions of station licenses.

Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this chapter; (3) every license issued under this chapter shall be subject in terms to the right of use or control conferred by section 606 of this title. (June 19, 1934, ch. 652, § 309, 48 Stat. 1085; July 16, 1952, ch. 879, § 7, 66 Stat. 715; Mar. 26, 1954, ch. 110, 68 Stat. 35; Jan. 20, 1956, ch. 1, 70 Stat. 3; Sept. 13, 1960, Pub. L. 86-752, § 4(a), 74 Stat. 889; May 14, 1964, Pub. L. 88-306, 78 Stat. 193; May 14, 1964, Pub. L. 88-307, 78 Stat. 194.)

AMENDMENTS

1964—Subsec. (c)(2)(G). Pub. L. 88-307 inserted "not to exceed sixty days."

Subsec. (e). Pub. L. 88-306 substituted "not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register" for "at any time not less than ten days prior to the date of hearing."

1960—Pub. L. 86-752 amended section generally to revise pre-grant procedure, and, among other changes, a public notice was substituted for a mandatory notice to applicants and interested parties before hearings upon applications; the Commission was required to hold applications for 30 days before acting upon them without hearings; interested parties were permitted to file petitions to deny applications before the Commission acted upon them without hearings, in lieu of 30 days after applications were granted; interested parties were required to support their petitions with "specific" allegations of fact; the Commission was permitted to dispense with formal hearings when there are "no substantial or material questions of fact," subject to a requirement that it issue a "concise statement of the reasons" for its action.

1956—Subsec. (c). Act Jan. 20, 1956 eliminated hearings with respect to facts which, even if true, would not be grounds for setting aside the Commission's grant; gave the Commission discretion to keep in effect the protested authorization but required the Commission to affirmatively find and set forth that the public interest requires grant to remain in effect; and authorized Commission to redraft issues urged by protestant in accordance with the facts alleged in the protest.

1954—Subsec. (c). Act Mar. 26, 1954, in fourth sentence, substituted "thirty days" for "fifteen days."

1952—Act July 16, 1952, amended section generally to set forth the procedure to be followed in cases of denial of applications.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4(d) (1)—(3) of Pub. L. 86-752 provided that:

"(1) Subsections (a) and (b) of this section [amending this section and section 319(c) of this title] shall take effect ninety days after the date of the enactment of this Act [Sept. 13, 1960].

"(2) Section 309 of the Communications Act of 1934 (as amended by subsection (a) of this section) [this section] shall apply to any application to which section 308 of such Act [section 308 of this title] applies (A) which is filed on or after the effective date of subsection (a) of this section, (B) which is filed before such effective date, but is substantially amended on or after such effective date, or (C) which is filed before such effective date and is not substantially amended on or after such effective date, but with respect to which the Commission by rule provides reasonable opportunity to file petitions to deny in accordance with section 309 of such Act (as amended by subsection (a) of this section) [this section].

"(3) Section 309 of the Communications Act of 1934 [this section], as in effect immediately before the effective date of subsection (a) of this section, shall, on and after such effective date, apply only to applications to which section 308 of such Act [section 308 of this title] apply which are filed before such effective date and not substantially amended on or after such effective date and with respect to which the Commission does not permit petitions to deny to be filed as provided in clause (C) of paragraph (2) of this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 311, 319, 325, 328, 329, 360, 361 of this title.

§ 310. Alien ownership as barring station license; assignment and transfer of construction permit or station license; authorizations permitted in cases of bilateral international agreements.

(a) The station license required shall not be granted to or held by—

(1) Any alien or the representative of any alien;

(2) Any foreign government or the representative thereof;

(3) Any corporation organized under the laws of any foreign government;

(4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted, after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

Notwithstanding paragraph (1) of this subsection, a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

Notwithstanding section 301 of this title and paragraphs (1) and (2) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided,* That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further,* That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(b) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to

the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 of this title for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee. (June 19, 1934, ch. 652, § 310, 48 Stat. 1086; July 16, 1952, ch. 879, § 8, 66 Stat. 716; Aug. 28, 1958, Pub. L. 85-817, § 2, 72 Stat. 981; May 28, 1964, Pub. L. 88-313, § 2, 78 Stat. 202.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (a), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-313 empowered the Commission to issue authorizations to permit an alien licensed by his government as an amateur radio operator to operate his station, licensed by his government, in the United States, its possessions, and Puerto Rico, provided there is a bilateral agreement between the United States and the alien's government giving similar rights to United States amateur radio operators, and provided that the Commission notify appropriate agencies of our Government of any applications for authorization, and that such agencies furnish to the Commission information bearing on the request's compatibility with our national security.

1958—Subsec. (a). Pub. L. 85-817 added paragraph authorizing the grant of licenses for radio stations on aircraft to aliens or representatives of aliens holding pilot certificates.

1952—Subsec. (b). Act July 16, 1952, provided that construction permits and station licenses cannot be transferred, assigned, or disposed of except upon a finding by the Commission that public interest, convenience, or necessity will be served thereby, and that such transfer application will be treated the same as if made under section 308 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 309, 328, 329, 360, 361, 734 of this title; title 40 section 782.

§ 311. Requirements as to certain applications in the broadcasting service.

(a) Notices of filing and hearing; form and contents.

When there is filed with the Commission any application to which section 309(b)(1) of this title applies, for an instrument of authorization for a station in the broadcasting service, the applicant—

(1) shall give notice of such filing in the principal area which is served or is to be served by the station; and

(2) if the application is formally designated for hearing in accordance with section 309 of this title, shall give notice of such hearing in such area at least ten days before commencement of such hearing.

The Commission shall by rule prescribe the form and content of the notices to be given in compliance with this subsection, and the manner and frequency with which such notices shall be given.

(b) Place of hearing.

Hearings referred to in subsection (a) of this section may be held at such places as the Commission shall determine to be appropriate, and in making such determination in any case the Commission shall consider whether the public interest, convenience, or necessity will be served by conducting the hearing at a place in, or in the vicinity of, the principal area to be served by the station involved.

(c) Agreement between two or more applicants; approval of Commission; pendency of application.

(1) If there are pending before the Commission two or more applications for a permit for construction of a broadcasting station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications.

(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall by rule require.

(3) The Commission shall approve the agreement only if it determines that the agreement is consistent with the public interest, convenience, or necessity. If the agreement does not contemplate a merger, but contemplates the making of any direct or indirect payment to any party thereto in consideration of his withdrawal of his application, the Commission may determine the agreement to be consistent with the public interest, convenience, or necessity only if the amount or value of such payment, as determined by the Commission, is not in excess of the aggregate amount determined by the Commission to have been legitimately and prudently expended and to be expended by such applicant in connection with preparing, filing, and advocating the granting of his application.

(4) For the purposes of this subsection an application shall be deemed to be "pending" before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court. (June 19, 1934, ch. 652, § 311, 48 Stat. 1086; July 16, 1952, ch. 879, § 9, 66 Stat. 716; Sept. 13, 1960, Pub. L. 86-752, § 5(a), 74 Stat. 892.)

AMENDMENTS

1960—Pub. L. 86-752 amended section generally, substituting provisions on requirements for certain applications for broadcasting service, for provisions directing the Commission to refuse a license or permit to any person whose license had been revoked by a court under section 313 of this title.

1952—Act July 16, 1952 omitted provisions relating to monopoly.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 312. Administrative sanctions.

(a) Revocation of station license or construction permit.

The Commission may revoke any station license or construction permit—

(1) for false statements knowingly made either in the application or in any statement of fact

which may be required pursuant to section 308 of this title;

(2) because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application;

(3) for willful or repeated failure to operate substantially as set forth in the license;

(4) for willful or repeated violation of, or willful or repeated failure to observe any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States;

(5) for violation of or failure to observe any final cease and desist order issued by the Commission under this section; or

(6) for violation of section 1304, 1343, or 1464 of Title 18.

(b) Cease and desist orders.

Where any person (1) has failed to operate substantially as set forth in a license, (2) has violated or failed to observe any of the provisions of this act, or section 1304, 1343, or 1464 of Title 18, or (3) has violated or failed to observe any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States, the Commission may order such person to cease and desist from such action.

(c) Order to show cause.

Before revoking a license or permit pursuant to subsection (a) of this section, or issuing a cease and desist order pursuant to subsection (b) of this section, the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why an order of revocation or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period. If after hearing, or a waiver thereof, the Commission determines that an order of revocation or a cease and desist order should issue, it shall issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor and specify the effective date of the order, and shall cause the same to be served on said licensee, permittee, or person.

(d) Burden of proof.

In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

(e) Procedure for issuance of cease and desist order.

The provisions of section 1008 (b) of Title 5 which apply with respect to the institution of any proceeding for the revocation of a license or permit shall apply also with respect to the institution, under this section, of any proceeding for the issuance of a cease and desist order. (June 19, 1934, ch. 652, § 312, 48 Stat. 1086; July 16, 1952, ch. 879, § 10, 66 Stat. 716; Sept. 13, 1960, Pub. L. 86–752, § 6, 74 Stat. 893.)

REFERENCES IN TEXT

Section 1008(b) of Title 5, referred to in subsec. (e), was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general revision of Title 5 and is now covered by section 558(c)(1), (2), of Title 5, Government Organization and Employees.

AMENDMENTS

1960—Pub. L. 86–752 amended subsecs. (a) and (b) to add provisions referring to sections 1304, 1343 and 1464 of Title 18.

1952—Act July 16, 1952, amended section generally to provide for revocation of licenses and permits only for acts willfully and knowingly committed or for disregarding cease and desist orders, and to authorize the Commission to issue cease and desist orders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361, 402 of this title.

§ 313. Application of antitrust laws to manufacture, sale, and trade in radio apparatus.

(a) Revocation of licenses.

All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgement becomes finally effective or as of such other date as the said decree shall fix, be revoked and that all rights under such license shall thereupon cease: *Provided, however,* That such licensee shall have the same right of appeal or review as is provided by law in respect of other decrees and judgments of said court.

(b) Refusal of licenses and permits.

The Commission is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under this section. (June 19, 1934, ch. 652, § 313, 48 Stat. 1087; Sept. 13, 1960, Pub. L. 86–752, § 5(b), 75 Stat. 893.)

AMENDMENTS

1960—Pub. L. 86–752 designated existing provisions as subsection (a) and added subsection (b).

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Trade Commission were, with certain reservations, transferred to the Chairman of such Commission by 1950

Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 314. Competition in commerce; preservation.

After the effective date of this chapter no person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire energy, communications, or signals by radio in accordance with the terms of the license issued under this chapter, shall by purchase, lease, construction, or otherwise, directly or indirectly, acquire, own, control, or operate any cable or wire telegraph or telephone line or system between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such cable, wire, telegraph, or telephone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce; nor shall any person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire messages by any cable, wire, telegraph, or telephone line or system (a) between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any other State, Territory, or possession of the United States; or (b) between any place in any State, Territory, or possession of the United States, or the District of Columbia, and any place in any foreign country, by purchase, lease, construction, or otherwise, directly or indirectly acquire, own, control, or operate any station or the apparatus therein, or any system for transmitting and/or receiving radio communications or signals between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such radio station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce. (June 19, 1934, ch. 652, § 314. 48 Stat. 1087.)

EFFECTIVE DATE

Effective date of this chapter, see section 607 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 315. Candidates for public office; facilities; rules.

(a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided,* That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section. (June 19, 1934, ch. 652, § 315, 48 Stat. 1088; July 16, 1952, ch. 879, § 11, 66 Stat. 717; Sept. 14, 1959, Pub. L. 86–274, § 1, 73 Stat. 557.)

AMENDMENTS

1959—Subsec. (a). Pub. L. 86–274 provided that appearances by legally qualified candidates on bona fide newscasts, interviews and documentaries and on on-the-spot coverage of bona fide news events shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

1952—Act July 16, 1952, designated existing provisions as subsecs. (a) and (c) and added subsec. (b).

REEXAMINATION OF 1959 AMENDMENT; DECLARATION OF CONGRESSIONAL INTENT

Section 2 of Pub. L. 86–274 provided that:

"(a) The Congress declares its intention to reexamine from time to time the amendment to section 315(a) of the Communications Act of 1934 [subsec. (a) of this section] made by the first section of this Act, to ascertain whether such amendment has proved to be effective and practicable.

"(b) To assist the Congress in making its reexaminations of such amendment, the Federal Communications Commission shall include in each annual report it makes to Congress a statement setting forth (1) the information and data used by it in determining questions arising from or connected with such amendment, and (2) such recommendations as it deems necessary in the public interest."

SUSPENSION OF EQUAL TIME PROVISIONS FOR 1960 CAMPAIGN

Pub. L. 86–677, Aug. 24, 1960, 74 Stat. 554, suspended that part of subsec. (a) of this section, which requires any licensee of a broadcast station who permits any person who is a legally qualified candidate for any public office to use a broadcasting station to afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, for the period of the 1960 presidential and vice presidential campaigns with respect to nominees for the offices of President and Vice President of the United States. The Federal Communications Commission was directed to make a report to the Congress, not later than March 1, 1961, with respect to the effect of the provisions of Pub. L. 86–677 and any recommendations the Commission might have for amendments to this chapter as a result of experience under the provisions of Pub. L. 86–677.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 316. Modification by Commission of station licenses or construction permits; burden of proof.

(a) Any station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with. No such order of modification shall become final until the holder of the license or permit shall have been notified in writing of the proposed action and the grounds and reasons therefor, and shall have been given reasonable opportunity, in no event less than thirty days, to show cause by public hearing, if requested, why such order of modification should not issue: *Provided,* That where safety of life or property is involved, the Commission may by order provide for a shorter period of notice.

(b) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission. (June 19, 1934, ch. 652, § 316, as added July 16, 1952, ch. 879, § 12, 66 Stat. 717.)

CODIFICATION

Former section 316 of act June 19, 1934, relating to lotteries and similar devices was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 1304 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 317. Announcement of payment for broadcast.

(a) Disclosure of person furnishing.

(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: *Provided,* That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished, without charge or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

(b) Disclosure to station of payments.

In any case where a report has been made to a radio station, as required by section 508 of this title, of circumstances which would have required an announcement under this section had the consideration been received by such radio station, an appropriate announcement shall be made by such radio station.

(c) Acquiring information from station employees.

The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(d) Waiver of announcement.

The Commission may waive the requirement of an announcement as provided in this section in any case or class of cases with respect to which it determines that the public interest, convenience, or necessity does not require the broadcasting of such announcement.

(e) Rules and regulations.

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section. (June 19, 1934, ch. 652, § 317, 48 Stat. 1089; Sept. 13, 1960, Pub. L. 86–752, § 8(a), 74 Stat. 895.)

AMENDMENTS

1960—Pub. L. 86–752 designated existing provisions as subsec. (a), adding the proviso clause thereto, and added subsecs. (b) to (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361, 503, 508 of this title.

§ 318. Transmitting apparatus; operator's license.

The actual operation of all transmitting apparatus in any radio station for which a station license is required by this chapter shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in

broadcasting (other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations), and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further,* That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices. (June 19, 1934, ch. 652, § 318, 48 Stat. 1089; Mar. 29, 1937, ch. 58, 50 Stat. 56; July 7, 1960, Pub. L. 86-609, § 1, 74 Stat. 363.)

AMENDMENTS

1960—Pub. L. 86-609 inserted "(other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations)" following "engaged in broadcasting."

1937—Act Mar. 29, 1937, inserted provisos.

CROSS REFERENCES

Radiotelegraph operators licensed as ship's officers, see sections 229a—229h of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 319. Construction permits; licenses for operation.

(a) No license shall be issued under the authority of this chapter for the operation of any station the construction of which is begun or is continued after this chapter takes effect, unless a permit for its construction has been granted by the Commission. The application for a construction permit shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and the financial, technical, and other ability of the applicant to construct and operate the station, the ownership and location of the proposed station and of the station or stations with which it is proposed to communicate, the frequencies desired to be used, the hours of the day or other periods of time during which it is proposed to operate the station, the purpose for which the station is to be used, the type of transmitting apparatus to be used, the power to be used, the date upon which the station is expected to be completed and in operation, and such other information as the Commission may require. Such application shall be signed by the applicant.

(b) Such permit for construction shall show specifically the earliest and latest dates between which the actual operation of such station is expected to begin, and shall provide that said permit will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, unless prevented by causes not under the control of the grantee.

(c) Upon the completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest, the Commission shall issue a license to the lawful holder of said permit for the operation of said station. Said license shall conform generally to the terms of said permit. The provisions of section 309 (a)—(g) of this title shall not apply with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection.

(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. With respect to stations or classes of stations other than Government stations, amateur stations, mobile stations, and broadcasting stations, the Commission may waive the requirement of a permit for construction if it finds that the public interest, convenience, or necessity would be served thereby: *Provided, however,* That such waiver shall apply only to stations whose construction is begun subsequent to the effective date of the waiver. If the Commission finds that the public interest, convenience, and necessity would be served thereby, it may waive the requirement of a permit for construction of a station that is engaged solely in rebroadcasting television signals if such station was constructed on or before July 7, 1960. (June 19, 1934, ch. 652, § 319, 48 Stat. 1089; July 16, 1952, ch. 879, § 13, 66 Stat. 718; Mar. 26, 1954, ch. 111, 68 Stat. 35; July 7, 1960, Pub. L. 86-609, § 2, 74 Stat. 363; Sept. 13, 1960, Pub. L. 86-752, § 4(b), 74 Stat. 892; Apr. 27, 1962, Pub. L. 87-444, § 4, 76 Stat. 64.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-444 deleted the requirement that applications were to be signed under oath or affirmation.

1960—Subsec. (c) Pub. L. 86-752 inserted references to section 309 (d)—(g).

Subsec. (d). Pub. L. 86-609 authorized the Commission to waive the requirement of a permit for construction of a station engaged solely in rebroadcasting television signals if such station was constructed on or before July 7, 1960.

1954—Subsec. (b). Act Mar. 26, 1954, struck out sentence providing that a construction permit should not be required for Government stations, amateur stations, or stations upon mobile vessels, railroad rolling stock, or aircraft, such provisions being covered by subsec. (d) of this section.

Subsec. (d). Act Mar. 26, 1954, added subsec. (d).

1952—Subsec. (a). Act July 16, 1952, § 13 (a), (b), struck out "upon written application therefor" following "by the Commission" in first sentence, struck out the second sentence, and substituted in the third sentence, "The application for a construction permit shall set forth" for "This application shall set forth."

Subsec. (b). Act July 16, 1952, § 13 (c), (d), struck out second sentence relating to assignment of rights under a permit, and struck out the last two sentences which are now incorporated in subsection (c).

Subsec. (c). Act July 16, 1952, § 13(d) added subsec. (c).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (c) of this section by Pub. L. 86-752 as effective ninety days after Sept. 13, 1960, see section 4(d)(1) of Pub. L. 86-752, set out as a note under section 309 of this title.

EFFECTIVE DATE

Effective date of chapter, see section 607 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 309, 328, 329, 360, 361 of this title.

§ 320. Stations liable to interfere with distress signals; designation and regulation.

The Commission is authorized to designate from time to time radio stations the communications or

signals of which, in its opinion, are liable to interfere with the transmission or reception of distress signals of ships. Such stations are required to keep a licensed radio operator listening in on the frequencies designated for signals of distress and radio communications relating thereto during the entire period the transmitter of such station is in operation. (June 19, 1934, ch. 652, § 320, 48 Stat. 1090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 321. Distress signals and communications; equipment on vessels; regulations.

(a) The transmitting set in a radio station on shipboard may be adjusted in such a manner as to produce a maximum of radiation, irrespective of the amount of interference which may thus be caused, when such station is sending radio communications or signals of distress and radio communications relating thereto.

(b) All radio stations, including Government stations and stations on board foreign vessels when within the territorial waters of the United States, shall give absolute priority to radio communications or signals relating to ships in distress; shall cease all sending on frequencies which will interfere with hearing a radio communication or signal of distress, and, except when engaged in answering or aiding the ship in distress, shall refrain from sending any radio communications or signals until there is assurance that no interference will be caused with the radio communications or signals relating thereto, and shall assist the vessel in distress, so far as possible, by complying with its instructions. (June 19, 1934, ch. 652, § 321, 48 Stat. 1090; May 20, 1937, ch. 229, § 7, 50 Stat. 191.)

AMENDMENTS

1937—Subsec. (a). Act May 20, 1937, eliminated provisions which required radio stations on shipboard to be equipped to transmit radio communications or signals of distress on the frequency specified by the Commission, with apparatus capable of transmitting and receiving messages over a distance of at least 100 miles by day or night.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 322. Exchanging radio communications between land and ship stations and from ship to ship.

Every land station open to general public service between the coast and vessels or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any ship or aircraft station at sea; and each station on shipboard or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any other station on shipboard or aircraft at sea or with any land station open to general public service between the coast and vessels or aircraft at sea: *Provided,* That such exchange of radio communication shall be without distinction as to radio systems or instruments adopted by each station. (June 19, 1934, ch. 652, § 322, 48 Stat. 1090; May 20, 1937, ch. 229, § 8, 50 Stat. 191.)

AMENDMENTS

1937—Act May 20, 1937, provided for radio communications with aircraft stations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 323. Interference between Government and commercial stations.

(a) At all places where Government and private or commercial radio stations on land operate in such close proximity that interference with the work of Government stations cannot be avoided when they are operating simultaneously, such private or commercial stations as do interfere with the transmission or reception of radio communications or signals by the Government stations concerned shall not use their transmitters during the first fifteen minutes of each hour, local standard time.

(b) The Government stations for which the abovementioned division of time is established shall transmit radio communications or signals only during the first fifteen minutes of each hour, local standard time, except in case of signals or radio communications relating to vessels in distress and vessel requests for information as to course, location, or compass direction. (June 19, 1934, ch. 652, § 323, 48 Stat. 1090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 324. Use of minimum power.

In all circumstances, except in case of radio communications or signals relating to vessels in distress, all radio stations, including those owned and operated by the United States, shall use the minimum amount of power necessary to carry out the communication desired. (June 19, 1934, ch. 652, § 324, 48 Stat. 1091.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 325. False distress signals; rebroadcasting programs; studios for broadcasting to foreign countries for rebroadcasting to United States; permit.

(a) No person within the jurisdiction of the United States shall knowingly utter or transmit, or cause to be uttered or transmitted, any false or fraudulent signal of distress, or communication relating thereto, nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

(b) No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.

(c) Such application shall contain such information as the Commission may by regulation prescribe, and the granting or refusal thereof shall be sub-

ject to the requirements of section 309 of this title with respect to applications for station licenses or renewal or modification thereof, and the license or permission so granted shall be revocable for false statements in the application so required or when the Commission, after hearings, shall find its continuation no longer in the public interest. (June 19, 1934, ch. 652, § 325, 48 Stat. 1091.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 309, 328, 329, 360, 361, 402 of this title.

§ 326. Censorship.

Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication. (June 19, 1934, ch. 652, § 326, 48 Stat. 1091; June 25, 1948, ch. 645, § 21, 62 Stat. 862.)

AMENDMENTS

1948—Act June 25, 1948, repealed last sentence relating to use of indecent language, which provisions are now covered by section 1464 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, provided that the amendment of this section shall be effective as of Sept. 1, 1948.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360. 361 of this title.

§ 327. Naval stations; use for commercial messages; rates.

The Secretary of the Navy is authorized, unless restrained by international agreement, under the terms and conditions and at rates prescribed by him, which rates shall be just and reasonable, and which, upon complaint, shall be subject to review and revision by the Commission, to use all radio stations and apparatus, wherever located, owned by the United States and under the control of the Navy Department, (a) for the reception and transmission of press messages offered by any newspaper published in the United States, its Territories or possessions, or published by citizens of the United States in foreign countries, or by any press association of the United States, and (b) for the reception and transmission of private commercial messages between ships, between ship and shore, between localities in Alaska and between Alaska and the continental United States: *Provided,* That the rates fixed for the reception and transmission of all such messages, other than press messages between the Pacific coast of the United States, Hawaii, Alaska, Guam, American Samoa, the Philippine Islands, and the Orient, and between the United States and the Virgin Islands, shall not be less than the rates charged by privately owned and operated stations for like messages and service: *Provided further,* That the right to use such stations for any of the purposes named in this section shall terminate and cease as between any countries or localities or between any locality and privately operated ships whenever privately owned and operated stations are capable of meeting the normal communication requirements between such countries or localities or between any locality and privately operated ships, and the Commission shall have notified the Secretary of the Navy thereof. (June 19, 1934, ch. 652, § 327, 48 Stat. 1091.)

REFERENCES IN TEXT

The Philippine Islands, referred to in text, were granted their independence by Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and set out as a note under that section. They are now known as the Republic of the Philippines.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

§ 328. Canal Zone; representation by Secretary of State.

Sections 301 to 362 of this title shall not apply to the Canal Zone. In international radio matters the Canal Zone shall be represented by the Secretary of State. (June 19, 1934, ch. 652, § 328, 48 Stat. 1092; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

REFERENCES IN TEXT

Section 302 included within sections 301 to 362 of this title, referred to in text, was repealed by act June 5, 1936, ch. 511, § 1, 49 Stat. 1475.

CODIFICATION

References to the Philippine Islands were omitted from this section on authority of Proc. No. 2695, and issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which proclamation recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 329, 360, 361 of this title.

§ 329. Administration of radio laws in Territories and possessions.

The Commission is authorized to designate any officer or employee of any other department of the Government on duty in any Territory or possession of the United States to render therein such service in connection with the administration of this chapter as the Commission may prescribe and also to designate any officer or employee of any other department of the Government to render such services at any place within the United States in connection with the administration of sections 301 to 362 of this title as may be necessary: *Provided,* That such designation shall be approved by the head of the department in which such person is employed. (June 19, 1934, ch. 652, § 329, 48 Stat. 1092; May 20, 1937, ch. 229, § 9, 50 Stat. 191.)

REFERENCES IN TEXT

Section 302 included within sections 301 to 362 of this title, referred to in text, was repealed by act June 5, 1936, ch. 511, § 1, 49 Stat. 1475.

AMENDMENTS

1937—Act May 20, 1937, eliminated provisions which prohibited designation of officers and employees in the Philippine Islands and Canal Zone, and inserted provisions permitting designation of officers and employees within the United States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 360, 361 of this title.

§ 330. Prohibition against shipment of certain television receivers.

(a) No person shall ship in interstate commerce or import from any foreign country into the United States, for sale or resale to the public, apparatus described in subsection (s) of section 303 of this title unless it complies with rules prescribed by the Commission pursuant to the authority granted by that subsection: *Provided,* That this section shall not apply to carriers transporting such apparatus without trading in it.

(b) For the purposes of this section and section 303(s) of this title—

(1) The term "interstate commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States and any place outside thereof which is within the United States, (B) commerce between points in the same State, the District of Columbia, the Commonwealth of Puerto Rico, or possession of the United States but through any place outside thereof, or (C) commerce wholly within the District of Columbia or any possession of the United States.

(2) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, but does not include the Canal Zone.

(June 19, 1934, ch. 652, § 330, as added July 10, 1962, Pub. L. 87-529, § 2, 76 Stat. 151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 328, 329, 360, 361 of this title.

PART II.—RADIO EQUIPMENT AND RADIO OPERATORS ON BOARD SHIP

§ 351. Ship radio stations and operations.

(a) Except as provided in section 352 hereof it shall be unlawful—

(1) For any ship of the United States, other than a cargo ship of less than three hundred gross tons, to be navigated in the open sea outside of a harbor or port, or for any ship of the United States or any foreign country, other than a cargo ship of less than three hundred gross tons, to leave or attempt to leave any harbor or port of the United States for a voyage in the open sea, unless such ship is equipped with an efficient radio station in operating condition, as specified by subparagraphs (A) and (B) of this paragraph, in charge of and operated by one or more radio officers or operators, adequately installed and protected so as to insure proper operation, and so as not to endanger the ship and radio station as hereinafter provided, and, in the case of a ship of the United States, unless there is on board a valid station license issued in accordance with this chapter.

(A) Passenger ships irrespective of size and cargo ships of one thousand six hundred gross tons and upward shall be equipped with a radiotelegraph station complying with the provisions of sections 351 to 362 of this title;

(B) Cargo ships of three hundred gross tons and upward but less than one thousand six hundred gross tons, unless equipped with a radiotelegraph station complying with the provisions of this part, shall be equipped with a radiotelephone station complying with the provisions of such sections.

(2) For any ship of the United States of one thousand six hundred gross tons and upward to be navigated in the open sea outside of a harbor or port, or for any such ship of the United States or any foreign country to leave or attempt to leave any harbor or port of the United States for a voyage in the open sea, unless such ship is equipped with efficient radio direction finding apparatus approved by the Commission, properly adjusted in operating condition as hereinafter provided.

(b) A ship which is not subject to the provisions of this section and sections 352 to 362 of this title at the time of its departure on a voyage shall not become subject to such provisions on account of any deviation from its intended voyage due to stress of weather or any other cause over which neither the master, the owner, nor the charterer (if any) has control. (June 19, 1934, ch. 652, § 351, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 192, and amended Aug. 13, 1954, ch. 729, § 1(a), 68 Stat. 704; Aug. 13, 1965, Pub. L. 89-121, § 2, 79 Stat. 512.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-121 substituted "radio station" for "radio installation" in two instances, broadened coverage so as to extend to vessels over 300 tons rather than 500 tons, required passenger ships irrespective of size and cargo ships over 1600 tons to be equipped with a radio telegraph station and cargo ships over 300 tons, unless equipped with a radiotelegraph station, to be equipped with a radiotelephone station, and eliminated provisions which empowered the Commission to defer the application of the provisions of paragraphs (1) and (2) of this subsection for periods not beyond Jan. 1, 1955, and Nov. 19, 1954, respectively.

1954—Subsec. (a)(1). Act Aug. 13, 1954, broadened coverage so as to extend to vessels over 500 tons rather than 1600 tons.

Subsec. (a)(2). Act Aug. 13, 1954, broadened coverage so as to extend to any United States flag vessel of 1,600 gross tons or over rather than any passenger vessel of 5,000 gross tons or over.

EFFECTIVE DATE

Postponement of effective date, see note under section 355 of this title.

JOINT STUDIES OF NEED FOR SAFETY DEVICES ON CERTAIN CARGO SHIPS; REPORT

Act Aug. 3, 1956, ch. 913, 70 Stat. 967, authorized the Federal Communications Commission, the United States Coast Guard, and the Federal Maritime Administration, acting jointly, to make a full and complete study and investigation with respect to the need for installing automatic radiotelegraph call selectors on cargo ships of the United States carrying less than two radio operators, and other such safety devices, and the feasibility thereof, and required a report to the Congress not later than March 1, 1957.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 352, 353, 353a, 354, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 352. Vessels exempt from provisions.

(a) The provisions of sections 351 to 362 of this title shall not apply to—

(1) A ship of war;

(2) A ship of the United States belonging to and operated by the Government, except a ship of the Secretary of Commerce, the Inland and Coastwise Waterways Service, or the Panama Canal Company;

(3) A foreign ship belonging to a country which is a party to any Safety Convention in force between the United States and that country which ship carries a valid certificate exempting said ship from the radio provisions of that Convention, or which ship conforms to the radio requirements of such Convention or Regulations and has on board a valid certificate to that effect, or which ship is not subject to the radio provisions of any such Convention;

(4) Yachts of less than six hundred gross tons not subject to the radio provisions of the Safety Convention;

(5) Vessels in tow;

(6) A ship navigating solely on any bays, sounds, rivers, or protected waters within the jurisdiction of the United States, or to a ship leaving or attempting to leave any harbor or port of the United States for a voyage solely on any bays, sounds, rivers, or protected waters within the jurisdiction of the United States;

(7) A ship navigating solely on the Great Lakes of North America and the River Saint Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island, and on the north side of Anticosti Island, the sixty-third meridian, or to a ship leaving or attempting to leave any harbor or port of the United States for a voyage solely on such waters and within such area;

(8) A ship which is navigated during the course of a voyage both on the Great Lakes of North America and in the open sea, during the period while such ship is being navigated within the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(b) Except for nuclear ships, the Commission may, if it considers that the route or the conditions of the voyage or other circumstances are such as to render a radio station unreasonable or unnecessary for the purposes of sections 351 to 362 of this title, exempt from the provisions of such sections any ship or class of ships which falls within any of the following descriptions:

(1) Passenger ships which in the course of their voyage do not go more than twenty nautical miles from the nearest land or, alternatively, do not go more than two hundred nautical miles between two consecutive ports;

(2) Cargo ships which in the course of their voyage do not go more than one hundred and fifty nautical miles from the nearest land;

(3) Passenger vessels of less than one hundred gross tons not subject to the radio provisions of the Safety Convention;

(4) Sailing ships.

(c) If, because of unforeseeable failure of equipment, a ship is unable to comply with the equipment requirements of this part without undue delay of the ship, the mileage limitations set forth in paragraphs (1) and (2) of subsection (b) of this section shall not apply: *Provided,* That exemption of the ship is found to be reasonable or necessary in accordance with subsection (b) of this section to permit the ship to proceed to a port where the equipment deficiency may be remedied.

(d) Except for nuclear ships, and except for ships of five thousand gross tons and upward which are subject to the Safety Convention, the Commission may exempt from the requirements, for radio direction finding apparatus, of sections 351 to 362 of this title and of the Safety Convention, any ship which falls within the descriptions set forth in paragraphs (1), (2), (3), and (4) of subsection (b) of this section, if it considers that the route or conditions of the voyage or other circumstances are such as to render such apparatus unreasonable or unnecessary. (June 19, 1934, ch. 652, § 352, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 192, and amended Sept. 26, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038; Aug. 13 , 1954, ch. 729, § 1 (b), (c) 68 Stat. 705; 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Aug. 13, 1965, Pub. L. 89–121, § 3, 79 Stat. 512.)

AMENDMENTS

1965—Pub. L. 89–121, § 3(a), added pars. (6)—(8) and eliminated former par. (6) which made the provisions of sections 351—362 of this title inapplicable to a vessel navigating solely on the Great Lakes, or on any bays, sounds, rivers, or protected waters within the jurisdiction of the United States, or to a vessel leaving or attempting to leave any harbor or port of the United States for a voyage solely on the Greal Lakes, or on any bays, sounds, rivers, or protected waters within the jurisdiction of the United States.

Subsec. (b). Pub. L. 89–121, § 3(b), excepted nuclear ships and substituted "or, alternatively, do not go more than two hundred nautical miles" for "or more than two hundred nautical miles."

Subsec. (d). Pub. L. 89–121, § 3(c), added subsec. (d).

1954—Subsec. (a)(3). Act Aug. 13, 1954, § 1(b), substituted words "any Safety Convention in force between the United States and that country" for "the Safety Convention and" and added, at the end, the words "or which ship is not subject to the radio provisions of any such Convention."

Subsec. (c). Act Aug. 13, 1954, § 1(c) added subsec. (c).

CHANGE OF NAME

The Panama Railroad Company was redesignated Panama Canal Company by act Sept. 26, 1950.

EFFECTIVE DATE

Postponement of effective date, see note under section 355 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" has been substituted for "United States Maritime Commission" pursuant to 1950 Reorg. Plan No. 21, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the United States Maritime Commission and transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, such Board having been created by

that Plan as an agency within the Department of Commerce with an independent status in some respects, and which transferred the remainder of such Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the Chairman of said Federal Maritime Board should, ex officio, be such Administrator, and pursuant to 1961 Reorg. Plan No. 7, set out in the Appendix to Title 5, which abolished the Federal Maritime Board, including the offices of the members of the Board and which transferred the functions of the Board either to the Federal Maritime Commission or to the Secretary of Commerce.

CROSS REFERENCES

International Convention for safety of life at sea, see 50 Stat. 189.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 353, 353a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 353. Radio officers, watches, auto alarm-radiotelegraph equipped ships.

(a) Each cargo ship which in accordance with sections 351 to 362 of this title is equipped with a radiotelegraph station and which is not equipped with a radiotelegraph auto alarm, and each passenger ship required by sections 351 to 362 of this title to be equipped with a radiotelegraph station, shall, for safety purposes, carry at least two radio officers.

(b) A cargo ship which in accordance with sections 351 to 362 of this title is equipped with a radiotelegraph station, which is equipped with a radiotelegraph auto alarm, shall, for safety purposes, carry at least one radio officer who shall have had at least six months' previous service in the aggregate as a radio officer in a station on board a ship or ships of the United States.

(c) Each ship of the United States which in accordance with sections 351 to 362 of this title is equipped with a radiotelegraph station shall, while being navigated in the open sea outside of a harbor or port, keep a continuous watch by means of radio officers whenever the station is not being used for authorized traffic: *Provided*, That, in lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, a watch of at least eight hours per day, in the aggregate shall be maintained by means of a radio officer.

(d) The Commission shall, when it finds it necessary for safety purposes, have authority to prescribe the particular hours of watch on a ship of the United States which in accordance with sections 351 to 362 of this title is equipped with a radiotelegraph station.

(e) On all ships of the United States equipped with a radiotelegraph auto alarm, said apparatus shall be in operation at all times while the ship is being navigated in the open sea outside of a harbor or port when the radio officer is not on watch. (June 19, 1934, ch. 652, § 353, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 193, and amended July 8, 1941, ch. 278, 55 Stat. 579; June 22, 1943, ch. 137, 57 Stat. 161; Aug. 13, 1954, ch. 729, § 1(d), 68 Stat. 705; Aug. 13, 1965, Pub. L. 89-121, § 4, 79 Stat. 513.)

AMENDMENTS

1965—Pub. L. 89-121, among other changes, substituted wherever appearing "radiotelegraph station" for "radiotelegraph installation," "radiotelegraph auto alarm" for "auto-alarm," and "radio officer" and "radio officers" for "qualified operator" and "qualified operators," required a continuous watch to be kept when the radiotelegraph station is not being used for authorized traffic, and inserted "while being navigated in the open sea" in two instances.

1954—Act Aug. 13, 1954, amended section to make clear that it applies only to ships equipped with a radiotelegraph installation, not those fitted with a radiotelephone installation.

1943—Subsec. (b). Act June 22, 1943, substituted "the termination of such emergency or such earlier date as Congress by concurrent resolution may designate" for "June 30, 1943".

1941—Subsec. (b). Act July 8, 1941, added exception respecting national emergency.

PARTIAL REPEAL EFFECTIVE JULY 1, 1948

Acts July 8, 1941, and June 22, 1943, which amended subsec. (b) of this section by adding the clause authorizing suspension or modification of the service requirement during the emergency, were repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, which provided that such acts should remain in full force and effect until such date.

EFFECTIVE DATE

Postponement of effective date, see note under section 355 of this title.

APPROVAL OF OPERATORS BY SECRETARY OF NAVY DURING WAR

Act Dec. 17, 1941, ch. 588, 55 Stat. 808, as amended June 28, 1943, ch. 174, 57 Stat. 244; June 13, 1945, ch. 190, 59 Stat. 259; 1946 Reorg. Plan No. 3, § 101, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, prohibiting employment of radio operators which were disapproved by the Secretary of the Navy during World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 353a. Operators and watches on radiotelephone equipped ships.

(a) Each cargo ship which in accordance with sections 351 to 362 of this title is equipped with a radiotelephone station shall, for safety purposes, carry at least one operator who may be the master, an officer, or a member of the crew.

(b) Each cargo ship of the United States which in accordance with sections 351 to 362 of this title is equipped with a radiotelephone station shall, while being navigated in the open sea outside of a harbor or port, maintain continuous watch whenever the station is not being used for authorized traffic. (June 19, 1934, ch. 652, § 354 as added Aug. 13, 1954, ch. 729, § 2(b), 68 Stat. 706, and amended Aug. 13, 1965, Pub. L. 89-121, § 5, 79 Stat. 514.)

AMENDMENTS

1965—Pub. L. 89-121 substituted "radiotelephone station" for "radiotelephone installation" in two instances, and "one operator who may be the master, an officer, or a member of the crew" for "one qualified operator who may be a member of the crew holding only a certificate for radio telephony,", inserted the words "in the open sea" preceding "outside of a harbor," and required a continuous watch whenever the station is not being used for authorized traffic.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 354. Technical requirements of equipment on radiotelegraph equipped ships.

The radiotelegraph station and the radio direction finding apparatus required by section 351 of this title shall comply with the following requirements:

(a) The radiotelegraph station shall include a main installation and a reserve installation, electrically separate and electrically independent of each other: *Provided,* That, in installations on cargo ships of three hundred gross tons and upward but less than one thousand six hundred gross tons, and in installations on cargo ships of one thousand six hundred gross tons and upward installed prior to November 19, 1952, if the main transmitter complies with all the requirements for the reserve transmitter, the latter may be omitted.

(b) The radiotelegraph station shall be so located that no harmful interference from extraneous mechanical or other noise will be caused to the proper reception of radio signals, and shall be placed in the upper part of the ship in a position of the greatest possible safety and as high as practicable above the deepest load waterline. The location of the radiotelegraph operating room or rooms shall be approved by the Commandant of the Coast Guard. The radiotelegraph installation shall be installed in such a position that it will be protected against the harmful effects of water or extremes of temperature, and shall be readily accessible both for immediate use in case of distress and for repair.

(c) The radiotelegraph operating room shall be of sufficient size and of adequate ventilation to enable the main and reserve radiotelegraph installations to be operated efficiently, and shall not be used for any purpose which will interfere with the operation of the radiotelegraph station. The sleeping accommodation of at least one radio officer shall be situated as near as practicable to the radiotelegraph operating room. In ships the keels of which are laid on or after May 26, 1965, this sleeping accommodation shall not be within the radiotelegraph operating room.

(d) The main and reserve installations shall be capable of transmitting and receiving on the frequencies, and using the classes of emission, designated by the Commission pursuant to law for the purposes of distress and safety of navigation.

(e) The main and reserve installations shall, when connected to the main antenna, have a minimum normal range of two hundred nautical miles and one hundred nautical miles, respectively; that is, they must be capable of transmitting and receiving clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over the specified ranges.

(f) Sufficient electrical energy shall be available at all times to operate the main installation over the normal range required by subsection (e) of this section as well as for the purpose of charging any batteries forming part of the radiotelegraph station.

(g) The reserve installation shall include a source of electrical energy independent of the propelling power of the ship and of any other electrical system and shall be capable of being put into operation rapidly and of working for at least six continuous hours. The reserve source of energy and its switchboard shall be as high as practicable in the ship and readily accessible to the radio officer.

(h) There shall be provided between the bridge of the ship and the radiotelegraph operating room, and between the bridge and the location of the radio direction finding apparatus, when such apparatus is not located on the bridge, an efficient two-way system for calling and voice communication which shall be independent of any other communication system in the ship.

(i) The radio direction finding apparatus shall be efficient and capable of receiving signals with the minimum of receiver noise and of taking bearings from which the true bearing and direction may be determined. It shall be capable of receiving signals on the radiotelegraph frequencies assigned by the radio regulations annexed to the International Telecommunication Convention in force for the purpose of distress, direction finding, and maritime radio beacons, and, in installations made after May 26, 1965, such other frequencies as the Commission may for safety purposes designate.

(June 19, 1934, ch. 652, § 355 formerly § 354, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 193, and amended 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, renumbered and amended Aug. 13, 1954, ch. 729, § 2(a)(1), (c), 68 Stat. 706; Aug. 13, 1965, Pub. L. 89–121, § 6, 79 Stat. 514.)

AMENDMENTS

1965—Pub. L. 89–121 substituted "radiotelegraph station" for "radio installation" in the opening provisions.

Subsec. (a). Pub. L. 89–121, among other changes, substituted "radiotelegraph station" for "radio installation", required the main installation and the reserve installation to be electrically separate and independent of each other, and included cargo ships between 300 and 500 tons within the ships that may omit the reserve transmitter if the main transmitter complies with all the requirements for the reserve transmitter.

Subsec. (b). Pub. L. 89–121 required the radiotelegraph station to be so located that no harmful interference will be caused to the proper reception of radio signals, and to be installed in such a position that it will be protected against the harmful effects of water or extremes of temperature, and will be readily accessible both for immediate use in case of distress and for repair.

Subsec. (c). Pub. L. 89–121 added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 89–121 redesignated former subsec. (c) as (d), and substituted "main and reserve installations shall be capable of transmitting and receiving on the frequencies, and using the classes of emission, designated" for "main and emergency or reserve installations shall be capable of transmitting and receiving on the frequencies and types of waves designated." Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 89–121 redesignated former subsec. (d) as (e), and inserted provisions requiring the reserve installation to have a minimum normal range of 100 nautical miles. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 89–121 redesignated former subsec. (e) as (f), and substituted "electrical energy" for "power" and "operate the main installation over the normal range required by subsection (e) of this section as well as for the purpose of charging any batteries forming part of the radiotelegraph station" for "operate the main radio installation efficiently under normal conditions over the range specified in subsection (d) of this section." Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 89–121 redesignated former subsec. (f) as (g), directed that the reserve source of energy and its switchboard shall be as high as practicable in the ship and readily accessible to the radio officer, and eliminated provisions which stated that for the emergency or reserve installation the normal range shall be at least 100 nautical miles. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 89–121 redesignated former subsec. (g) as (h), and substituted provisions requiring the method of communication between the bridge and the radiotelegraph room and the location of the radio direction finding apparatus to be an efficient two-way system for calling and voice communication for provisions which required an efficient means of communication. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 89–121 redesignated former subsec. (h) as (i), and substituted provisions requiring the apparatus to be capable of receiving signals with the minimum of receiver noise for provisions which required the apparatus to be capable of receiving clearly perceptible signals.

1954—Act Aug. 13, 1954, § 2(a)(1), amended credit to section by changing section number from "354" to "355" of act June 19, 1934.

Subsec. (a). Act Aug. 13, 1954, § 2(c), provided for a "reserve radiotelegraph installation" instead of merely a "reserve installation".

EFFECTIVE DATE

Postponement of effective date, see note under section 355 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Commandant of the Coast Guard" was substituted for "Bureau of Marine Inspection and Navigation, Department of Commerce" on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 354a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 354a. Technical requirements of equipment on radiotelephone equipped ships.

Cargo ships of three hundred gross tons and upward but less than one thousand six hundred gross tons may, in lieu of the radiotelegraph prescribed by section 354 of this title, be equipped with a radiotelephone station complying with the following requirements:

(a) The radiotelephone station shall be in the upper part of the ship, so located that it is sheltered to the greatest possible extent from noise which might impair the correct reception of messages and signals, and, unless such station is situated on the bridge, there shall be efficient communication with the bridge.

(b) The radiotelephone installation shall be capable of transmitting and receiving on the frequencies, and using the classes of emission, designated by the Commission pursuant to law for the purposes of distress and safety of navigation.

(c) The radiotelephone installation shall have a minimum normal range of one hundred and fifty nautical miles; that is, it shall be capable of transmitting and receiving clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over this range.

(d) There shall be available at all times a main source of electrical energy sufficient to operate the installation over the normal range required by subsection (c) of this section. If batteries are provided they shall have sufficient capacity to operate the transmitter and receiver for at least six continuous hours under normal working conditions. In installations made on or after November 19, 1952, a reserve source of electrical energy shall be provided in the upper part of the ship unless the main source of energy is so situated. (June 19, 1934, ch. 652, § 356, as added Aug. 13, 1954, ch. 729, § 2(d), 68 Stat. 706, and amended Aug. 13. 1965, Pub. L. 89–121, § 7, 79 Stat. 515.)

AMENDMENTS

1965—Pub. L. 89–121 limited the opening provisions to cargo ships of 300 gross tons and upwards.

Subsec. (a). Pub. L. 89–121 required the radiotelephone station to be so located that it is sheltered to the greatest possible extent from noise which might impair the correct reception of messages and signals.

Subsec. (b). Pub. L. 89–121 substituted "on the frequencies, and using the classes of emission, designated" for "on the frequencies and with types of emissions designated."

Subsec. (c). Pub. L. 89–121 substituted "radiotelephone installation" for "transmitter" and inserted provisions requiring the installation to be capable of receiving clearly perceptible signals over the minimum normal range.

Subsec. (d). Pub. L. 89–121 substituted "a main source of electrical energy" for "a source of energy", "at least six continuous hours" for "at least six hours continuously", and "installations made on or after November 19, 1962, a reserve source of electrical energy" for "in installations an emergency source of energy."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 355. Survival craft.

Every ship required to be provided with survival craft radio by treaty to which the United States is a party, by statute, or by regulation made in conformity with a treaty, convention, or statute, shall be fitted with efficient radio equipment appropriate to such requirement under such rules and regulations as the Commission may find necessary for safety of life. For purposes of this section, "radio equipment" shall include portable as well as nonportable apparatus. (June 19, 1934, ch. 652, § 357, formerly § 355, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 194, renumbered and amended Aug. 13, 1954, ch. 729, § 2(a)(1), (e), 68 Stat. 706, 707; Aug. 13, 1965, Pub. L. 89–121, § 8, 79 Stat. 516.)

AMENDMENTS

1965—Pub. L. 89–121 substituted "survival craft" for "lifeboat."

1954—Act Aug. 13, 1954, § 2(a)(1), amended credit to section by changing section number from "355" to "357" of act June 19, 1934.

Act Aug. 13, 1954, § 2(e), provided that lifeboats be equipped with "radio equipment" rather than a "radio installation," defining "radio equipment" as including portable as well as nonportable apparatus.

EFFECTIVE DATE

Section 16 of act May 20, 1937, provided: "This Act shall take effect upon approval [May 20, 1937], provided that the Commission may defer the application of all or any part of sections 351—355 [of this title],

inclusive, for a period not to exceed six months after approval, in regard to any ship or classes of ships of the United States which are not subject to the provisions of the safety convention, if it is found impracticable to obtain the necessary equipment or make the required installations."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 359, 360, 361, 362, 382, 504 510 of this title.

§ 356. Approval of installations by Commission.

(a) Insofar as is necessary to carry out the purposes and requirements of sections 351 to 362 of this title, the Commission shall have authority, for any ship subject to said sections—

(1) To approve the details as to the location and manner of installations of the equipment required by said sections or of equipment necessitated by reason of the purposes and requirements of said sections.

(2) To approve installations, apparatus, and spare parts necessary to comply with the purposes and requirements of said sections.

(3) To prescribe such additional equipment as may be determined to be necessary to supplement that specified in such sections, for the proper functioning of the radio installation installed in accordance with said sections or for the proper conduct of radio communication in time of emergency or distress.

(June 19, 1934, ch. 652, § 358, formerly § 356, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 194, and renumbered Aug. 13, 1954, ch. 729, § 2(a)(1), 68 Stat. 706.)

CODIFICATION

Section was enacted without a subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 357. Transmission of information concerning safety at sea; charges.

(a) The master of every ship of the United States, equipped with radio transmitting apparatus, which meets with dangerous ice, a dangerous derelict, a tropical storm, or any other direct danger to navigation, or encounters subfreezing air temperatures associated with gale force winds causing severe ice accretion on superstructures, or winds of force 10 or above on the Beaufort scale for which no storm warning has been received, shall cause to be transmitted all pertinent information relating thereto to ships in the vicinity and to the appropriate authorities on land, in accordance with rules and regulations issued by the Commission. When they consider it necessary, such authorities of the United States shall promptly bring the information received by them to the knowledge of those concerned, including interested foreign authorities.

(b) No charge shall be made by any ship or station in the mobile service of the United States for the transmission, receipt, or relay of the information designated in subsection (a) of this section originating on a ship of the United States or of a foreign country.

(c) The transmission by any ship of the United States, made in compliance with subsection (a) of this section, to any station which imposes a charge for the reception, relay, or forwarding of the required information, shall be free of cost to the ship concerned and any communication charges incurred by the ship for transmission, relay, or forwarding of the information may be certified to the Commission for reimbursement out of moneys appropriated to the Commission for that purpose.

(d) No charge shall be made by any ship or station in the mobile service of the United States for the transmission of distress messages and replies thereto in connection with situations involving the safety of life and property at sea.

(e) Notwithstanding any other provision of law, any station or carrier may render free service in connection with situations involving the safety of life and property, including hydrographic reports, weather reports, reports regarding aids to navigation and medical assistance to injured or sick persons on ships and aircraft at sea. All free service permitted by this subsection shall be subject to such rules and regulations as the Commission may prescribe, which rules may limit such free service to the extent which the Commission finds desirable in the public interest. (June 19, 1934, ch. 652, § 359, formerly § 357, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 195, renumbered Aug. 13, 1954, ch. 729, § 2 (a)(1), 68 Stat. 706, and amended Aug. 13, 1965, Pub. L. 89-121, § 9, 79 Stat. 516.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-121 directed the master of every ship of the United States equipped with radio transmitting apparatus which encounters subfreezing air temperatures associated with gale force winds causing severe ice accretion on superstructures, or winds of force 10 or above on the Beaufort scale for which no storm warning has been received to transmit the pertinent information relating thereto.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 358. Master's control over operations.

The radio installation, the operators, the regulation of their watches, the transmission and receipt of messages, and the radio service of the ship except as they may be regulated by law or international agreement, or by rules and regulations made in pursuance thereof, shall in the case of a ship of the United States be under the supreme control of the master. (June 19, 1934, ch. 652, § 360, formerly § 358, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 195, and renumbered Aug. 13, 1954, ch. 729, § 2 (a)(1), 68 Stat. 706.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 356, 359, 360, 361, 362, 382, 504, 510 of this title.

§ 359. Certificates of compliance; issuance, modification, and cancellation.

(a) Each vessel of the United States to which the Safety Convention applies shall comply with the radio and communication provisions of said Convention at all times while the vessel is in use, in addition to all other requirements of law, and shall have on board an appropriate certificate as prescribed by the Safety Convention.

(b) Appropriate certificates concerning the radio particulars provided for in said Convention shall be issued upon proper request to any vessel which is subject to the radio provisions of the Safety Convention and is found by the Commission to comply therewith. Cargo ship safety radio telegraphy certificates, cargo ship safety radiotelephony certificates, and exemption certificates with respect to radio particulars shall be issued by the Commission. Other certificates concerning the radio particulars provided for in the said Convention shall be issued by the Commandant of the Coast Guard or whatever other agency is authorized by law to do so upon request of the Commission made after proper inspection or determination of the facts. If the holder of a certificate violates the radio provisions of the Safety Convention or the provisions of this chapter, or the rules, regulations, or conditions prescribed by the Commission, and if the effective administration of the Safety Convention or of sections 351 to 362 of this title so requires, the Commission, after hearing in accordance with law, is authorized to modify or cancel a certificate which it has issued, or to request the modification or cancellation of a certificate which has been issued by another agency upon the Commission's request. Upon receipt of such request for modification or cancellation, the Commandant of the Coast Guard, or whatever agency is authorized by law to do so, shall modify or cancel the certificate in accordance therewith. (June 19, 1934, ch. 652, § 361, formerly § 359, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 195, and amended 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, renumbered and amended Aug. 13, 1954, ch. 729, § 2(a)(1), (f), 68 Stat. 706, 707; Aug. 13, 1965, Pub. L. 89–121, § 10, 79 Stat. 516.)

AMENDMENTS

1965—Subsec. (b). Pub. L. 89–121 substituted "Cargo ship safety radio telegraphy certificates, cargo ship safety radiotelephony certificates, and exemption certificates with respect to radio particulars shall be issued" for "Safety Radiotelegraphy Certificates and Safety Radiotelephony Certificates, as prescribed by the said Convention, and Exemption Certificates issued in lieu of such certificates, shall be issued."

1954—Act Aug. 13, 1954, § 2(a)(1), amended credit to section by changing section number from "359" to "361" of act June 19, 1934.

Subsec. (b). Act Aug. 13, 1954, § 2(f) amended subsection generally to provide, among other changes, that certificates of compliance be issued "upon request to any vessel" and to provide that safety radiotelegraph certificates and safety radiotelephony certificates and certain exemption certificates be issued by the Federal Communications Commission.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

In subsec. (b) "Commandant of the Coast Guard" was substituted for "Department of Commerce" on authority of 1946 Reorg. Plan No. 3, which transferred functions relating to issuance of certificates of inspection from the Department of Commerce to the Commandant of the Coast Guard. See 1946 Reorg. Plan No. 3 set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 356, 360, 361, 362, 382, 504, 510 of this title.

§ 360. Station licenses; inspection of equipment by Commission.

(a) In addition to any other provisions required to be included in a radio station license, the station license of each ship of the United States subject to sections 301 to 362 of this title shall include particulars with reference to the items specifically required by said sections.

(b) Every ship of the United States, subject to sections 351 to 362 of this title, shall have the equipment and apparatus prescribed therein, inspected at least once each year by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this chapter and the station license have been complied with, that fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as may be necessary to insure compliance with the requirements of this chapter. The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided,* That such waiver may not exceed a period of thirty days. (June 19, 1934, ch. 652, § 362, formerly § 360, as added May 20, 1937, ch. 229, § 10(b), 50 Stat. 196, renumbered Aug. 13, 1954, ch. 729, § 2(a)(1), 68 Stat. 706, and amended Oct. 15, 1962, Pub. L. 87–811, 76 Stat. 922.)

REFERENCES IN TEXT

Section 302 included within sections 301 to 362 of this title, referred to in subsec. (a), was repealed by act June 5, 1936, ch. 511, § 1, 49 Stat. 1475.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–811 empowered the Commission to waive the annual inspection from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held, and limiting such waiver to not more than a period of 30 days.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 356, 359, 361, 362, 382, 504, 510 of this title.

§ 361. Control by Commission; review of decisions.

Nothing in sections 301 to 362 of this title shall be interpreted as lessening in any degree the control of the Commission over all matters connected with the radio equipment and its operation on shipboard and its decision and determination in regard to the radio requirements, installations, or exemptions from prescribed radio requirements shall be final, subject only to review in accordance with law. (June 19, 1934, ch. 652, § 363, formerly § 361, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 196, and renumbered Aug. 13, 1954, ch. 729, § 2 (a)(1), 68 Stat. 706.)

REFERENCES IN TEXT

Section 302 included within sections 301 to 362 of this title, referred to in text, was repealed by act June 5, 1936, ch. 511, § 1, 49 Stat. 1475.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 359, 360, 362, 382, 504, 510 of this title.

§ 362. Forfeitures; recovery.

The following forfeitures shall apply to sections 351 to 361 of this title, in addition to the penalties and forfeitures provided by sections 501 to 505 of this title;

(a) Any ship that leaves or attempts to leave any harbor or port of the United States in violation of the provisions of sections 351 to 361 of this title, or the rules and regulations of the Commission made in pursuance thereof, or any ship of the United States that is navigated outside of any harbor or port in violation of any of the provisions of sections 351 to 361 of this title, or the rules and regulations of the Commission made in pursuance thereof, shall forfeit to the United States the sum of $500, recoverable by way of suit or libel. Each such departure or attempted departure, and in the case of a ship of the United States each day during which such navigation occurs shall constitute a separate offense.

(b) Every willful failure on the part of the master of a ship of the United States to enforce or to comply with the provisions of this chapter or the rules and regulations of the Commission as to equipment, operators, watches, or radio service shall cause him to forfeit to the United States the sum of $100. (June 19, 1934, ch. 652, § 364, formerly § 362, as added May 20, 1937, ch. 229, § 10 (b), 50 Stat. 196, and renumbered Aug. 13, 1954, ch. 729, § 2 (a)(1), 68 Stat. 706.)

CROSS REFERENCES

Mode of recovery of forfeitures generally, see section 2461 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 154, 328, 329, 351, 352, 353, 353a, 359, 360, 361, 382, 504, 510 of this title.

PART III.—RADIO INSTALLATIONS ON VESSELS CARRYING PASSENGERS FOR HIRE

§ 381. Vessels transporting more than six passengers for hire required to be equipped with radiotelephone.

Except as provided in section 382 of this title, it shall be unlawful for any vessel of the United States, transporting more than six passengers for hire, to be navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, unless such vessel is equipped with an efficient radio-telephone installation in operating condition. (June 19, 1934, ch. 652 § 381, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1047.)

EFFECTIVE DATE

Section 4 of act Aug. 6, 1956, provided that sections 381—386 of this title, and amendments to sections 153 (y)(2), and 504(b) of this title, shall take effect Mar. 1, 1957.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 382, 383, 384, 385, 386, 504, 510 of this title.

§ 382. Vessels excepted from radiotelephone requirement.

The provisions of sections 381 to 386 of this title shall not apply to—

(1) vessels which are equipped with a radio installation in accordance with the provisions of sections 351 to 362 of this title, or in accordance with the radio requirements of the Safety Convention; and

(2) vessels of the United States belonging to and operated by the Government, except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Railroad Company, and

(3) vessels navigating on the Great Lakes.

(June 19, 1934, ch. 652, § 382, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1047.)

CHANGE OF NAME

The Panama Railroad Company was redesignated Panama Canal Company by act Sept. 26, 1950.

EFFECTIVE DATE

Section effective Mar. 1, 1957, see note set out under section 381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 381, 383, 384, 385, 386, 504, 510 of this title.

§ 383. Exemptions by Commission.

The Commission shall exempt from the provisions of sections 381 to 386 of this title any vessel, or class of vessels, in the case of which the route or conditions of the voyage, or other conditions or circumstances, are such as to render a radio installation unreasonable, unnecessary, or ineffective, for the purposes of this chapter. (June 19, 1934, ch. 652, § 383, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1047.)

EFFECTIVE DATE

Section effective Mar. 1, 1957, see note set out under section 381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 382, 384, 385, 386, 504, 510 of this title.

§ 384. Authority of Commission; operations, installations, and additional equipment.

The Commisison shall have authority with respect to any vessel subject to sections 381 to 386 of this title—

(1) to specify operating and technical conditions and characteristics including frequencies, emissions, power, communication capability and range, of installations required by reason of sections 381 to 386 of this title;

(2) to approve the details as to the location and manner of installation of the equipment required by sections 381 to 386 of this title or of equipment necessitated by reason of the purposes and requirements of sections 381 to 386 of this title;

(3) to approve installations, apparatus and spare parts necessary to comply with the purposes and requirements of sections 381 to 386 of this title;

(4) to prescribe such additional equipment as may be determined to be necessary to supplement that specified herein for the proper functioning of the radio installation installed in accordance with sections 381 to 386 of this title or for the proper conduct of radio communication in time of emergency or distress.

(June 19, 1934, ch. 652, § 384, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1047.)

EFFECTIVE DATE

Section effective Mar. 1, 1957, see note set out under section 381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 382, 383, 385, 386, 504, 510 of this title.

§ 385. Inspections.

The Commission shall make such inspections as may be necessary to insure compliance with the requirements of sections 381 to 386 of this title. (June 19, 1934, ch. 652, § 385, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1047.)

EFFECTIVE DATE

Section effective Mar. 1, 1957, see note set out under section 381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 382, 383, 384, 386, 504, 510 of this title.

§ 386. Forfeitures.

The following forfeitures shall apply to sections 381 to 386 of this title in addition to penalties and forfeitures provided by sections 501 to 507 of this title:

(a) Any vessel of the United States that is navigated in violation of the provisions of this part or of the rules and regulations of the Commission made in pursuance thereof shall forfeit to the United States the sum of $500 recoverable by way of suit or libel. Each day during which such navigation occurs shall constitute a separate offense.

(b) Every willful failure on the part of the master of a vessel of the United States to enforce or to comply with the provisions of sections 381 to 386 of this title or the rules and regulations of the Commission made in pursuance thereof shall cause him to forfeit to the United States the sum of $100. (June 19, 1934, ch. 652, § 386, as added Aug. 6, 1956, ch. 973, § 1, 70 Stat. 1048.)

EFFECTIVE DATE

Section effective Mar. 1, 1957, see note set out under section 381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 382, 383, 384, 385, 504, 510 of this title.

PART IV.—GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES; CORPORATION FOR PUBLIC BROADCASTING

SUBPART A.—GRANTS FOR FACILITIES

§ 390. Declaration of purpose.

The purpose of this subpart is to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities. (June 19, 1934, ch. 652, § 390, as added May 1, 1962, Pub. L. 87-447, 76 Stat. 64, and amended Nov. 7, 1967, Pub. L. 90-129, title I, § 103(a), title II, § 201(2), 81 Stat. 365, 367.)

AMENDMENTS

1967—Pub. L. 90-129 inserted "noncommercial" and "or radio" and substituted "subpart" for "part", respectively.

SHORT TITLE

Section 1 of Pub. L. 90-129 provided: "That this Act [which enacted sections 396, 398, and 399 and amended sections 390-395, and 397 of this title, and enacted provisions set out as notes under sections 390 and 392 of this title] may be cited as the 'Public Broadcasting Act of 1967'."

STUDY OF EDUCATIONAL AND INSTRUCTIONAL BROADCASTING

Pub. L. 90-129, title III, §§ 301—303, Nov. 7, 1967, 81 Stat. 373, authorized the Secretary of Health, Education, and Welfare to conduct, directly or by contract, and in consultation with other interested Federal agencies, a comprehensive study of instructional television and radio (including broadcast, closed circuit, community antenna television, and instructional television fixed services and two-way communication of data links and computers) and their relationship to each other and to instructional materials such as videotapes, films, discs, computers, and other educational materials or devices, and such other aspects thereof as may be of assistance in determining whether and what Federal aid should be provided for instructional radio and television and the form that aid should take, and which may aid communities, institutions, or agencies in determining whether and to what extent such activities should be used. The study was required to be submitted to the President for transmittal to the Congress on or before June 30, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 391, 392, 397, 398 of this title.

§ 391. Authorization of appropriations.

There are authorized to be appropriated for the fiscal year ending June 30, 1963, and each of the four succeeding fiscal years such sums, not exceeding $32,000,000 in the aggregate, as may be necessary to carry out the purposes of section 390 of this title. There are also authorized to be appropriated for carrying out the purposes of such section, $10,500,000 for the fiscal year ending June 30, 1968, $12,500,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970. There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and for each of the two succeeding fiscal years, $15,000,000 per fiscal year. Sums appropriated pursuant to this section shall remain available for payment of grants for projects for which applications, approved under section 392 of this title, have been submitted under such section prior to July 1, 1974. (June 19, 1934, ch. 652, § 391, as added May 1, 1962, Pub. L. 87-447, 76 Stat 65, and amended Nov. 7, 1967, Pub. L. 90-129, title I, § 101, 81 Stat. 365; Oct. 27, 1969, Pub. L. 91-97, § 2, 83 Stat. 146.)

AMENDMENTS

1969—Pub. L. 91-97 authorized appropriations of $15,000,000 for the fiscal year ending June 30, 1971, and for each of the two succeeding fiscal years, and extended date for submission of applications from "prior to July 1, 1971" to "prior to July 1, 1974".

1967—Pub. L. 90-129 authorized appropriations of $10,500,000, and $12,500,000, and $15,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, and extended date for submission of applications from "prior to July 1, 1968", to "prior to July 1, 1971".

SHORT TITLE

Section 1 of Pub. L. 91-97 provided: "That this Act [which amended this section and section 396 of this title] may be cited as the 'Educational Television and Radio Amendments of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

§ 392. Grants for construction.

(a) Applications for grants.

For each project for the construction of noncommercial educational television or radio broadcasting facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may by regulation require, including the total cost of such project and the amount of the Federal grant requested for such project, and providing assurance satisfactory to the Secretary—

(1) that the applicant is (A) an agency or officer responsible for the supervision of public elementary or secondary education or public higher education within that State, or within a political subdivision thereof, (B) in the case of a project for television facilities, the State noncommercial educational television agency or, in the case of a project for radio facilities, the State educational radio agency, (C) a college or university deriving its support in whole or in part from tax revenues, (D) (i) in the case of a project for television facilities, a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational television broadcasting and is eligible to receive a license from the Federal Communications Commission for a noncommercial educational television broadcasting station pursuant to the rules and regulations of the Commission in effect on April 12, 1962, or (ii) in the case of a project for radio facilities, a nonprofit foundation, corporation, or association which is organized primarily to engage in or encourage noncommercial educational radio broadcasting and is eligible to receive a license from the Federal Communications Commission; or meets the requirements of clause (i) and is also organized to engage in or encourage such radio broadcasting and is eligible for such a license for such a radio station, or (E) a municipality which owns and operates a broadcasting facility transmitting only noncommercial programs;

(2) that the operation of such educational broadcasting facilities will be under the control of the applicant or a person qualified under paragraph (1) to be such an applicant;

(3) that necessary funds to construct, operate, and maintain such educational broadcasting facilities will be available when needed;

(4) that such broadcasting facilities will be used only for educational purposes; and

(5) that, in the case of an application with respect to radio broadcasting facilities, there has been comprehensive planning for educational broadcasting facilities and services in the area the applicant proposes to serve and the applicant has participated in such planning, and the applicant will make the most efficient use of the frequency assignment.

(b) Maximum on grants in any State.

The total of the grants made under sections 390 to 399 of this title from the appropriation for any fiscal year for the construction of noncommercial educational radio broadcasting facilities and noncommercial educational radio broadcasting facilities in any State may not exceed 8½ per centum of such appropriation.

(c) Notice to State educational television and radio agencies.

(1) In order to assure proper coordination of construction of noncommercial educational television broadcasting facilities within each State which has established a State educational television agency each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary, and the Secretary shall advise such agency with respect to the disposition of each such application.

(2) In order to assure proper coordination of construction of noncommercial educational radio broadcasting facilities within each State which has established a State educational radio agency, each applicant for a grant under this section for a project for construction of such facilities in such State, other than such agency, shall notify such agency of each application for such a grant which is submitted by it to the Secretary and the Secretary shall advise such agency with respect to the disposition of each such application.

(d) Criteria for approval by Secretary.

The Secretary shall base his determinations of whether to approve applications for grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (1) prompt and effective use of all noncommercial educational television channels remaining available, (2) equitable geographical distribution of educational television broadcasting facilities or noncommercial educational radio broadcasting facilities, as the case may be throughout the States, and (3) provision of educational television broadcasting facilities or noncommercial educational radio broadcasting facilities, as the case may be, which will serve the greatest number of persons and serve them in as many areas as possible, and which are adaptable to the broadest educational uses.

(e) Federal share of cost of construction.

Upon approving any application under this section with respect to any project, the Secretary shall make a grant to the applicant in the amount determined by him, but not exceeding 75 per centum of the amount determined by the Secretary to be the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sum available therefor, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine.

(f) Recovery of funds upon termination of relationship with applicant or other owner of facilities, or use of facilities for other than educational purposes.

If, within ten years after completion of any project for construction of educational television or radio broadcasting facilities with respect to which a grant has been made under this section—

(1) the applicant or other owner of such facilities ceases to be an agency, officer, institution, foundation, corporation, or association described in subsection (a)(1) of this section, or

(2) such facilities cease to be used for noncommercial educational television purposes or noncommercial educational radio purposes, as the case may be (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation so to do),

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated) of such facilities, as the amount of the Federal participation bore to the cost of construction of such facilities. (June 19, 1934, ch. 652, § 392, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 65, and amended Nov. 7, 1967, Pub. L. 90–129, title I, §§ 102, 103(b)—(e), 104, 81 Stat. 365—367.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–129, § 103(b)(1), inserted "noncommercial" and "or radio" in the introductory text.

Subsec. (a)(1)(B). Pub. L. 90–129, § 103(b)(2), required the State educational television agency applicant for a television facilities project to be a noncommercial agency and inserted requirement that applicant for a radio facilities project be a State educational radio agency.

Subsec. (a)(1)(D). Pub. L. 90–129, § 103(b)(3), designated existing provisions as cl. (i), made such cl. (i) applicable to television facilities projects and noncommercial television, and added cl. (ii) and provision for applicant meeting both television and radio broadcasting requirements.

Subsec. (a)(1)(E). Pub. L. 90–129, § 103(b)(4), added cl. (E).

Subsec. (a)(2)—(4). Pub. L. 90–129, § 103(b)(5), struck out "television" preceding "broadcasting facilities" in pars. (2)—(4).

Subsec. (a)(5). Pub. L. 90–129, § 103(b)(6), added par. (5).

Subsec. (b). Pub. L. 90–129, § 102, substituted limitation on grants for construction of noncommercial educational television and radio broadcasting facilities in any State to 8½ per centum of fiscal year appropriation for former $1,000,000 limitation for construction of educational television broadcasting facilities in any State.

Subsec. (c). Pub. L. 90–129, § 103(c), designated existing provisions as par. (1), restricted such provisions to noncommercial educational television broadcasting facilities, and added par (2).

Subsec. (d). Pub. 90–129, § 103(d), inserted in cls. (2) and (3) "noncommercial" and "or noncommercial educational radio broadcasting facilities, as the case may be," preceding and following "educational television broadcasting facilities", respectively.

Subsec. (e). Pub. L. 90–129, § 104, increased the maximum Federal share in the cost of constructing educational broadcasting facilities from 50 to 75 percent, eliminated the additional credit, formerly allowed the grantee, of 25 percent of the cost of facilities owned by the applicant on the date his application is filed, eliminated the prohibition against using not more than 15 percent of a grant for the acquisition and installation of interconnection facilities, microwave equipment, boosters, translators, and repeaters, and provided for payment of cost of the project from the sum available therefor.

Subsec. (f). Pub. L. 90–129, § 103(e), inserted "or radio" in the introductory text and, in par. (2), "noncommercial" and "or noncommercial educational radio purposes, as the case may be" preceding and following "educational television purposes", respectively.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 102 of Pub. L. 90–129 provided in part that amendment of subsec. (b) by such section 102 shall be effective with respect to grants made from appropriations for any fiscal year beginning after June 30, 1967.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390, 394, 397, 398 of this title.

§ 393. Records; access by Secretary and the Comptroller General.

(a) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out his functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart. (June 19, 1934, ch. 652, § 393, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 66, and amended Nov. 7, 1967, Pub. L. 90–129, title II, § 201(2), 81 Stat. 367.)

AMENDMENTS

1967—Pub. L. 90–129 substituted "subpart" for "part", twice in subsec. (a) and once in subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

§ 394. Rules and regulations.

The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under section 392 of this title or to determining the amounts of grants for such projects. (June 19, 1934, ch. 652, title III, § 394, formerly § 396, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, renumbered and amended Nov. 7, 1967, Pub. L. 90–129, title II, § 201(2), (4), 81 Stat. 367.)

CODIFICATION

A prior section 394, act June 19, 1934, ch. 652, title III, § 394, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, and renumbered § 397, defined certain terms, and is classified to section 397 of this title.

AMENDMENTS

1967—Pub. L. 90–129, § 201(2), substituted "subpart" for "part".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

§ 395. Provision of assistance by Commission.

The Federal Communications Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for consultation and close cooperation with the Federal Communications Commission in the administration of his functions under this subpart which are of interest to or affect the functions of the Commission.

(June 19, 1934, ch. 652, § 395, as added May 1, 1962, Pub. L. 87-447, 76 Stat. 67, and amended Nov. 7, 1967, Pub. L. 90-129, title II, § 201(2), 81 Stat. 367.)

AMENDMENTS

1967—Pub. L. 90-129 substituted "subpart" for "part", in two instances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

SUBPART B.—CORPORATION FOR PUBLIC BROADCASTING

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 397 of this title.

§ 396. Corporation for Public Broadcasting.

(a) Congressional declaration of policy.

The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes;

(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programing depend on freedom, imagination, and initiative on both the local and national levels;

(3) that the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern of the Federal Government;

(4) that it furthers the general welfare to encourage noncommercial educational radio and television broadcast programing which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

(6) that a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.

(b) Establishment of Corporation; application of District of Columbia Nonprofit Corporation Act.

There is authorized to be established a nonprofit corporation, to be known as the "Corporation for Public Broadcasting", which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

(c) Board of Directors; number of members; appointment; political party affiliation; qualifications; representation of interests; term of office; vacancies.

(1) The Corporation shall have a Board of Directors (hereinafter in this section referred to as the "Board"), consisting of fifteen members appointed by the President, by and with the advice and consent of the Senate. Not more than eight members of the Board may be members of the same political party.

(2) The members of the Board (A) shall be selected from among citizens of the United States (not regular fulltime employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

(4) The term of office of each member of the Board shall be six years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, five at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve in excess of two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has qualified.

(5) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

(d) Election of Chairman and Vice Chairman or Vice Chairmen; nonfederal employment status of members; compensation and travel expenses.

(1) The President shall designate one of the members first appointed to the Board as Chairman; thereafter the members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as a Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at the rate of $100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(e) Officers and employees; term of office, compensation, qualifications, and removal; political party affiliation, political test or qualification when taking personnel actions.

(1) The Corporation shall have a President, and such other officers as may be named and appointed

by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c)(1) of this section, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

(f) Nonprofit and nonpolitical nature of the Corporation.

(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(g) Purposes and activities of the Corporation; powers under the District of Columbia Nonprofit Corporation Act.

(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others not specifically named—

(A) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programing costs of such stations, particularly innovative approaches thereto, and other costs of operation of such stations;

(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting.

(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation may not own or operate any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program production facility.

(h) Authorization for free or reduced rate interconnection service.

Nothing in this chapter or in any other provision of law shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

(i) Report to Congress.

The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed

report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate.

(j) Repeal, alteration, or amendment.

The right to repeal, alter, or amend this section at any time is expressly reserved.

(k) Financing.

(k)(1) There are authorized to be appropriated for expenses of the Corporation for the fiscal year ending June 30, 1969, the sum of $9,000,000; for the fiscal year ending June 30, 1970, the sum of $20,000,000; and for each of the two succeeding fiscal years, the sum of $30,000,000.

(2) In addition to the sums authorized to be appropriated by paragraph (1) of this subsection, there are authorized to be appropriated for payment to the Corporation for each fiscal year during the period July 1, 1970, to June 30, 1972, amounts equal to the amount of total grants, donations, bequests, or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation under subsection (g)(2)(A) of this section during such fiscal year; except that the amount appropriated pursuant to this paragraph for any fiscal year may not exceed $5,000,000.

(*l*) Records and audit of the Corporation and the recipients of assistance.

(1)(A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(B) The report of each such independent audit shall be included in the annual report required by subsection (i) of this section. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2)(A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(3)(A) Each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this section shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) The Corporation or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation. (June 19, 1934, ch. 652, title III, § 396, as added Nov. 7, 1967, Pub. L. 90–129, title II, § 201 (9), 81 Stat. 368, and amended Apr. 26, 1968, Pub. L. 90–294, 82 Stat. 108; Oct. 27, 1969, Pub. L. 91–97, § 3, 83 Stat. 146; Oct. 7, 1970, Pub. L. 91–437, § 2, 84 Stat. 888.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsecs. (b), (c)(3), and (g)(3) is classifield to the D.C. Code § 29–1001 et seq.

CODIFICATION

A prior section 396, act June 19, 1934, ch. 652, title III, § 396, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, and renumbered § 394, authorized making of rules and regulations, and is classified to section 394 of this title.

AMENDMENTS

1970—Subsec. (k). Pub. L. 91–437 authorized appropriations of $20,000,000 for the fiscal year ending June 30, 1970, and $30,000,000 for each of the two succeeding fiscal years, and further authorized appropriation of amounts equal to the amount of total grants, donations, bequests, or other contributions from non-Federal sources received by the Corporation during each fiscal year with a maximum limit of $5,000,000 for any fiscal year.

1969—Subsec. (k)(1). Pub. L. 91–97, § 3(a), added "and for the next fiscal year the sum of $20,000,000" following "the sum of $9,000,000".

Subsec. (k)(2). Pub. L. 91–97, § 3(b), added "or the next fiscal year" following "the fiscal year ending June 30, 1969,".

1968—Subsec. (k). Pub. L. 90–294 substituted "1969" for "1968".

SHORT TITLE

Section 1 of Pub. L. 91–437 provided: "That this Act [which amended subsec. (k) of this section] may be cited as the 'Public Broadcasting Financing Act of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

SUBPART C.—GENERAL PROVISIONS

§ 397. Definitions.

For the purposes of sections 390 to 399 of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term "construction", as applied to educational television broadcasting facilities, or educational radio broadcasting facilities means the acquisition and installation of transmission apparatus (including towers, microwave equipment, boosters, translators, repeaters, mobile equipment, and video-recording equipment) necessary for television broadcasting or radio broadcasting, as the case may be, including apparatus which may incidentally be used for transmitting closed circuit television programs, but does not include the construction or repair of structures to house such apparatus. In the case of apparatus the acquisition and installation of which is so included, such term also includes planning therefor.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The terms "State educational television agency" and "State educational radio agency" mean, with respect to television broadcasting and radio broadcasting, respectively, (A) a board or commission established by State law for the purpose of promoting such broadcasting within a State, (B) a board or commission appointed by the Governor of a State for such purpose if such appointment is not inconsistent with State law, or (C) a State officer or agency responsible for the supervision of public elementary or secondary education or public education within the State which has been designated by the Governor to assume responsibility for the promotion of such broadcasting; and, in the case of the District of Columbia, the term "Governor" means the Commissioner of the District of Columbia and, in the case of the Trust Territory of the Pacific Islands, means the High Commissioner thereof.

(5) The term "nonprofit" as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term "Corporation" means the Corporation authorized to be established by subpart B of this part.

(7) The term "noncommercial educational broadcast station" means a television or radio broadcast station, which (A) under the rules and regulations of the Federal Communications Commission in effect on November 7, 1967, is eligible to be licensed or is licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

(8) The term "interconnection" means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations.

(9) The term "educational television or radio programs" means programs which are primarily designed for educational or cultural purposes. (June 19, 1934, ch. 652, title III, § 397, formerly § 394, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, and amended 1967 Reorg. Plan No. 3, eff. Aug. 11, 1967, 32 F.R. 11669, 81 Stat. 948, renumbered and amended Nov. 7, 1967, Pub. L. 90–129, title I, §§ 103(f), 105, 106, title II, § 201(3), (6), 81 Stat. 366–368.)

CODIFICATION

A prior section 397, act June 19, 1934, ch. 652, title III, § 397, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, and renumbered § 398, prohibited Federal interference or control, and is classified to section 398 of this title.

AMENDMENTS

1967—Par. (1). Pub. L. 90–129, § 105(a), included the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands in the definition of "State".

Par. (2). Pub. L. 90–129, §§ 103(f)(1), 106, provided for application of the term "construction" to educational radio broadcasting facilities and defined such term to include acquisition and installation of transmission apparatus necessary for radio broadcasting, and included costs of planning, respectively.

Par. (4). Pub. L. 90–129, §§ 103(f)(2), 105(b), substituted "The terms 'State educational television agency' and 'State educational radio agency' mean, with respect to television broadcasting and radio broadcasting, respectively," for "The term 'State educational television agency' means" and "such broadcasting" for "educational television" in cls. (A) and (B), and defined "Governor" to include the High Commissioner of the Trust Territory of the Pacific Islands, respectively.

Pars. (6)—(9). Pub. L. 90–129, § 201(6), added pars. (6)—(9).

TRANSFER OF FUNCTIONS

References to the Board of Commissioners of the District of Columbia have been changed to the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan No. 3 of 1967, which transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other

sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See, also, effective date note under such plan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 398 of this title.

§ 398. Federal interference or control prohibited.

Nothing contained in sections 390 to 399 of this title shall be deemed (1) to amend any other provision of, or requirement under this chapter; or (2) to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over educational television or radio broadcasting, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or educational broadcasting station or system. (June 19, 1934, ch. 652, title III, § 398, formerly § 397, as added May 1, 1962, Pub. L. 87–447, 76 Stat. 67, renumbered and amended Nov. 7, 1967, Pub. L. 90–129, title I, § 103(g), title II, § 201(3), (5), 81 Stat. 367, 368.)

AMENDMENTS

1967—Pub. L. 90–129, §§ 103(g), 201(5), inserted "or radio" and ", or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation," preceding and following "broadcasting", where first appearing, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397 of this title.

§ 399. Editorializing and support of political candidates prohibited.

No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office. (June 19, 1934, ch. 652, title III, § 399, as added Nov. 7, 1967, Pub. L. 90–129, title II, § 201(8), 81 Stat. 368.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 392, 397, 398 of this title.

SUBCHAPTER IV.—PROCEDURAL AND ADMINISTRATIVE PROVISIONS

§ 401. Enforcement of chapter and orders of Commission; jurisdiction.

(a) The district courts of the United States shall have jurisdiction, upon application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this chapter by any person, to issue a writ or writs of mandamus commanding such person to comply with the provisions of this chapter.

(b) If any person fails or neglects to obey any order of the Commission other than for the payment of money, while the same is in effect, the Commission or any party injured thereby, or the United States, by its Attorney General, may apply to the appropriate district court of the United States for the enforcement of such order. If, after hearing, that court determines that the order was regularly made and duly served, and that the person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person or the officers, agents, or representatives of such person, from further disobedience of such order, or to enjoin upon it or them obedience to the same.

(c) Upon the request of the Commission it shall be the duty of any United States attorney to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney General of the United States all necessary proceedings for the enforcement of the provisions of this chapter and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

(d) The provisions of sections 28 and 29 of Title 15, section 345 (1) of Title 28, and sections 44 and 45 of Title 49, shall be held to apply to any suit in equity arising under sections 201 to 222 of this title, wherein the United States is complainant. (June 19, 1934, ch. 652, § 401, 48 Stat. 1092; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

REFERENCES IN TEXT

Section 345 (1) of Title 28, referred to in subsec. (d), was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and is now covered by sections 1252 and 1253 of Title 28, Judiciary and Judicial Procedure and section 3731 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Application, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rules on this section, see notes by Advisory Committee under Rules 54 and 81.

Judgment and costs, see Rule 54.

§ 402. Judicial review of Commission's orders and decisions.

(a) Procedure.

Any proceeding to enjoin, set aside, annul, or suspend any order of the Commission under this chapter (except those appealable under subsection (b) of this section) shall be brought as provided by and in the manner prescribed in chapter 19A of Title 5.

(b) Right to appeal.

Appeals may be taken from decisions and orders of the Commission to the United States Court of Appeals for the District of Columbia in any of the following cases:

(1) By any applicant for a construction permit or station license, whose application is denied by the Commission.

(2) By any applicant for the renewal or modification of any such instrument of authorization whose application is denied by the Commission.

(3) By any party to an application for authority to transfer, assign, or dispose of any such instrument of authorization, or any rights thereunder, whose application is denied by the Commission.

(4) By any applicant for the permit required by section 325 of this title whose application has been denied by the Commission, or by any per-

mittee under said section whose permit has been revoked by the Commission.

(5) By the holder of any construction permit or station license which has been modified or revoked by the Commission.

(6) By any other person who is aggrieved or whose interests are adversely affected by any order of the Commission granting or denying any application described in paragraphs (1)—(4) of this subsection.

(7) By any person upon whom an order to cease and desist has been served under section 312 of this title.

(8) By any radio operator whose license has been suspended by the Commission.

(c) Filing notice of appeal; contents; jurisdiction; temporary orders.

Such appeal shall be taken by filing a notice of appeal with the court within thirty days from the date upon which public notice is given of the decision or order complained of. Such notice of appeal shall contain a concise statement of the nature of the proceedings as to which the appeal is taken; a concise statement of the reasons on which the appellant intends to rely, separately stated and numbered; and proof of service of a true copy of said notice and statement upon the Commission. Upon filing of such notice, the court shall have jurisdiction of the proceedings and of the questions determined therein and shall have power, by order, directed to the Commission or any other party to the appeal, to grant such temporary relief as it may deem just and proper. Orders granting temporary relief may be either affirmative or negative in their scope and application so as to permit either the maintenance of the status quo in the matter in which the appeal is taken or the restoration of a position or status terminated or adversely affected by the order appealed from and shall, unless otherwise ordered by the court, be effective pending hearing and determination of said appeal and compliance by the Commission with the final judgment of the court rendered in said appeal.

(d) Notice to interested parties; filing of record.

Upon the filing of any such notice of appeal the Commission shall, not later than five days after the date of service upon it, notify each person shown by the records of the Commission to be interested in said appeal of the filing and pendency of the same and shall thereafter permit any such person to inspect and make copies of said notice and statement of reasons therefor at the office of the Commission in the city of Washington. Within thirty days after the filing of an appeal, the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of Title 28.

(e) Intervention.

Within thirty days after the filing of any such appeal any interested person may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement showing the nature of the interest of such party, together with proof of service of true copies of said notice and statement, both upon appellant and upon the Commission. Any person who would be aggrieved or whose interest would be adversely affected by a reversal or modification of the order of the Commission complained of shall be considered an interested party.

(f) Records and briefs.

The record and briefs upon which any such appeal shall be heard and determined by the court shall contain such information and material, and shall be prepared within such time and in such manner as the court may by rule prescribe.

(g) Time of hearing; procedure.

At the earliest convenient time the court shall hear and determine the appeal upon the record before it in the manner prescribed by section 1009 (e) of Title 5.

(h) Remand.

In the event that the court shall render a decision and enter an order reversing the order of the Commission, it shall remand the case to the Commission to carry out the judgment of the court and it shall be the duty of the Commission, in the absence of the proceedings to review such judgment, to forthwith give effect thereto, and unless otherwise ordered by the court, to do so upon the basis of the proceedings already had and the record upon which said appeal was heard and determined.

(i) Judgment for costs.

The court may, in its discretion, enter judgment for costs in favor of or against an appellant, or other interested parties intervening in said appeal, but not against the Commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof.

(j) Finality of decision; review by Supreme Court.

The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 1254 of Title 28, by the appellant, by the Commission, or by any interested party intervening in the appeal, or by certification by the court pursuant to the provisions of that section. (June 7, 1934, ch. 426, 48 Stat. 926; June 19, 1934, ch. 652, § 402, 48 Stat. 1093; May 20, 1937, ch. 229, §§ 11—13, 50 Stat. 197; May 24, 1949, ch. 139, § 132, 63 Stat. 108; July 16, 1952, ch. 879, § 14, 66 Stat. 718; Aug. 28, 1958, Pub. L. 85-791, § 12, 72 Stat. 945.)

REFERENCES IN TEXT

Chapter 19A of Title 5, referred to in subsec. (a), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general revision of Title 5 and is now covered by section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 1009(e) of Title 5, referred to in subsec. (g), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general revision of Title 5 and is now covered by section 706 of Title 5, Government Organization and Employees.

AMENDMENTS

1958—Subsec. (d). Pub. L. 85-791, in second sentence, substituted "the record upon which the order complained of was entered, as provided in section 2112 of Title 28," for "a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified

copies of all papers and evidence presented to and considered by it in entering said order".

1952—Act July 16, 1952, amended section generally to set up the procedure for the judicial review of the Commission's orders and decisions.

1949—Subsec. (a). Act May 24, 1949, substituted "Title 28 of the United States Code" for "the Act of October 22, 1913 (38 Stat. 219)", and "such Title 28" in lieu of "that Act".

1937—Subsec. (a). Act May 20, 1937, § 11, inserted ", or suspending a radio operator's license" after "or for modifications of an existing radio station license."

Subsec. (b). Act May 20, 1937, § 12, added par. (3) relating to appeal from decisions in case of any radio operator whose license has been suspended by the Commission.

Subsec. (c). Act May 20, 1937, § 13, inserted in the last sentence "or order" following "upon the application."

CHANGE OF NAME

Act June 7, 1934, redesignated the Court of Appeals of the District of Columbia as the United States Court of Appeals for the District of Columbia.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 19 (2) of act July 16, 1952, provided that: "The amendments made by this Act to section 402 of the Communications Act of 1934 [this section] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 405 of this title and title 28 section 2342.

§ 403. Inquiry by Commission on its own motion.

The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this chapter, or concerning which any question may arise under any of the provisions of this chapter, or relating to the enforcement of any of the provisions of this chapter. The Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this chapter, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had, excepting orders for the payment of money. (June 19, 1934, ch. 652, § 403, 48 Stat. 1094.)

§ 404. Reports of investigations.

Whenever an investigation shall be made by the Commission it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made. (June 19, 1934, ch. 652, § 404, 48 Stat. 1094.)

§ 405. Petition for rehearing; procedure; disposition; time of filing; additional evidence.

After an order, decision, report, or action has been made or taken in any proceeding by the Commission, or by any designated authority within the Commission pursuant to a delegation under section 155(d)(1) of this title, any party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for rehearing only to the authority making or taking the order, decision, report, or action; and it shall be lawful for such authority, whether it be the Commission or other authority designated under section 155(d)(1) of this title, in its discretion, to grant such a rehearing if sufficient reason therefor be made to appear. A petition for rehearing must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of. No such application shall excuse any person from complying with or obeying any order, decision, report, or action of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. The filing of a petition for rehearing shall not be a condition precedent to judicial review of any such order, decision, report, or action, except where the party seeking such review (1) was not a party to the proceedings resulting in such order, decision, report, or action, or (2) relies on questions of fact or law upon which the Commission, or designated authority within the Commission, has been afforded no opportunity to pass. The Commission, or designated authority within the Commission, shall enter an order, with a concise statement of the reasons therefor, denying a petition for rehearing or granting such petition, in whole or in part, and ordering such further proceedings as may be appropriate: *Provided,* That in any case where such petition relates to an instrument of authorization granted without a hearing, the Commission, or designated authority within the Commission, shall take such action within ninety days of the filing of such petition. Rehearings shall be governed by such general rules as the Commission may establish, except that no evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission or designated authority within the Commission believes should have been taken in the original proceeding shall be taken on any rehearing. The time within which a petition for review must be filed in a proceeding to which section 402(a) of this title applies, or within which an appeal must be taken under section 402(b) of this title in any case, shall be computed from the date upon which public notice is given of orders disposing of all petitions for rehearing filed with the Commission in such proceeding or case, but any order, decision, report, or action made or taken after such rehearing reversing, changing, or modifying the original order shall be subject to the same provisions with respect to rehearing as an original order. (June 19, 1934, ch. 652, § 405, 48 Stat. 1095; July 16, 1952, ch. 879, § 15, 66 Stat. 720; Sept. 13, 1960, Pub. L. 86-752, § 4(c), 74 Stat. 892; Aug. 31, 1961, Pub. L. 87-192, § 3, 75 Stat. 421.)

AMENDMENTS

1961—Pub. L. 87-192 provided for petition for rehearing to the authority making or taking the order, decision, report, or action, substituted references to report and action for requirement, wherever else appearing, and inserted references to proceeding by any designated authority within the Commission, wherever appearing.

1960—Pub. L. 86-752 substituted "any party" for "and party" in the first sentence, and added a new sentence dealing with disposition of petitions for rehearing.

1952—Act July 16, 1952 provided for the taking of newly discovered evidence and evidence which should have been taken in original hearing.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4(d)(4) of Pub. L. 86-752 provided that: "The amendment made by paragraph (2) of subsection (c) of this section [to this section] shall only apply to petitions for rehearing filed on or after the date of the enactment of this Act [Sept. 13, 1960]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 307, 309, of this title.

§ 406. Compelling furnishing of facilities; mandamus; jurisdiction.

The district courts of the United States shall have jurisdiction upon the relation of any person alleging any violation, by a carrier subject to this chapter, of any of the provisions of this chapter which prevent the relator from receiving service in interstate or foreign communication by wire or radio, or in interstate or foreign transmission of energy by radio, from said carrier at the same charges, or upon terms or conditions as favorable as those given by said carrier for like communication or transmission under similar conditions to any other person, to issue a writ or writs of mandamus against said carrier commanding such carrier to furnish facilities for such communication or transmission to the party applying for the writ: *Provided,* That if any question of fact as to the proper compensation to the carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper pending the determination of the question of fact: *Provided further,* That the remedy given by writ of mandamus shall be cumulative and shall not be held to exclude or interfere with other remedies provided by this chapter. (June 19, 1934, ch. 652, § 406, 48 Stat. 1095.)

FEDERAL RULES OF CIVIL PROCEDURE

Application, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of Rules on this section, see note by Advisory Committee under Rule 81.

§ 407. Order for payment of money; petition for enforcement; procedure; order of Commission as prima facie evidence; costs; attorneys' fees.

If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the district court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the line of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suits the findings and order of the Commission shall be prima facie evidence of the facts therein stated, except that the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. (June 19, 1934, ch. 652, § 407, 48 Stat. 1095.)

FEDERAL RULES OF CIVIL PROCEDURE

Complaint in civil action, see Rules 3 and 7, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 408. Order not for payment of money; when effective.

Except as otherwise provided in this chapter, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days after service of the order, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction. (June 19, 1934, ch. 652, § 408, 48 Stat. 1096.)

§ 409. Hearings.

(a) Filing of initial decisions; exceptions.

In every case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for hearing, the person or persons conducting the hearing shall prepare and file an initial, tentative, or recommended decision, except where such person or persons become unavailable to the Commission or where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably require that the record be certified to the Commission for initial or final decision.

(b) Exceptions to initial decisions; memoranda; determination of Commission or authority within Commission; prohibition against consideration of own decision.

In every case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for hearing, any party to the proceeding shall be permitted to file exceptions and memoranda in support thereof to the initial, tentative, or recommended decision, which shall be passed upon by the Commission or by the authority within the Commission, if any, to whom the function of passing upon the exceptions is delegated under section 155(d)(1) of this title: *Provided, however,* That such authority shall not be the same authority which made the decision to which the exception is taken.

(c) Notice and opportunity for participation by parties; applicability of Administrative Procedure Act.

(1) In any case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for a hearing, no person who has participated in the presentation or preparation for presentation of such case at the hearing or upon review shall (except to the extent required for the disposition of ex parte matters as authorized by law) directly or indirectly make any additional presentation respecting such case to the hearing officer or officers or to the Commission, or to any authority within the Commission to whom, in

such case, review functions have been delegated by the Commission under section 155(d)(1) of this title, unless upon notice and opportunity for all parties to participate.

(2) The provision in subsection (c) of section 1004 of Title 5 which states that such subsection shall not apply in determining applications for initial licenses, shall not be applicable hereafter in the case of applications for initial licenses before the Federal Communications Commission.

(d) Applicability of Administrative Procedure Act.

To the extent that the foregoing provisions of this section and section 155(d) of this title are in conflict with the provisions of the Administrative Procedure Act, such provisions of this section and section 155 (d) of this title shall be held to supersede and modify the provisions of that Act.

(e) Subpenas; witnesses; production of documents; fees and mileage.

For the purposes of this chapter the Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(f) Designated place of hearing; aid in enforcement of orders.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpena the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

(g) Contempts.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any common carrier or licensee or other person, issue an order requiring such common carrier, licensee, or other person to appear before the Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(h) Depositions.

The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any United States commissioner, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor, or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided.

(i) Oaths; testimony in writing.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(j) Foreign depositions.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(k) Deposition fees.

Witnesses whose depositions are taken as authorized in this chapter, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(*l*) Repealed. Pub. L. 91–452, title II, § 242, Oct. 15, 1970, 84 Stat. 930.

(m) Penalties.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, schedules of charges, contracts, agreements, and documents, if in his power to do so, in obedience to the subpena or lawful requirement of the Commission, shall be guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $100 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. (June 19, 1934, ch. 652, § 409, 48 Stat. 1096; July 16, 1952, ch. 879, § 16, 66 Stat. 721; Aug. 31, 1961, Pub. L. 87–192, § 4, 75 Stat. 422; Oct. 15, 1970, Pub. L. 91–452, title II, § 242, 84 Stat. 930.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsecs. (a)—(d), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

Subsection (c) of section 1004 of Title 5, referred to in subsec. (c)(2), was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general reorganization of Title 5 and is now covered by section 544(d)(1),

(2)(A)-(C) of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (*l*). Pub. L. 91-452 struck out subsec. (*l*) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1961—Subsec. (a). Pub. L. 87-192 substituted provision for filing of initial decisions, with stated exceptions, formerly contained in the first sentence of subsec. (b) of this section but amplified to include tentative or recommended decisions, for provision relating to assignment of cases to examiners.

Subsec. (b). Pub. L. 87-192 provided for the filing of memoranda in support of exceptions to initial, tentative, or recommended decisions, to be passed upon by the Commission or the designated authority within the Commission, and eliminated provisions for oral argument on the exceptions, filing of initial decisions, with stated exceptions, now incorporated in subsec. (a) of this section, and making all decisions part of the record and requiring the decisions to include a statement of findings, and conclusions upon all material issues of fact, law, or discretion and the appropriate decision, order, or requirement, now covered by section 1007 of Title 5, Executive Departments and Government Officers and Employees.

Subsec. (c). Pub. L. 87-192 continued requirement of notice and opportunity for participation by all parties when person seeks to make any additional presentation of case, having previously participated in the presentation of or preparation for presentation of the case, made applicable provisions of section 1004(c) of Title 5 to applications for initial licenses and eliminated provisions for separation of functions of examiners from the investigative and prosecutory functions of persons engaged in performance of such functions, prohibition against consultation with Commission or any member or employee thereof with respect to initial decisions or exceptions taken to findings, rulings or recommendations, prohibition against members of Office of The General Counsel, Office of the Chief Engineer or the Office of the Chief Accountant from making any presentations respecting a case, and prohibition against persons engaged in performance of investigative or prosecuting functions for the Commission from consulting in any case of adjudication.

Subsec. (d). Pub. L. 87-192 inserted references to section 155(d) of this title.

1952—Act July 16, 1952, amended section generally by inserting subsecs. (a)—(d) and relettering former subsecs. (b)—(j) to be subsecs. (a)—(m), respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISIONS

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

Section 5 of Pub. L. 87-192 provided that: "Notwithstanding the foregoing provisions of this Act [amending sections 155 and 405 of this title and this section], the second sentence of subsection (b) of section 409 of the Communications Act of 1934 [subsec. (b) of this section] (which relates to the filing of exceptions and the presentation of oral argument), as in force at the time of the enactment of this Act [Aug. 31, 1961], shall continue to be applicable with respect to any case of adjudication (as defined in the Administrative Procedure Act) [now covered by sections 551 et seq. and 701 et seq. of Title 5] designated by the Federal Communications Commission for hearing by a notice of hearing issued prior to the date of the enactment of this Act. [Aug. 31, 1961]."

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see Rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 410 of this title; title 21 sections 467d, 677, 1051.

§ 410. Joint boards; functions; appointment; allowances; cooperation with State commissions.

(a) Except as provided in section 409 of this title, the Commissioner may refer any matter arising in the administration of this chapter to a joint board to be composed of a member, or of an equal number of members, as determined by the Commission, from each of the States in which the wire or radio communication affected by or involved in the proceeding takes place or is proposed. For purposes of acting upon such matter any such board shall have all the jurisdiction and powers conferred by law upon an examiner provided for in section 1010 of Title 5, designated by the Commission, and shall be subject to the same duties and obligations. The action of a joint board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The joint board member or members for each State shall be nominated by the State commission of the State or by the Governor if there is no State commission, and appointed by the Federal Communications Commission. The Commission shall have discretion to reject any nominee. Joint board members shall receive such allowances for expenses as the Commission shall provide.

(b) The Commission may confer with any State commission having regulatory jurisdiction with respect to carriers, regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized under such rules and regulations as it shall prescribe to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this chapter to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission. (June 19, 1934, ch. 652, § 410, 48 Stat. 1098; July 16, 1952, ch. 879, § 17, 66 Stat. 722; Aug. 2, 1956, ch. 874, § 4, 70 Stat. 931.)

REFERENCES IN TEXT

Section 1010 of Title 5, referred to in subsec. (a), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, in the general revision of Title 5 and is now covered by sections 1305, 3105, 3344, 4301(2)(E), 5335(a)(B), 5362, and 7521 of Title 5, Government Organization and Employees.

AMENDMENTS

1956—Subsec. (a). Act Aug. 2, 1956 inserted before the words "the Commission" in the second sentence, the words "and examiner provided for in section 1010 of Title 5, designated by".

1952—Subsec. (a). Act July 16, 1952 inserted first sentence so as to bring these provisions in conformity with section 409 of this title.

§ 411. Joinder of parties.

(a) In any proceeding for the enforcement of the provisions of this chapter, whether such proceeding be instituted before the Commission or be begun originally in any district court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the charge, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.

(b) In any suit for the enforcement of an order for the payment of money all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit, the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff. (June 19, 1934, ch. 652, § 411, 48 Stat. 1098.)

FEDERAL RULES OF CIVIL PROCEDURE

Territorial limits of effective service of process, see Rule 4 (f), Title 28, Appendix, Judiciary and Judicial Procedure.

§ 412. Documents filed with Commission as public records; prima facie evidence; confidential records.

The copies of schedules of charges, classifications, and of all contracts, agreements, and arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers and other persons made to the Commission as required under the provisions of this chapter shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals: *Provided,* That the Commission may, if the public interest will be served thereby, keep confidential any contract, agreement, or arrangement relating to foreign wire or radio communication when the publication of such contract, agreement, or arrangement would place American communication companies at a disadvantage in meeting the competition of foreign communication companies. (June 19, 1934, ch. 652, § 412, 48 Stat. 1099.)

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 44 on this section, see note by Advisory Committee under Rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

Proof of official records, see Rule 44.

§ 413. Designation of agent for service; method of service.

It shall be the duty of every carrier subject to this chapter, within sixty days after the taking effect of this chapter, to designate in writing an agent in the District of Columbia, upon whom service of all notices and process and all orders, decisions, and requirements of the Commission may be made for and on behalf of said carrier in any proceeding or suit pending before the Commission, and to file such designation in the office of the Secretary of the Commission, which designation may from time to time be changed by like writing similarly filed: and thereupon service of all notices and process and orders, decisions, and requirements of the Commission may be made upon such carrier by leaving a copy thereof with such designated agent at his office or usual place of residence in the District of Columbia, with like effect as if made personally upon such carrier, and in default of such designation of such agent, service of any notice or other process in any proceeding before said Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the office of the secretary of the Commission. (June 19, 1934, ch. 652, § 413, 48 Stat. 1099.)

EFFECTIVE DATE

Effective date of chapter, see section 607 of this title.

§ 414. Exclusiveness of chapter.

Nothing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies. (June 19, 1934, ch. 652, § 414, 48 Stat. 1099.)

§ 415. Limitations of actions.

(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun within one year from the time the cause of action accrues, and not after.

(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within one year from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within one year from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the one-year period of limitation said period shall be extended to include one year from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(d) If on or before expiration of the period of limitation in subsection (b) or (c) of this section a carrier begins action under subsection (a) of this section for recovery of lawful charges in respect of the same service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

(e) The cause of action in respect of the transmission of a message shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(f) A petition for the enforcement of an order of the Commission for the payment of money shall be filed in the district court or the State court within one year from the date of the order, and not after.

(g) The term "overcharges" as used in this section shall be deemed to mean charges for services in excess of those applicable thereto under the schedules of charges lawfully on file with the Commission. (June 19, 1934, ch. 652, § 415, 48 Stat. 1099.)

§ 416. Orders of Commission; service; suspension or modification; compliance.

(a) Every order of the Commission shall be forthwith served upon the designated agent of the carrier in the city of Washington or in such other manner as may be provided by law.

(b) Except as otherwise provided in this chapter, the Commission is authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

(c) It shall be the duty of every person, its agents and employees, and any receiver or trustee thereof, to observe and comply with such orders so long as the same shall remain in effect. (June 19, 1934, ch. 652, § 416, 48 Stat. 1100.)

SUBCHAPTER V.—PENAL PROVISIONS; FORFEITURES

§ 501. General penalty.

Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this chapter prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this chapter required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished for such offense, for which no penalty (other than a forfeiture) is provided in this chapter, by a fine of not more than $10,000 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating any provision of this chapter punishable under this section, shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding two years, or both. (June 19, 1934, ch. 652, § 501, 48 Stat. 1100; Mar. 23, 1954, ch. 104, 68 Stat. 30.)

AMENDMENTS

1954—Act Mar. 23, 1954, provided that any offense punishable hereunder, except a second or subsequent offense, should constitute a misdemeanor rather than a felony, as those terms are defined in section 1 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 386 of this title.

§ 502. Violation of rules, regulations, etc.

Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this chapter, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is or may hereafter become a party, shall, in addition to any other penalties provided by law, be punished, upon conviction thereof, by a fine of not more than $500 for each and every day during which such offense occurs. (June 19, 1934, ch. 652, § 502, 48 Stat. 1100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 386 of this title.

§ 503. Forfeitures.

(a) Rebates and offsets.

Any person who shall deliver messages for interstate or foreign transmission to any carrier, or for whom as sender or receiver, any such carrier shall transmit any interstate or foreign wire or radio communication, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transmission of such messages as fixed by the schedules of charges provided for in this chapter, shall in addition to any other penalty provided by this chapter forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

(b) Violation of rules, regulations, etc.; notice of apparent liability; limitation of forfeiture liability.

(1) Any licensee or permittee of a broadcast station who—

(A) willfully or repeatedly fails to operate such station substantially as set forth in his license or permit,

(B) willfully or repeatedly fails to observe any of the provisions of this chapter or of any rule or regulation of the Commission prescribed under authority of this chapter or under authority of any treaty ratified by the United States,

(C) fails to observe any final cease and desist order issued by the Commission,

(D) violates section 317(c) or section 509(a)(4) of this title, or

(E) violates section 1304, 1343, or 1464 of Title 18,

shall forfeit to the United States a sum not to exceed $1,000. Each day during which such violation occurs shall constitute a separate offense. Such forfeiture shall be in addition to any other penalty provided by this chapter.

(2) No forfeiture liability under paragraph (1) of this subsection (b) shall attach unless a written notice of apparent liability shall have been issued by the Commission and such notice has been received by the licensee or permittee or the Commission shall have sent such notice by registered or certified mail to the last known address of the licensee or permittee. A licensee or permittee so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulations prescribe, why he should not be held liable. A notice issued under this paragraph shall not be valid unless it sets forth the date, facts, and nature of the act or omission with which the licensee or permittee is charged and specifically identifies the particular provision or provisions of the law, rule, or regulation or the license, permit, or cease and desist order involved.

(3) No forfeiture liability under paragraph (1) of this subsection (b) shall attach for any violation occurring more than one year prior to the date of issuance of the notice of apparent liability and in no event shall the forfeiture imposed for the acts or omissions set forth in any notice of apparent liability exceed $10,000. (June 19, 1934, ch. 652, § 503, 48 Stat. 1101; Sept. 13, 1960, Pub. L. 86-752, § 7(a), 74 Stat. 894.)

AMENDMENTS

1960—Pub. L. 86-752 amended catchline substituting "Forfeitures" for "Rebates and offsets, forfeitures,", designated existing provisions as subsec. (a), and added subsec. (b).

CROSS REFERENCES

Forfeitures for violation of provisions relating to equipment, see section 362 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 386, 504 of this title.

§ 504. Recovery of forfeitures; remission and mitigation; use of notice of apparent liability.

(a) The forfeitures provided for in this chapter shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the person or carrier has its principal operating office or in any district through which the line or system of the carrier runs: *Provided,* That any suit for the recovery of a forfeiture imposed pursuant to the provisions of this chapter shall be a trial de novo: *Provided further,* That in the case of forfeiture by a ship, said forfeiture may also be recoverable by way of libel in any district in which such ship shall arrive or depart. Such forfeitures shall be in addition to any other general or specific penalties provided in this chapter. It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this chapter. The costs and expenses of such prosecutions shall be paid from the appropriation for the expenses of the courts of the United States.

(b) The forfeitures imposed by sections 351 to 362, 381 to 386, 503(b), 507, and 510 of this title shall be subject to remission or mitigation by the Commission, upon application therefor, under such regulations and methods of ascertaining the facts as may seem to it advisable, and, if suit has been instituted, the Attorney General, upon request of the Commission, shall direct the discontinuance of any prosecution to recover such forfeitures: *Provided, however,* That no forfeiture shall be remitted or mitigated after determination by a court of competent jurisdiction.

(c) In any case where the Commission issues a notice of apparent liability looking toward the imposition of a forfeiture under this chapter, that fact shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued, unless (i) the forfeiture has been paid, or (ii) a court of competent jurisdiction has ordered payment of such forfeiture, and such order has become final. (June 19, 1934, ch. 652, § 504, 48 Stat. 1101; May 20, 1937, ch. 229, § 14, 50 Stat. 197; June 25, 1948; ch. 646, § 1, 62 Stat. 909; Aug. 13, 1954, ch. 735, § 4, 68 Stat. 729; Aug. 6, 1956, ch. 973, § 2, 70 Stat. 1048; Sept. 13, 1960, Pub. L. 86-752, § 7(b)—(d), 74 Stat. 895; May 11, 1962, Pub. L. 87-448, § 2, 76 Stat. 69.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-448 empowered the Commission to remit or mitigate the forfeitures imposed by section 510 of this title.

1960—Subsec. (a). Pub. L. 86-752, § 7(b), added proviso that any suit for recovery of a forfeiture shall be a trial de novo.

Subsec. (b). Pub. L. 86-752, § 7(c), substituted "sections 503(b) and 507" for "section 507".

Subsec. (c). Pub. L. 86-752, § 7(d), added subsec. (c).

1956—Subsec. (b). Act Aug. 6, 1956, inserted ", 381—386" following "351—362".

1954—Subsec. (b). Act Aug. 13, 1954, added reference to section 507 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys". See section 501 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-448 effective on the thirtieth day after May 11, 1962, see section 3 of Pub. L. 87-448, set out as a note under section 510 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsec. (b) effective Mar. 1, 1957, see note set out under section 381 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment of subsec. (b) by act Aug. 13, 1954, effective November 13, 1954, see note under section 507 of this title.

CROSS REFERENCES

Exclusive jurisdiction of district courts of the United States for recovery of forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Mode of recovery for forfeitures generally, see section 2461 of Title 28.

Venue of proceeding for recovery for forfeiture, see section 1395 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 386 of this title.

§ 505. Venue of trials.

The trial of any offense under this chapter shall be in the district in which it is committed; or if the offense is committed upon the high seas, or out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender may be found or into which he shall be first brought. Whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein. (June 19, 1934, ch. 652, § 505, 48 Stat. 1101.)

CROSS REFERENCES

Offenses begun in one district and completed in another, see section 3237 of Title 18, Crimes and Criminal Procedure.

Offenses not committed in any district, see section 3238 of Title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 362, 386 of this title.

§ 506. Coercive practices affecting broadcasting; enforcement of contracts; penalties; definition.

(a) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel or constrain or attempt to coerce, compel, or constrain a licensee—

(1) to employ or agree to employ, in connection with the conduct of the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services; or

(2) to pay or give or agree to pay or give any money or other thing of value in lieu of giving, or on account of failure to give, employment to any person or persons, in connection with the conduct of the broadcasting business of such licensee, in excess of the number of employees needed by such licensee to perform actual services; or

(3) to pay or agree to pay more than once for services performed in connection with the conduct of the broadcasting business of such licensee; or

(4) to pay or give or agree to pay or give any money or other thing of value for services, in connection with the conduct of the broadcasting business of such licensee, which are not to be performed; or

(5) to refrain, or agree to refrain, from broadcasting or from permitting the broadcasting of a noncommercial educational or cultural program in connection with which the participants receive no money or other thing of value for their services, other than their actual expenses, and such licensee neither pays nor gives any money or other thing of value for the privilege of broadcasting such program nor receives any money or other thing of value on account of the broadcasting of such program; or

(6) to refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communication originating outside the United States.

(b) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation or duress, or by the use or express or implied threat of the use of other means, to coerce, compel or constrain or attempt to coerce, compel or constrain a licensee or any other person—

(1) to pay or agree to pay any exaction for the privilege of, or on account of, producing, preparing, manufacturing, selling, buying, renting, operating, using, or maintaining recordings, transcriptions, or mechanical, chemical, or electrical reproductions, or any other articles, equipment, machines, or materials, used or intended to be used in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting; or

(2) to accede to or impose any restriction upon such production, preparation, manufacture, sale, purchase, rental, operation, use, or maintenance, if such restriction is for the purpose of preventing or limiting the use of such articles, equipment, machines, or materials in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting; or

(3) to pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program.

(c) The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

(d) Whoever willfully violates any provision of subsection (a) or (b) of this section shall, upon conviction thereof, be punished by imprisonment for not more than one year or by a fine of not more than $1,000, or both.

(e) As used in this section the term "licensee" includes the owner or owners, and the person or persons having control or management, of the radio station in respect of which a station license was granted. (June 19, 1934, ch. 652, § 506, as added Apr. 16, 1946, ch. 138, 60 Stat. 89.)

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 386 of this title.

§ 507. Violation of Great Lakes Agreement.

(a) Any vessel of the United States that is navigated in violation of the provisions of the Great Lakes Agreement or the rules and regulations of the Commission made in pursuance thereof and any vessel of a foreign country that is so navigated on waters under the jurisdiction of the United States shall forfeit to the United States the sum of $500

recoverable by way of suit or libel. Each day during which such navigation occurs shall constitute a separate offense.

(b) Every willful failure on the part of the master of a vessel of the United States to enforce or to comply with the provisions of the Great Lakes Agreement or the rules and regulations of the Commission made in pursuance thereof shall cause him to forfeit to the United States the sum of $100. (June 19, 1934, ch. 652, § 507, as added Aug. 13, 1954, ch. 735, § 3, 68 Stat. 729.)

EFFECTIVE DATE

Section 6 of act Aug. 13, 1954, provided that: "This Act [this section and sections 153 (ee), 154 (f) (3), and 504 (b) of this title] shall take effect on November 13, 1954."

GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in the text, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954, 3 UST 4926.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 386, 504, 510 of this title.

§ 508. Disclosure of payments to individuals connected with broadcasts.

(a) Payments to station employees.

Subject to subsection (d) of this section, any employee of a radio station who accepts or agrees to accept from any person (other than such station), or any person (other than such station) who pays or agrees to pay such employee, any money, service or other valuable consideration for the broadcast of any matter over such station shall, in advance of such broadcast, disclose the fact of such acceptance or agreement to such station.

(b) Production or preparation of programs.

Subject to subsection (d) of this section, any person who, in connection with the production or preparation of any program or program matter which is intended for broadcasting over any radio station, accepts or agrees to accept, or pays or agrees to pay, any money, service or other valuable consideration for the inclusion of any matter as a part of such program or program matter, shall, in advance of such broadcast, disclose the fact of such acceptance or payment or agreement to the payee's employer, or to the person for whom such program or program matter is being produced, or to the licensee of such station over which such program is broadcast.

(c) Supplying of program or program matter.

Subject to subsection (d) of this section, any person who supplies to any other person any program or program matter which is intended for broadcasting over any radio station shall, in advance of such broadcast, disclose to such other person any information of which he has knowledge, or which has been disclosed to him, as to any money, service or other valuable consideration which any person has paid or accepted, or has agreed to pay or accept, for the inclusion of any matter as a part of such program or program matter.

(d) Waiver of announcements under section 317(d).

The provisions of this section requiring the disclosure of information shall not apply in any case where, because of a waiver made by the Commission under section 317(d) of this title, an announcement is not required to be made under section 317 of this title.

(e) Announcement under section 317 as sufficient disclosure.

The inclusion in the program of the announcement required by section 317 of this title shall constitute the disclosure required by this section.

(f) Definition of "service or other valuable consideration."

The term "service or other valuable consideration" as used in this section shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast, or for use on a program which is intended for broadcasting over any radio station, unless it is so furnished in consideration for an identification in such broadcast or in such program of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property in such broadcast or such program.

(g) Penalties.

Any person who violates any provision of this section shall, for each such violation, be fined not more than $10,000 or imprisoned not more than one year, or both. (June 19, 1934, ch. 652, § 508, as added Sept. 13, 1960, Pub. L. 86–752, § 8(b), 74 Stat. 896.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 317 of this title.

§ 509. Prohibited practices in contests of knowledge, skill, or chance.

(a) Influencing, prearranging, or predetermining outcome.

It shall be unlawful for any person, with intent to deceive the listening or viewing public—

(1) To supply to any contestant in a purportedly bona fide contest of intellectual knowledge or intellectual skill any special and secret assistance whereby the outcome of such contest will be in whole or in part prearranged or predetermined.

(2) By means of persuasion, bribery, intimidation, or otherwise, to induce or cause any contestant in a purportedly bona fide contest of intellectual knowledge or intellectual skill to refrain in any manner from using or displaying his knowledge or skill in such contest, whereby the outcome thereof will be in whole or in part prearranged or predetermined.

(3) To engage in any artifice or scheme for the purpose of prearranging or predetermining in whole or in part the outcome of a purportedly bona fide contest of intellectual knowledge, intellectual skill, or chance.

(4) To produce or participate in the production for broadcasting of, to broadcast or participate in the broadcasting of, to offer to a licensee for broadcasting, or to sponsor, any radio program, knowing or having reasonable ground for believing that, in connection with a purportedly bona fide contest of intellectual knowledge, intellectual

skill, or chance constituting any part of such program, any person has done or is going to do any act or thing referred to in paragraph (1), (2), or (3) of this subsection.

(5) To conspire with any other person or persons to do any act or thing prohibited by paragraph (1), (2), (3), or (4) of this subsection, if one or more of such persons do any act to effect the object of such conspiracy.

(b) Definitions.

For the purpose of this section—

(1) The term "contest" means any contest broadcast by a radio station in connection with which any money or any other thing of value is offered as a prize or prizes to be paid or presented by the program sponsor or by any other person or persons, as announced in the course of the broadcast.

(2) The term "the listening or viewing public" means those members of the public who, with the aid of radio receiving sets, listen to or view programs broadcast by radio stations.

(c) Penalties.

Whoever violates subsection (a) of this section shall be fined not more than $10,000 or imprisoned not more than one year, or both. (June 19, 1934, ch. 652, § 509, as added Sept. 13, 1960, Pub. L. 86–752, § 9, 74 Stat. 897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 510. Radio stations operating in common carrier, safety and special radio fields.

(a) Forfeitures for violations of rules and regulations.

Where any radio station other than licensed radio stations in the broadcast service or stations governed by the provisions of sections 351 to 362, 381 to 386, and 507 of this title—

(1) is operated by any person not holding a valid radio operator license or permit of the class prescribed in the rules and regulations of the Commission for the operation of such station;

(2) fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission;

(3) transmits any false call contrary to regulations of the Commission;

(4) is operated on a frequency not authorized by the Commission for use by such station;

(5) transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission;

(6) interferes with any distress call or distress communication contrary to the regulations of the Commission;

(7) fails to attenuate spurious emissions to the extent required by the rules and regulations of the Commission;

(8) is operated with power in excess of that authorized by the Commission;

(9) renders a communication service not authorized by the Commission for the particular station;

(10) is operated with a type of emission not authorized by the Commission;

(11) is operated with transmitting equipment other than that authorized by the Commission; or

(12) fails to respond to official communications from the Commission;

the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. In the case of a violation of clause (2), (3), (5), or (6) of this subsection, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. The violation of the provisions of each numbered clause of this subsection shall constitute a separate offense: *Provided,* That $100 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for the violation of the provisions of any one of the numbered clauses of this subsection, irrespective of the number of violations thereof, occurring within ninety days prior to the date the notice of apparent liability is issued or sent as provided in subsection (c) of this section: *And provided further,* That $500 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for all violations of the provisions of this section, irrespective of the total number thereof, occurring within ninety days prior to the date such notice of apparent liability is issued or sent as provided in subsection (c) of this section.

(b) Willful or repeated violations.

The forfeiture liability provided for in this section shall attach only for a willful or repeated violation of the provisions of this section by any licensee or person operating a station.

(c) Limitations; notice of apparent liability; personal interview.

No forfeiture liability under this section shall attach after the lapse of ninety days from the date of the violation unless within such time a written notice of apparent liability, setting forth the facts which indicate apparent liability, shall have been issued by the Commission and received by such person, or the Commission has sent him such notice by registered mail or by certified mail at his last known address. The person so notified of apparent liability shall have the opportunity to show cause in writing why he should not be held liable and, upon his request, he shall be afforded an opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence. (June 19, 1934, ch. 652, § 510, as added May 11, 1962, Pub. L. 87–448, § 1, 76 Stat. 68.)

EFFECTIVE DATE

Section 3 of Pub. L. 87–448 provided that: "The amendments made by this Act [adding this section and amending section 504(b) of this title] shall take effect on the thirtieth day after the date of its enactment [May 11, 1962]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 504 of this title.

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 601. Interstate Commerce Commission; duties, powers, and functions transferred to Commission.

(a) All duties, powers, and functions of the Interstate Commerce Commission under sections 9 to 15 of this title, relating to operation of telegraph lines by railroad and telegraph companies granted Government aid in the construction of their lines, are imposed upon and vested in the Commission: *Provided,* That such transfer of duties, powers, and functions shall not be construed to affect the duties, powers, functions, or jurisdiction of the Interstate Commerce Commission under, or to interfere with or prevent the enforcement of, the Interstate Commerce Act and all Acts amendatory thereof or supplemental thereto.

(b) All duties, powers, and functions of the Postmaster General with respect to telegraph companies and telegraph lines under any existing provision of law are imposed upon and vested in the Commission. (June 19, 1934, ch. 652, § 601, 48 Stat. 1101.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (a), is classified to chapters 1, 8, 12, 13 and 19 of Title 49, Transportation.

§ 602. Repeals; reports by Commission.

CODIFICATION

Section, acts June 19, 1934, ch. 652, § 602 (a), (b), 48 Stat. 1102; May 20, 1937, ch. 229, § 15, 50 Stat. 197; Mar. 18, 1940, ch. 66, 54 Stat. 54, which repealed certain prior provisions relating to communications and directed the Commission to study and report, not later than Jan. 1, 1941, on the radio requirements necessary for ships navigating the Great Lakes and inland waters of the United States, was omitted as executed.

§ 603. Employees; records; property; appropriations; transfer.

(a) All officers and employees of the Federal Radio Commission (except the members thereof, whose offices are abolished) whose services in the judgment of the Commission are necessary to the efficient operation of the Commission are transferred to the Commission, without change in classification or compensation; except that the Commission may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

(b) There are transferred to the jurisdiction and control of the Commission (1) all records and property (including office furniture and equipment, and including monitoring radio stations) under the jurisdiction of the Federal Radio Commission, and (2) all records under the jurisdiction of the Interstate Commerce Commission and of the Postmaster General relating to the duties, powers, and functions imposed upon and vested in the Commission by this chapter.

(c) All appropriations and unexpended balances of appropriations available for expenditure by the Federal Radio Commission shall be available for expenditure by the Commission for any and all objects of expenditure authorized by this chapter in the discretion of the Commission, without regard to the requirement of apportionment under section 665 of Title 31. (June 19, 1934, ch. 652, § 603, 48 Stat. 1102.)

§ 604. Same; effect of transfer; pending suits.

(a) All orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, or granted by the Interstate Commerce Commission, the Federal Radio Commission, or the Postmaster General, under any provision of law repealed or amended by this chapter or in the exercise of duties, powers, or functions transferred to the Commission by this chapter, and which are in effect at the time this section takes effect, shall continue in effect until modified, terminated, superseded, or repealed by the Commission or by operation of law.

(b) Any proceeding, hearing, or investigation commenced or pending before the Federal Radio Commission, the Interstate Commerce Commission, or the Postmaster General, at the time of the organization of the Commission, shall be continued by the Commission in the same manner as though originally commenced before the Commission, if such proceeding, hearing, or investigation (1) involves the administration of duties, powers, and functions transferred to the Commission by this chapter or (2) involves the exercise of jurisdiction similar to that granted to the Commission under the provisions of this chapter.

(c) All records transferred to the Commission under this chapter shall be available for use by the Commission to the same extent as if such records were originally records of the Commission. All final valuations and determinations of depreciation charges by the Interstate Commerce Commission with respect to common carriers engaged in radio or wire communication, and all orders of the Interstate Commerce Commission with respect to such valuations and determinations, shall have the same force and effect as though made by the Commission under this chapter.

(d) The provisions of this chapter shall not affect suits commenced prior to the date of the organization of the Commission; and all such suits shall be continued, proceedings therein had, appeals therein taken and judgments therein rendered, in the same manner and with the same effect as if this chapter had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, and duties from such agency or officer to the Commission under the provisions of this chapter, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Commission. (June 19, 1934, ch. 652, § 604, 48 Stat. 1103.)

§ 605. Unauthorized publication or use of communications.

Except as authorized by chapter 119, Title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport,

effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress. (June 19, 1934, ch. 652, § 605, 48 Stat. 1103; June 19, 1968, Pub. L. 90–351, title III, § 803, 82 Stat. 223.)

AMENDMENTS

1968—Pub. L. 90–351 inserted the introductory clause "Except as authorized by chapter 119, Title 18", designated existing provisions as cls. (1)—(6), inserted "radio" preceding "communication" in second and fourth sentences, eliminated from third sentence "wire or" preceding "radio", and substituted "intercepted" for "obtained" in fourth sentence.

§ 606. War powers of President.

(a) During the continuance of a war in which the United States is engaged, the President is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

(b) It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communication: *Provided,* That nothing in this section shall be construed to repeal, modify, or affect either section 17 of Title 15 or section 52 of Title 29.

(c) Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

(d) Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

(e) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United

States to recover such further sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 41 of Title 28, or by section 250 of Title 28.

(f) Nothing in subsection (c) or (d) of this section shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by any communication system or systems.

(g) Nothing in subsection (c) or (d) of this section shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection (d) of this section shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.

(h) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than $1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than $5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than 20 years, or both. (June 19, 1934, ch. 652, § 606, 48 Stat. 1104; Jan. 26, 1942, ch. 18, §§ 1, 2, 56 Stat. 18; Dec. 29, 1942, ch. 836, 56 Stat. 1096; July 25, 1947, ch. 327, § 1, 61 Stat. 449; Oct. 24, 1951, ch. 553, §§ 1, 2, 65 Stat. 611.)

REFERENCES IN TEXT

Paragraph 20 of section 41 and section 250 of Title 28, referred to in subsec. (e), were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and are now covered by sections 1346, 1491, 1501, 1503, 2401, 2402, and 2501 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1951—Subsec. (c). Act Oct. 24, 1951, § 1, clarified the scope of the President's powers to use, control, and close radio facilities of all kinds which might be useful to an enemy for navigational purposes.

Subsec. (h). Act Oct. 24, 1951, § 2, added subsec. (h).

1942—Subsec. (d). Act Jan. 26, 1942, § 1, added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Act Jan. 26, 1942, § 1, redesignated former subsec. (d) as (e).

Subsecs. (f), (g). Act Jan. 26, 1942, § 2, added subsecs. (f) and (g).

Subsec. (h). Act Dec. 29, 1942, added subsec. (h). See Repeals note.

REPEALS

Former subsec. (h), related to modification of certain sections of this title until six months after termination of World War II for the protection of vessels in wartime, and was repealed by Joint Res. July 25, 1947.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

EX. ORD. NO. 8964

Ex. Ord. No. 8964, Dec. 10, 1941, 6 F. R. 6367, relating to the use and control of radio stations and preference or priority of communications was revoked by Ex. Ord. No. 9831, Feb. 25, 1947, 12 F.R. 1363.

EX. ORD. NO. 9831. BOARD OF WAR COMMUNICATIONS ABOLISHED

Ex. Ord. No. 9831, Feb. 24, 1947, 12 F.R. 1363, provided:

By virtue of the authority vested in me by the Constitution and statutes, including the Communications Act of 1934 (48 Stat. 1104, as amended; 47 U. S. C. 606) [this section] and as President of the United States, and in the interest of the internal management of the Government, it is hereby ordered as follows:

1. The Board of War Communications, established as the Defense Communications Board by Executive Order No. 8546 of September 24, 1940, is abolished, and all property and records thereof are transferred to the Federal Communications Commission.

2. Executive Orders Nos. 8546 of September 24, 1940, 8960 of December 6, 1941, 8964 of December 10, 1941, 9089 of March 6, 1942, and 9183 of June 15, 1942, are revoked.

EX. ORD. NO. 10312.

Ex. Ord. No. 10312, Dec. 10, 1951, 16 F. R. 12452, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F. R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F. R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, relating to delegation of authority to the Federal Communications Commission was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567. See Part 30, section 3015 of Ex. Ord. No. 11490, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

EX. ORD. NO. 10705. DELEGATION OF AUTHORITY TO DIRECTOR OF THE OFFICE OF TELECOMMUNICATIONS POLICY

Ex. Ord. No. 10705, Apr. 17, 1957, 22 F.R. 2729, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971, Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, provided:

SECTION 1. (a) Subject to the provisions of this order, the authority vested in the President by subsections 606(a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), (c) and (d)), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the director of the Office of Emergency Preparedness.

(b) Without limiting the time of effect of the provisions of section 2 hereof, it is directed that the authority delegated by section 1 (a) of this order may be performed hereunder (1) in respect of the said subsection 606(a) only during the continuance of a war in which the United States is engaged, and (2) in respect of the said subsections 606 (c) and (d) only upon proclamation by the President that there exists a state of war involving the United States.

(c) The Director may issue such rules and regulations as he may deem necessary in connection with the authority delegated to him by subsection 1 (a) of this order.

(d) Nothing in this order shall be construed as authorizing the exercise of any authority with respect to the content of any station program or of communications transmitted by any communication facility.

SEC. 2. (a) Subject to the provisions of subsection 2 (b) of this order, the Director may, at any time after the issuance of this order, redelegate any authority delegated to him by section 1 of this order. Except as otherwise authorized by the said subsection 606 (a) of the Communications Act of 1934, as amended, any such redelegation shall be made only to an officer or officers of

the executive branch of the Government required to be appointed by the President by and with the advice and consent of the Senate.

(b) The authority vested in the President by the said subsections 606 (c) and (d) and delegated to the Director by section 1 of this order to take over or use facilities or stations or to remove apparatus or equipment from facilities or stations shall be exercised only by the Director or with his express approval in each case.

SEC. 3. This order shall not operate to terminate or modify the effect of any provision of any other Executive order, or of any rule, regulation, or other action, relating to any of the authority delegated by this order; but, subject to the respective limitations of time set forth in section 1 (b) of this order, authority to amend or revoke any such provision shall be deemed to be included within the authority delegated by section 1 of this order.

EMERGENCY PREPAREDNESS FUNCTIONS

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90–608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

Ex. Ord. No. 11092, Feb. 26, 1963, 28 F.R. 1847, which directed the Federal Communications Commission, subject to the policy guidance of the Director of the Office of Emergency Planning, to prepare national emergency plans and develop preparedness programs covering provisions of service by common carriers, broadcasting facilities, and the safety and special radio services; assignment of radio frequencies to Commission licensees; and the protection, reduction of vulnerability, maintenance, and restoration of facilities operated by its licensees in an emergency, all designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including attack upon the United States, and taking into account the possibility of Government preference or priority with common carriers or of exclusive Government use or control of communications services or facilities, when authorized by law was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567. See Part 30, section 3015 of Ex. Ord. No. 11490, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 309 of this title.

§ 607. Effective date of chapter.

This chapter shall take effect upon the organization of the Commission, except that this section and sections 151 and 154 of this title shall take effect July 1, 1934. The Commission shall be deemed to be organized upon such date as four members of the Commission have taken office. (June 19, 1934, ch. 652, § 607, 48 Stat. 1105.)

§ 608. Separability of provisions.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (June 19, 1934, ch. 652, § 608, 48 Stat. 1105.)

§ 609. Citation of chapter.

This chapter may be cited as the "Communications Act of 1934." (June 19, 1934, ch. 652, § 609, 48 Stat. 1105.)

CODIFICATION

The Communications Act of 1934 also affected section 35 of this title and section 21 of Title 15, Commerce and Trade.

Chapter 6.—COMMUNICATIONS SATELLITE SYSTEM

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.
701. Congressional declaration of policy and purpose.
702. Definitions.

SUBCHAPTER II.—FEDERAL COORDINATION, PLANNING, AND REGULATION

721. Implementation of policy.
(a) Executive functions; execution of national program; review; agency coordination; supervision of foreign relationships; foreign participation; use for general governmental purposes; separate systems; compatibility with domestic and foreign facilities.
(b) Administration functions; technical advice to Commission; cooperation in research and development and technical consultation with corporation; assistance and launching, associated services and other services to corporation on reimbursable basis.
(c) Commission functions; competitive bidding; consultation with Small Business Administration; discrimination; just and reasonable charges, classifications, practices, regulations and other terms and conditions; allocation of facilities; establishment of communication to particular foreign point; technical compatibility of system and stations; accounting; rates; technical approval; construction and operation authorizations; financing of corporation; additions; rules and regulations.

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CHAPTER REFEERED TO IN OTHER SECTIONS

This chapter is referred to in title 26 sections 167, 883.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 701. Congressional declaration of policy and purpose.

(a) The Congress declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries, and which will contribute to world peace and understanding.

(b) The new and expanded telecommunication services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, toward efficient and spectrum, and toward the reflection of the benefits economical use of the electromagnetic frequency of this new technology in both quality of services and charges for such services.

(c) In order to facilitate this development and to provide for the widest possible participation by private enterprise, United States participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation. It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system; that maximum competition be maintained in the provision of equipment and services utilized by the system; that the corporation created under this chapter be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public; and that the activities of the corporation created under this chapter and of the persons or companies participating in the ownership of the corporation shall be consistent with the Federal antitrust laws.

(d) It is not the intent of Congress by this chapter to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this chapter nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest. (Pub. L. 87–624, title I, § 102, Aug. 31, 1962, 76 Stat. 419.)

SHORT TITLE

Section 101 of Pub. L. 87–624 provided that: "This Act [enacting this chapter] may be cited as the 'Communications Satellite Act of 1962'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 743 of this title.

§ 702. Definitions.

As used in this chapter, and unless the context otherwise requires—

(1) the term "communications satellite system" refers to a system of communications satellites in space whose purpose is to relay telecommunication information between satellite terminal stations, together with such associated equipment and facilities for tracking, guidance, control, and command functions as are not part of the generalized launching, tracking, control, and command facilities for all space purposes;

(2) the term "satellite terminal station" refers to a complex of communication equipment located on the earth's surface, operationally connected with one or more terrestrial communication systems, and capable of transmitting telecommunications to or receiving telecommunications from a communications satellite system.

(3) the term "communications satellite" means an earth satellite which is intentionally used to relay telecommunication information;

(4) the term "associated equipment and facilities" refers to facilities other than satellite terminal stations and communications satellites, to be constructed and operated for the primary purpose of a communications satellite system, whether for administration and management, for research and development, or for direct support of space operations;

(5) the term "research and development" refers to the conception, design, and first creation of experimental or prototype operational devices for the operation of a communications satellite system, including the assembly of separate components into a working whole, as distinguished from the term "production," which relates to the construction of such devices to fixed specifications compatible with repetitive duplication for operational applications; and

(6) the term "telecommunication" means any transmission, emission or reception of signs, signals, writings, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

(7) the term "communications common carrier" has the same meaning as the term "common carrier" has when used in the Communications Act of 1934, as amended, and in addition includes, but only for purposes of sections 733 and 734 of this title, any individual, partnership, association, joint-stock company, trust, corporation, or other entity which owns or controls, directly or indirectly, or is under direct or indirect common control with, any such carrier; and the term "authorized carrier", except as otherwise provided for purposes of section 734 of this title by section 734(b)(1) of this title, means a communications common carrier which has been authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites;

(8) the term "corporation" means the corporation authorized by subchapter III of this chapter.

(9) the term "Administration" means the National Aeronautics and Space Administration; and

(10) the term "Commission" means the Federal Communications Commission.

(Pub. L. 87-624, title I, § 103, Aug. 31, 1962, 76 Stat. 419.)

REFERENCES IN TEXT

The Communications Act of 1934, as amended, referred to in subd. (7), is classified to chapter 5 of this title.

SUBCHAPTER II.—FEDERAL COORDINATION, PLANNING, AND REGULATION

§ 721. Implementation of policy.

In order to achieve the objectives and to carry out the purposes of this chapter—

Executive functions; execution of national program; review; agency coordination; supervision of foreign relationships; foreign participation; use for general governmental purposes; separate systems; compatibility with domestic and foreign facilities.

(a) the President shall—

(1) aid in the planning and development and foster the execution of a national program for the establishment and operation, as expeditiously as possible, of a commercial communications satellite system;

(2) provide for continuous review of all phases of the development and operation of such a system, including the activities of a communications satellite corporation authorized under subchapter III of this chapter;

(3) coordinate the activities of governmental agencies with responsibilities in the field of telecommunication, so as to insure that there is full and effective compliance at all times with the policies set forth in this chapter;

(4) exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;

(5) insure that timely arrangements are made under which there can be foreign participation in the establishment and use of a communications satellite system;

(6) take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for general governmental purposes except where a separate communications satellite system is required to meet unique governmental needs, or is otherwise required in the national interest; and

(7) so exercise his authority as to help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad.

Administration functions; technical advice to Commission; cooperation in research and development and technical consultation with corporation; assistance and launching, associated services and other services to corporation on reimbursable basis.

(b) the National Aeronautics and Space Administration shall—

(1) advise the Commission on technical characteristics of the communications satellite system;

(2) cooperate with the corporation in research and development to the extent deemed appropriate by the Administration in the public interest;

(3) assist the corporation in the conduct of its research and development program by furnishing to the corporation, when requested, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary for the most expeditious and economical development of the communications satellite system;

(4) consult with the corporation with respect to the technical characteristics of the communications satellite system;

(5) furnish to the corporation, on request and on a reimbursable basis, satellite launching and associated services required for the establishment, operation, and maintenance of the communications satellite system approved by the Commission; and

(6) to the extent feasible, furnish other services, on a reimbursable basis, to the corporation in connection with the establishment and operation of the system.

Commission functions; competitive bidding; consultation with Small Business Administration; discrimination; just and reasonable charges, classifications, practices, regulations and other terms and conditions; allocation of facilities; establishment of communication to particular foreign point; technical compatibility of system and stations; accounting; rates; technical approval; construction and operation authorizations; financing of corporation; additions; rules and regulations.

(c) the Federal Communications Commission, in its administration of the provisions of the Communications Act of 1934, as amended, and as supplemented by this chapter, shall—

(1) insure effective competition, including the use of competitive bidding where appropriate, in the procurement by the corporation and communications common carriers of apparatus, equipment, and services required for the establishment and operation of the communications satellite system and satellite terminal stations; and the Commission shall consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services, including but not limited to research, development, construction, maintenance, and repair.

(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system and satellite terminal stations under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which available facilities of the system and stations are allocated among such users thereof;

(3) in any case where the Secretary of State, after obtaining the advice of the Administration as to technical feasibility, has advised that commercial communication to a particular foreign point by means of the communications satellite system

and satellite terminal stations should be established in the national interest, institute forthwith appropriate proceedings under section 214(d) of this title to require the establishment of such communication by the corporation and the appropriate common carrier or carriers;

(4) insure that facilities of the communications satellite system and satellite terminal stations are technically compatible and interconnected operationally with each other and with existing communications facilities;

(5) prescribe such accounting regulations and systems and engage in such ratemaking procedures as will insure that any economies made possible by a communications satellite system are appropriately reflected in rates for public communication services;

(6) approve technical characteristics of the operational communications satellite system to be employed by the corporation and of the satellite terminal stations; and

(7) grant appropriate authorizations for the construction and operation of each satellite terminal station, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity. In determining the public interest, convenience, and necessity the Commission shall authorize the construction and operation of such stations by communications common carriers or the corporation, without preference to either;

(8) authorize the corporation to issue any shares of capital stock, except the initial issue of capital stock referred to in section 734(a) of this title, or to borrow any moneys, or to assume any obligation in respect of the securities of any other person, upon a finding that such issuance, borrowing, or assumption is compatible with the public interest, convenience, and necessity and is necessary or appropriate for or consistent with carrying out the purposes and objectives of this chapter by the corporation;

(9) insure that no substantial additions are made by the corporation or carriers with respect to facilities of the system or satellite terminal stations unless such additions are required by the public interest, convenience, and necessity;

(10) require, in accordance with the procedural requirements of section 214 of this title, that additions be made by the corporation or carriers with respect to facilities of the system or satellite terminal stations where such additions would serve the public interest, convenience, and necessity; and

(11) make rules and regulations to carry out the provisions of this chapter.

(Pub. L. 87-624, title II, § 201, Aug. 31, 1962, 76 Stat. 421.)

REFERENCES IN TEXT

The Communications Act of 1934, as amended, referred to in subsec. (c), is classified to chapter 5 of this title.

EX. ORD. NO. 11191. ADMINISTRATION OF CHAPTER

Ex. Ord. No. 11191, Jan. 4, 1965, 30 F.R. 29, as amended by Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, provided:

By virtue of the authority vested in me by Section 301 of title 3 of the Uniited States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *Definitions.* As used in this order:

(a) The term "the Act" means the Communications Satellite Act of 1962 (76 Stat. 419) (this chapter), and includes, except as may for any reason be inappropriate, that Act as amended from time to time.

(b) The term "the Corporation" means the Communications Satellite Corporation (incorporated on February 1, 1963, under title III of the Act [sections 731—735 of this title] and under the District of Columbia Business Corporation Act).

(c) The term "the Director" means the Director of the Office of Telecommunications Policy.

(d) The term "the Secretary" means the Secretary of State or his designees.

SEC. 2. *Director of the Office of Telecommunications Policy.* (a) Subject to the provisions of this order, the Director shall generally advise and assist the President in connection with the functions conferred upon the President by the provisions of Section 201(a) of the Act [subsec. (a) of this section].

(b) The Director shall:

(1) Aid in the planning and development, and aid in fostering the execution, of a national program for the establishment and operation, as expeditiously as possible, of a commercial communications satellite system.

(2) Conduct a continuous review of all phases of the development and operation of such a system, including the activities of the Corporation.

(3) Coordinate the activities of governmental agencies with responsibilities in the field of telecommunication, so as to insure that there is full and effective compliance at all times with the policies set forth in the Act [this chapter].

(4) Make recommendations to the President and others as appropriate, with respect to all steps necessary to insure the availability and appropriate utilization of the communications satellite system for general Government purposes in consonance with Section 201(a)(6) of the Act [subsec. (a)(6) of this section].

(5) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.

(6) Prepare, for consideration by the President, such Presidential action documents as may be appropriate under Section 201(a) of the Act [subsec. (a) of this section], make necessary recommendations to the President in connection therewith, and keep the President currently informed with respect to the carrying out of the Act [this chapter].

(7) Serve as the chief point of liaison between the President and the Corporation.

SEC. 3. *Secretary of State.* (a) The Secretary shall exercise the supervision provided for in Section 201(a)(4) of the Act [subsec. (a)(4) of this section] and, in consonance with Section 201(a)(5) of the Act [subsec. (a)(5) of this section] shall further timely arrangements for foreign participation in the establishment and use of a communications satellite system.

(b) The Secretary shall have direction of the foreign relations of the United States with respect to the Act [this chapter], including all negotiations by the United States with foreign governments or with international bodies in connection with the Act [this chapter].

SEC. 4. *Annual reports.* The Director shall timely submit to the President each year the report (including evaluations and recommendations) provided for in Section 404(a) of the Act [section 744(a) of this title].

SEC. 5. *Assistance and cooperation.* The Director and the Secretary shall effect such mutual coordination, and all other federal agencies concerned, and the Corporation, shall furnish the Director and the Secretary such assistance and documents, and shall otherwise extend to them such cooperation, as will enable the Director and the Secretary properly to carry out their responsibilities under this order and best promote the implementation of the Act [this chapter] in an orderly and expeditious manner. In connection with his responsibilities under section 3 of this order, the Secretary shall consult with the Director and other federal officers concerned, and, as may be appropriate, with the Corporation.

SEC. 6. *Functions reserved.* The functions, or parts of functions, conferred upon the President by the Act [this chapter] that are not assigned herein are reserved for the President.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 735, 744 of this title.

SUBCHAPTER III.—COMMUNICATIONS SATELLITE CORPORATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 721 of this title.

§ 731. Creation of corporation; non-Government agency; laws applicable to corporation; reservation of right to amend or repeal chapter.

There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this chapter at any time is expressly reserved. (Pub. L. 87–624, title III, § 301, Aug. 31, 1962, 76 Stat. 423.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in the text, is classified to D.C. Code § 29–901 et seq.

§ 732. Process of organization.

The President of the United States shall appoint incorporators, by and with the advice and consent of the Senate, who shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and qualified. Such incorporators shall arrange for an initial stock offering and take whatever other actions are necessary to establish the corporation, including the filing of articles of incorporation, as approved by the President. (Pub. L. 87–624, title III, § 302, Aug. 31, 1962, 76 Stat. 423.)

§ 733. Directors and officers.

(a) Board of directors; qualifications; chairman; appointment by President; term; election by stockholders; percentage of stock ownership determining right to elect; cumulative voting; amendment of articles of incorporation; bylaws for national emergencies.

The corporation shall have a board of directors consisting of fifteen individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective the date on which the other members are elected, and for terms of three years or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. The remaining twelve members of the board shall be elected annually by the stockholders. Six of such members shall be elected by those stockholders who are not communications common carriers, and the remaining six such members shall be elected by the stockholders who are communications common carriers, except that if the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers as of the record date for the annual meeting of stockholders is less than 45 per centum of the total number of shares of the voting capital stock of the corporation issued and outstanding, the number of members to be elected at such meeting by each group of stockholders shall be determined in accordance with the following table:

When the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers is less than—	But not less than—	The number of members which are entitled stockholders who are communications common carriers to elect shall be—	And the number of members which other stockholders are entitled to elect shall be—
45 per centum	40 per centum	5	7
40 per centum	35 per centum	4	8
35 per centum	25 per centum	3	9
25 per centum	15 per centum	2	10
15 per centum	8 per centum	1	11
8 per centum		0	12

No stockholder who is a communications common carrier and no trustee for such a stockholder shall vote, either directly or indirectly, through the votes of subsidiaries or affiliated companies, nominees, or any persons subject to his direction or control, for more than three candidates for membership on the board, except that in the event the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers as of the record date for the annual meeting is less than 8 per centum of the total number of shares of the voting capital stock of the corporation issued and outstanding, any stockholder who is a communications common carrier shall be entitled to vote at such meeting for candidates for membership on the board in the same manner as all other stockholders. Subject to the foregoing limitations, the articles of incorporation of the corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–911(d)). The articles of incorporation of the corporation may be amended, altered, changed, or repealed by a vote of not less than 66⅔ per centum of the outstanding shares of the voting capital stock of the corporation owned by stockholders who are communications common carriers and by stockholders who are not communications common carriers, voting together, if such vote complies with all other requirements of this chapter and of the articles of incorporation of the corporation with respect to the amendment, alteration, change, or repeal of such articles. The corporation may adopt such bylaws as shall, notwithstanding the provisions of section 36 of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–916d), provide for the continued ability of the board to transact business under such circumstances of national emergency as the President of the United States, or the officer

designated by him, may determine, after February 18, 1969, would not permit a prompt meeting of a majority of the board to transact business.

(b) President of corporation; designation and appointment of other officers; compensation; United States citizenship of officers; dual salary prohibition.

The corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board, and serving at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the corporation. No officer of the corporation shall receive any salary from any source other than the corporation during the period of his employment by the corporation. (Pub. L. 87–624, title III, § 303, Aug 31, 1962, 76 Stat. 423; Mar. 12, 1969, Pub. L. 91–3, § 1, 83 Stat. 4.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–3 specified the number of directors on the board at fifteen, substituted provisions that the three members appointed by the President serve for a term of three years each for provisions that such appointees serve terms of one, two, and three years, respectively, set forth the formula authorizing the election of directors by carriers and noncarriers to be based upon their respective percentage of ownership of the autstanding capital stock, provided a method for amending, altering, changing, or repealing the articles of incorporation, and authorized the board to adopt bylaws permitting the corporation to transact business in future national emergencies.

MEETING OF BOARD SUBSEQUENT TO MARCH 12, 1969 FOR ELECTION OF DIRECTORS; TERM OF OFFICE

Section 2 of Pub. L. 91–3 provided that: "As promptly as the board of directors of the Communications Satellite Corporation shall determine to be practical after the date of the amendment of this Act [March 12, 1969], a meeting of the stockholders of the corporation shall be called for the purpose of electing twelve members of the board in accordance with subsection (a) of section 303 of the Communications Satellite Act of 1962 as amended by the first section of this Act [this section]. The members of the board elected at such meeting shall serve until the next annual meeting of stockholders or until their successors have been elected and qualified."

STATUS AND AUTHORITY OF BOARD MEMBERS ELECTED PRIOR TO MARCH 12, 1969

Section 3 of Pub. L. 91–3 provided that: "The status and authority of the members of the board of directors of the Communications Satellite Corporation who were elected to the board before the date of the enactment of this Act [March 12, 1969] and who are serving as members of the board on such date shall not be in any way impaired or affected until their successors have been elected and qualified in accordance with section 2 of this Act [set out as a note under this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 702 of this title.

§ 734. Financing of corporation.

(a) Capital stock; amount of issue; no par value shares; voting rights; dividends; price and public distribution of initial offering; shareholder eligibility.

The corporation is authorized to issue and have outstanding, in such amounts as it shall determine, shares of capital stock, without par value, which shall carry voting rights and be eligible for dividends. The shares of such stock initially offered shall be sold at a price not in excess of $100 for each share and in a manner to encourage the widest distribution to the American public. Subject to the provisions of subsections (b) and (d) of this section, shares of stock offered under this subsection may be issued to and held by any person.

(b) Authorized carriers; definition; shareholder eligibility; percentage reservation of shares; voting rights limitation of authorized carriers and other stockholders.

(1) For the purposes of this section the term "authorized carrier" shall mean a communications common carrier which is specifically authorized or which is a member of a class of carriers authorized by the Commission to own shares of stock in the corporation upon a finding that such ownership will be consistent with the public interest, convenience, and necessity.

(2) Only those communications common carriers which are authorized carriers shall own shares of stock in the corporation at any time, and no other communications common carrier shall own shares either directly or indirectly through subsidiaries or affiliated companies, nominees, or any persons subject to its direction or control. Fifty per centum of the shares of stock authorized for issuance at any time by the corporation shall be reserved for purchase by authorized carriers and such carriers shall in the aggregate be entitled to make purchases of the reserved shares in a total number not exceeding the total number of the nonreserved shares of any issue purchased by other persons. At no time after the initial issue is completed shall the aggregate of the shares of voting stock of the corporation owned by authorized carriers directly or indirectly through subsidiaries or affiliated companies, nominees, or any persons subject to their direction or control exceed 50 per centum of such shares issued and outstanding.

(3) At no time shall any stockholder who is not an authorized carrier, or any syndicate or affiliated group of such stockholders, own more than 10 per centum of the shares of voting stock of the corporation issued and outstanding.

(c) Nonvoting security issues and certificates of indebtedness; rate base.

The corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine. Such nonvoting securities, bonds, debentures, or other certificates of indebtedness of the corporation as a communications common carrier may own shall be eligible for inclusion in the rate base of the carrier to the extent allowed by the Commission. The voting stock of the corporation shall not be eligible for inclusion in the rate base of the carrier.

(d) Alien share ownership limitation.

Not more than an aggregate of 20 per centum of the shares of stock of the corporation authorized by subsection (a) of this section which are held by holders other than authorized carriers may be held by persons of the classes described in paragraphs (1), (2), (3), (4), and (5) of section 310(a) of this title.

(e) Inspection and copying rights.

The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–920(b)) as to the percentage of stock which

a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of stock of the corporation, and they may exercise such rights without regard to the percentage of stock they hold.

(f) Transfer and distribution of shares among authorized carriers.

Upon application to the Commission by any authorized carrier and after notice and hearing, the Commission may compel any other authorized carrier which owns shares of stock in the corporation to transfer to the applicant, for a fair and reasonable consideration, a number of such shares as the Commission determines will advance the public interest and the purposes of this chapter. In its determination with respect to ownership of shares of stock in the corporation, the Commission, whenever consistent with the public interest, shall promote the widest possible distribution of stock among the authorized carriers. (Pub. L. 87-624, title III, § 304, Aug. 31, 1962, 76 Stat. 424.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 721, of this title.

§ 735. Powers of corporation; specific activities of corporation; possession of usual powers of stock corporation.

(a) In order to achieve the objectives and to carry out the purposes of this chapter, the corporation is authorized to—

(1) plan, initiate, construct, own, manage, and operate itself or in conjunction with foreign governments or business entities a commercial communications satellite system;

(2) furnish, for hire, channels of communication to United States communications common carriers and to other authorized entities, foreign and domestic; and

(3) own and operate satellite terminal stations when licensed by the Commission under section 721(c)(7) of this title.

(b) Included in the activities authorized to the corporation for accomplishment of the purposes indicated in subsection (a) of this section, are, among others not specifically named—

(1) to conduct or contract for research and development related to its mission;

(2) to acquire the physical facilities, equipment and devices necessary to its operations, including communications satellites and associated equipment and facilities, whether by construction, purchase, or gift;

(3) to purchase satellite launching and related services from the United States Government;

(4) to contract with authorized users, including the United States Government, for the services of the communications satellite system; and

(5) to develop plans for the technical specifications of all elements of the communications satellite system.

(c) To carry out the foregoing purposes, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act. (Pub. L. 87-624, title III, § 305, Aug. 31, 1962, 76 Stat. 425.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (c), is classified to D.C. Code § 29-901 et seq.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 741. Common carrier status of corporation; laws applicable to corporation; common carrier activity; conflict of laws.

The corporation shall be deemed to be a common carrier within the meaning of section 3(h) of the Communications Act of 1934, as amended, and as such shall be fully subject to the provisions of title II and title III of that Act. The provision of satellite terminal station facilities by one communication common carrier to one or more other communications common carriers shall be deemed to be a common carrier activity fully subject to the Communications Act. Whenever the application of the provisions of this chapter shall be inconsistent with the application of the provisions of the Communications Act, the provisions of this chapter shall govern. (Pub. L. 87-624, title IV, § 401, Aug. 31, 1962, 76 Stat. 426.)

REFERENCES IN TEXT

Section 3(h) of the Communications Act of 1934, as amended, referred to in the text, is classified to section 153(h) of this title.

Title II and title III of that Act, referred to in the text, are such titles of the Communications Act and are classified to subchapters II and III of chapter 5 of this title.

The Communications Act, referred to in the text, is classified to chapter 5 of this title.

§ 742. Foreign business negotiations of corporation; notice to Department of State; advice and assistance from Department of State.

Whenever the corporation shall enter into business negotiations with respect to facilities, operations, and services authorized by this chapter with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations. Throughout such negotiations the corporation shall keep the Department of State informed with respect to such considerations. The corporation may request the Department of State to assist in the negotiations, and that Department shall render such assistance as may be appropriate. (Pub. L. 87-624, title IV, § 402, Aug. 31, 1962, 76 Stat. 426.)

§ 743. Sanctions.

(a) Petition of Attorney General for equitable relief; venue.

If the corporation created pursuant to this chapter shall engage in or adhere to any action, practices, or policies inconsistent with the policy and purposes declared in section 701 of this title, or if the corporation or any other person shall violate any provision of this chapter, or shall obstruct or interfere with any activities authorized by this chapter, or shall refuse, fail, or neglect to discharge his duties and responsibilities under this chapter, or shall

threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Punishment, liability or sanction under other provisions.

Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this chapter.

(c) Duty of compliance with provisions of chapter and rules and regulations.

It shall be the duty of the corporation and all communications common carriers to comply, insofar as applicable, with all provisions of this chapter and all rules and regulations promulgated thereunder. (Pub. L. 87–624, title IV, § 403, Aug. 31, 1962, 76 Stat. 426.)

§ 744. Reports to the Congress.

(a) The President shall transmit to the Congress in January of each year a report which shall include a comprehensive description of the activities and accomplishments during the preceding calendar year under the national program referred to in section 721(a)(1) of this title, together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this chapter and any recommendations for additional legislative or other action which the President may consider necessary or desirable for the attainment of such objectives.

(b) The corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this chapter.

(c) The Commission shall transmit to the Congress, annually and at such other times as it deems desirable, (i) a report of its activities and actions on anticompetitive practices as they apply to the communciations satellite programs; (ii) an evaluation of such activities and actions taken by it within the scope of its authority with a view to recommending such additional legislation which the Commission may consider necessary in the public interest; and (iii) an evaluation of the capital structure of the corporation so as to assure the Congress that such structure is consistent with the most efficient and economical operation of the corporation. (Pub. L. 87–624, title IV, § 404, Aug. 31, 1962, 76 Stat. 426.)

TITLE 48.—TERRITORIES AND INSULAR POSSESSIONS

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Chapter 1.—THE BUREAU OF INSULAR AFFAIRS

§ 1. Bureau of Insular Affairs; business.

CODIFICATION

Section, act July 1, 1902, ch. 1369, § 87, 32 Stat. 712, provided that the Division of Insular Affairs of the War Department should be known as the Bureau of Insular Affairs and prescribed its business.

By Ex. Ord. No. 6726, May 29, 1934, the Division of Territories and Island Possessions was established in the Department of the Interior, and the functions of the Bureau pertaining to the administration of the Government of Puerto Rico, together with the personnel, equipment and funds, were transferred thereto.

By 1939 Reorg. Plan No. II, § 4 (d), eff. July 1, 1939, 4 F. R. 2731, 53 Stat. 1433, the Bureau of Insular Affairs of the War Department and its functions were transferred to the Department of the Interior and consolidated with the Division of Territories and Island Possessions, to be administered under the direction and supervision of the Secretary of the Interior. The office of the Chief of the Bureau and offices subordinate thereto provided for in section 14 of Act June 4, 1920, ch. 227, 41 Stat. 769, were abolished and all their functions transferred to, and were to be exercised by, the Director of the Division of Territories and Island Possessions.

§ 2. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, acts June 3, 1916, ch. 134, § 14, 39 Stat. 176; June 4, 1920, ch. 227, subch. I, § 14, 41 Stat. 769, prescribed the composition of the Bureau of Insular Affairs.

§ 3. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 640.

Section, act June 25, 1906, ch. 3528, 34 Stat. 456; June 4, 1920, ch. 227, subch. I, § 14, 41 Stat. 769, provided for the appointment of the Chief of the Bureau.

§§ 4, 5. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, acts Mar. 2, 1907, ch. 2511, 34 Stat. 1162; Mar. 23, 1910, ch. 115, 36 Stat. 248, provided for detail of Army officers as assistants to Chief of Bureau of Insular Affairs of War Department.

Chapter 2.—ALASKA

ADMISSION AS STATE

Alaska was admitted into the Union on January 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, set out below, as required by sections 1 and 8(c) of the Alaska Statehood Law, Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out below.

ALASKA STATEHOOD

Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, provided:

"[Sec. 1. Declaration; acceptance, ratification, and confirmation of Constitution.] That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 8(c) of this Act, the State of Alaska is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Alaska entitled, 'An Act to provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date', approved March 19, 1955 (Chapter 46, Session Laws of Alaska, 1955), and adopted by a vote of the people of Alaska in the election held on April 24, 1956, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

"Sec. 2. [Territory.] The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, now included in the Territory of Alaska.

"Sec. 3. [Constitution.] The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

"Sec. 4. [Compact with United States; disclaimer of right and title to lands or other property; taxation.] As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held by the United States in trust for said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation: *Provided,* That nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto; and nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything

in this Act: *And provided further,* That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation. (As amended Pub. L. 86–70, § 2(a), June 25, 1959, 73 Stat. 141.)

"Sec. 5. [Title to property.] The State of Alaska and its political subdivisions, respectively, shall have and retain title to all property, real and personal, title to which is in the Territory of Alaska or any of the subdivisions. Except as provided in section 6 hereof, the United States shall retain title to all property, real and personal, to which it has title, including public lands.

"Sec. 6. [Selection from public lands; fish and wildlife resources; public school support; mineral leases, permits, leases, or contracts; mineral land grants; schools and colleges; confirmation of grants; internal improvements; submerged lands.]

"(a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within twenty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: *Provided,* That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied: *Provided further,* That for the purposes of this section the term 'public lands of the United States in Alaska which are vacant, unappropriated, and unreserved' shall include, without limiting the use thereof, the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

"(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within twenty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided,* That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: *And provided further,* That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

"(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the following purposes or a combination thereof: A residence for the Governor, a State museum, or park and recreational use.

"(d) Block 19, and the structures and improvements thereon, and the interests of the United States in blocks C and 7, and the structures and improvements thereon, in the city of Juneau, are hereby granted to the State of Alaska.

"(e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U.S.C., secs 192–211), as amended, and under the provisions of the Alaska commercial fisheries, laws of June 26, 1906 (34 Stat. 478; 48 U.S.C., secs. 230—239 and 241—242), and June 6, 1924 (43 Stat. 465; 48 U.S.C., secs. 221—228), as supplemented and amended, shall be transferred and conveyed to the State of Alaska by the appropriate Federal agency: *Provided,* That the administration and management of the fish and wildlife resources of Alaska shall be retained by the Federal Government under existing laws until the first day of the first calendar year following the expiration of ninety calendar days after the Secretary of the Interior certifies to the Congress that the Alaska State Legislature has made adequate provision for the administration, management, and conservation of said resources in the broad national interest: *Provided,* That such transfer shall not include lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife nor facilities utilized in connection therewith, or in connection with general research activities relating to fisheries or wildlife. Sums of money that are available for apportionment or which the Secretary of the Interior shall have apportioned as of the date the State of Alaska shall be deemed to be admitted into the Union, for wildlife restoration in the Territory of Alaska, pursuant to section 8(a) of the Act of September 2, 1937, as amended (16 U.S.C., sec. 669g–1), and for fish restoration and management in the Territory of Alaska, pursuant to section 12 of the Act of August 9, 1950 (16 U.S.C., sec. 777k), shall continue to be available for the period, and under the terms and conditions in effect at the time, the apportionments are made. Commencing with the year during which Alaska is admitted into the Union, the Secretary of the Treasury, at the close of each fiscal year, shall pay to the State of Alaska 70 per centum of the net proceeds, as determined by the Secretary of the Interior, derived during such fiscal year from all sales of sealskins or sea otter skins made in accordance with the provisions of the Fur Seal Act of 1966 [section 1151 et seq. of Title 16, Conservation]. In arriving at the net proceeds, there shall be deducted from the receipts from all sales all costs to the United States in carrying out the provisions of the Fur Seal Act of 1966, including, but not limited to, the costs of handling and dressing the skins, the costs of making the sales, and all expenses incurred in the administration of the Pribilof Islands, and the payments made to any municipal corporation established pursuant to section 206 of the Fur Seal Act of 1966 [section 1166 of title 16] and to the civil service retirement and disability fund pursuant to section 208 of the Fur Seal Act of 1966 section [1168 of title 16.] In administering the Pribilof Islands fund established by section 407 of the Fur Seal Act of 1966 [section 1187 of title 16], the Secretary shall consult with the State of Alaska annually. Nothing in this Act shall be construed as affecting the rights of the United States under the provisions of the Fur Seal Act of 1966 and the Northern Pacific Halibut Act of 1937 (16 U.S.C. 772—772i)." (As amended Pub. L. 89–702, title IV, § 408(b), Nov. 2, 1966, 80 Stat. 1098.)

"(f) Five per centum of the proceeds of sale of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to said State to be used for the support of the public schools within said State.

"(g) Except as provided in subsection (a), all lands granted in quantity to and authorized to be selected by the State of Alaska by this Act shall be selected in such manner as the laws of the State may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least five thousand seven hundred and sixty acres unless isolated from other tracts open to selection or, in the case of selections under subsec. (a) of this section, one hundred and sixty acres. The authority to make selections shall never be alienated or

bargained away, in whole or in part, by the State. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, if subsequent to the admission of Alaska into the Union, during which period the State of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (58 Stat. 748; 43 U.S.C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. Where any lands desired by the State are unsurveyed at the time of their selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any interior subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey; where any lands desired by the State are surveyed at the time of their selection, the boundaries of the area requested shall conform to the public land subdivisions established by the approval of the survey. All lands duly selected by the State of Alaska pursuant to this Act shall be patented to the State by the Secretary of the Interior. Following the selection of lands by the State and the tentative approval of such selection by the Secretary of the Interior or his designee, but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands. As used in this subsection, the words 'equitable claims subject to allowance and confirmation' include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

"(h) Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 920 (41 Stat. 437; 30 U.S.C. 181 and the following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C.[1] 432 and the following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless an application to select such lands is filed with the Secretary of the Interior within a period of ten years after the date of the admission of Alaska into the Union. Such selections shall be made only from lands that are otherwise open to selection under this Act. When all of the lands subject to a lease, permit, license, or contract are selected, the patent for the lands so selected shall vest in the State of Alaska all the right, title, and interest of the United States in and to that lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all the rentals, royalties, and other payments accruing after that date under that lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of that lease, permit, license, or contract: *Provided,* That nothing herein contained shall affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder. Where only a portion of the lands subject to a lease, permit, license, or contract are selected, there shall be reserved to the United States the mineral or minerals subject to that lease, permit, license, or contract, together with such further rights as may be necessary to the full and complete enjoyment of all rights, privileges, and benefits under or with respect to that lease, permit, license, or contract; upon the termination of the lease, permit, license, or contract, title to the minerals so reserved to the United States shall pass to the State of Alaska."

"(i) All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: *Provided,* That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska.

"(j) The schools and colleges provided for in this Act shall forever remain under the exclusive control of the State, or its governmental subdivisions, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

"(k) Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U.S.C., sec. 353), as amended, and the last sentence of section 35 of the Act of February 25, 1920 (41 Stat. 450; 30 U.S.C., sec. 191), as amended, are repealed and all lands therein reserved under the provisions of section 1 as of the date of this Act [July 7, 1958] shall, upon the admission of said State into the Union, be granted to said State for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license, or contract issued under said section 1, as amended, or any rights or powers with respect to such lease, permit, license, or contract, and shall not affect the disposition of the proceeds or income derived prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter from any disposition of the reserved lands or an interest therein made prior to such repeal.

"(*l*) The grants provided for in this Act shall be in lieu of the grant of land for purposes of internal improvements made to new States by section 8 of the Act of September 4, 1841 (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U.S.C., sec. 857), and in lieu of the swampland grant made by the Act of September 28, 1850 (9 Stat. 520), and section 2479 of the Revised Statutes (43 U.S.C., sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C., secs. 301–308), which grants are hereby declared not to extend to the State of Alaska.

"(m) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder. (As amended Pub. L. 86–70, § 2(b), June 25, 1959, 73 Stat. 141; Pub. L. 86–173, Aug. 18, 1959, 73 Stat. 395; Pub. L. 86–786, §§ 3, 4, Sept. 14, 1960, 74 Stat. 1025; Pub. L. 88–135, Oct. 8, 1963, 77 Stat. 223; Pub. L. 88–289, Mar. 25, 1964, 78 Stat. 169.)

"Sec. 7. [Certification by President; proclamation for elections.] Upon enactment of this Act, it shall be the duty of the President of the United States, not later than July 3, 1958, to certify such fact to the Governor of Alaska. Thereupon the Governor, on or after July 3, 1958, and not later than August 1, 1958, shall issue his proclamation for the elections, as hereinafter provided, for officers of all elective offices and in the manner provided for by the constitution of the proposed State of Alaska, but the officers so elected shall in any event include two Senators and one Representative in Congress.

"Sec. 8. [Election of officers; date; propositions; certification of voting results; proclamation by President; laws in effect.]

"(a) The proclamation of the Governor of Alaska required by section 7 shall provide for holding of a primary election and a general election on dates to be fixed by the Governor of Alaska: *Provided,* That the general election shall not be held later than December 1, 1958, and at such elections the officers required to be elected as provided in section 7 shall be, and officers for other elective offices provided for in the constitution of the proposed State of Alaska may be, chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Alaska for the election of members of the proposed State

[1] So in original. Probably should read "48 U.S.C.".

legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Alaska may prescribe. The Governor of Alaska shall certify the results of said elections to the President of the United States.

"(b) At an election designated by proclamation of the Governor of Alaska, which may be the general election held pursuant to subsection (a) of this section, or a Territorial general election, or a special election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, by separate ballot on each, the following propositions:

"'(1) Shall Alaska immediately be admitted into the Union as a State?

"'(2) The boundaries of the State of Alaska shall be as prescribed in the Act of Congress approved ____ and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

"'(3) All provisions of the Act of Congress approved ____ reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people.'

"In the event each of the foregoing propositions is adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Alaska, ratified by the people at the election held on April 24, 1956, shall be deemed amended accordingly. In the event any one of the foregoing propositions is not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall thereupon cease to be effective.

"The Governor of Alaska is hereby authorized and directed to take such action as may be necessary or appropriate to insure the submission of said propositions to the people. The return of the votes cast on said propositions shall be made by the election officers directly to the Secretary of Alaska, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

"(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Alaska, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 7 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Alaska shall be deemed admitted into the Union as provided in section 1 of this Act.

"Until the said State is so admitted into the Union, all of the officers of said Territory, including the Delegate in Congress from said Territory, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Alaska into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in or under or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

"(d) Upon admission of the State of Alaska into the Union as herein provided, all of the Territorial laws then in force in the Territory of Alaska shall be and continue in full force and effect throughout said State except as modified or changed by this Act, or by the constitution of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within said State as elsewhere within the United States. As used in this paragraph, the term 'Territorial laws' includes (in addition to laws enacted by the Territorial Legislature of Alaska) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Alaska prior to the admission of the State of Alaska into the Union, and the term 'laws of the United States' includes all laws or parts thereof enacted by the Congress that (1) apply to or within Alaska at the time of the admission of the State of Alaska into the Union, (2) are not 'Territorial laws' as defined in this paragraph, and (3) are not in conflict with any other provisions of this Act.

"Sec. 9. [House of Representatives membership.] The State of Alaska upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided,* That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13) nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U.S.C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

"Sec. 10. [National defense withdrawals; jurisdiction.]

"(a) The President of the United States is hereby authorized to establish, by Executive order or proclamation, one or more special national defense withdrawals within the exterior boundaries of Alaska, which withdrawal or withdrawals may thereafter be terminated in whole or in part by the President.

"(b) Special national defense withdrawals established under subsection (a) of this section shall be confined to those portions of Alaska that are situated to the north or west of the following line: Beginning at the point where the Porcupine River crosses the international boundary between Alaska and Canada; thence along a line parallel to, and five miles from, the right bank of the main channel of the Porcupine River to its confluence with the Yukon River; thence along a line parallel to, and five miles from, the right bank of the main channel of the Yukon River to its most southerly point of intersection with the meridian of longitude 160 degrees west of Greenwich; thence south to the intersection of said meridian with the Kuskokwim River; thence along a line parallel to, and five miles from the right bank of the Kuskokwim River to the mouth of said river; thence along the shoreline of Kuskokwim Bay to its intersection with the meridian of longitude 162 degrees 30 minutes west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 57 degrees 30 minutes north; thence east to the intersection of said parallel with the meridian of longitude 156 degrees west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 50 degrees north.

"(c) Effective upon the issuance of such Executive order or proclamation, exclusive jurisdiction over all special national defense withdrawals established under this section is hereby reserved to the United States, which shall have sole legislative, judicial, and executive power within such withdrawals, except as provided hereinafter. The exclusive jurisdiction so established shall extend to all lands within the exterior boundaries of each such withdrawal, and shall remain in effect with respect to any particular tract or parcel of land only so long as such tract or parcel remains within the exterior boundaries of such a withdrawal. The laws of the State of Alaska shall not apply to areas within any special national defense withdrawal established under this section while such areas remain subject to the exclusive jurisdiction hereby authorized: *Provided, however,* That such exclusive jurisdiction shall not prevent the execution of any process, civil or criminal, of the State of Alaska, upon any person found within said withdrawals: *And provided further,* That such exclusive jurisdiction shall not prohibit the State of Alaska from enacting and enforcing all laws necessary to establish voting districts, and the qualification and procedures for voting in all elections.

"(d) During the continuance in effect of any special national defense withdrawal established under this section, or until the Congress otherwise provides, such exclusive jurisdiction shall be exercised within each such

withdrawal in accordance with the following provisions of law:

"(1) All laws enacted by the Congress that are of general application to areas under the exclusive jurisdiction of the United States, including, but without limiting the generality of the foregoing, those provisions of title 18, United States Code, that are applicable within the special maritime and territorial jurisdiction of the United States as defined in section 7 of said title, shall apply to all areas within such withdrawals.

"(2) In addition, any areas within the withdrawals that are reserved by Act of Congress or by Executive action for a particular military or civilian use of the United States shall be subject to all laws enacted by the Congress that have application to lands withdrawn for that particular use, and any other areas within the withdrawals shall be subject to all laws enacted by the Congress that are of general application to lands withdrawn for defense purposes of the United States.

"(3) To the extent consistent with the laws described in paragraphs (1) and (2) of this subsection and with regulations made or other actions taken under their authority, all laws in force within such withdrawals immediately prior to the creation thereof by Executive order or proclamation shall apply within the withdrawals and, for this purpose, are adopted as laws of the United States: *Provided, however*, That the laws of the State or Territory relating to the organization or powers of municipalities or local political subdivisions, and the laws or ordinances of such municipalities or political subdivisions shall not be adopted as laws of the United States.

"(4) All functions vested in the United States commissioners by the laws described in this subsection shall continue to be performed within the withdrawals by such commissioners.

"(5) All functions vested in any municipal corporation, school district, or other local political subdivision by the laws described in this subsection shall continue to be performed within the withdrawals by such corporation, district, or other subdivision, and the laws of the State or the laws or ordinances of such municipalities or local political subdivision shall remain in full force and effect notwithstanding any withdrawal made under this section.

"(6) All other functions vested in the government of Alaska or in any officer or agency thereof, except judicial functions over which the United States District Court for the District of Alaska is given jurisdiction by this Act or other provisions of law, shall be performed within the withdrawals by such civilian individuals or civilian agencies and in such manner as the President shall from time to time, by Executive order, direct or authorize.

"(7) The United States District Court for the District of Alaska shall have original jurisdiction, without regard to the sum or value of any matter in controversy, over all civil actions arising within such withdrawals under the laws made applicable thereto by this subsection, as well as over all offenses committed within the withdrawals.

"(e) Nothing contained in subsection (d) of this section shall be construed as limiting the exclusive jurisdiction established in the United States by subsection (c) of this section or the authority of the Congress to implement such exclusive jurisdiction by appropriate legislation, or as denying to persons now or hereafter residing within any portion of the areas described in subsection (b) of this section the right to vote at all elections held within the political subdivisions as prescribed by the State of Alaska where they respectively reside, or as limiting the jurisdiction conferred on the United States District Court for the District of Alaska by any other provision of law, or as continuing in effect laws relating to the Legislature of the Territory of Alaska. Nothing contained in this section shall be construed as limiting any authority otherwise vested in the Congress or the President.

"Sec. 11. [Mount McKinley National Park; military and naval lands; civil and criminal jurisdiction.]

"(a) Nothing in this Act shall affect the establishment, or the right, ownership, and authority of the United States in Mount McKinley National Park, as now or hereafter constituted; but exclusive jurisdiction, in all cases, shall be exercised by the United States for the national park, as now or hereafter constituted; saving, however, to the State of Alaska the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State, but outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said park; and saving also to the persons residing now or hereafter in such area the right to vote at all elections held within the respective political subdivisions of their residence in which the park is situated.

"(b) Notwithstanding the admission of the State of Alaska into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are owned by the United States and held for military, naval, Air Force, or Coast Guard purposes, including naval petroleum reserve numbered 4, whether such lands were acquired by cession and transfer to the United States by Russia and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Alaska for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided,* (i) That the State of Alaska shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Alaska, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall rest and remain in the United States only so long as the particular tract or parcel of land involved is owned by the United States and used for military, naval, Air Force, or Coast Guard purposes. The provisions of this subsection shall not apply to lands within such special national defense withdrawal or withdrawals as may be established pursuant to section 10 of this Act until such lands cease to be subject to the exclusive jurisdiction reserved to the United States by that section.

"Sec. 12. [Judicial and criminal provisions; amendment.]

"Effective upon the admission of Alaska into the Union—

"(a) The analysis of chapter 5 of title 28, United States Code, immediately preceding section 81 of such title, is amended by inserting immediately after and underneath item 81 of such analysis, a new item to be designated as item 81A and to read as follows:

" '81A. Alaska';

"(b) Title 28, United States Code, is amended by inserting immediately after section 81 thereof a new section, to be designated as section 81A, and to read as follows:

" '§ 81A. Alaska.

" 'Alaska constitutes one judicial district.

" 'Court shall be held at Anchorage, Fairbanks, Juneau, and Nome.';

"(c) Section 133 of title 28, United States Code, is amended by inserting in the table of districts and judges in such section immediately above the item: 'Arizona * * * 2', a new item as follows: 'Alaska * * * 1';

"(d) The first paragraph of section 373 of title 28, United States Code, as heretofore amended, is further amended by striking out the words: 'the District Court

for the Territory of Alaska,': *Provided,* That the amendment made by this subsection shall not affect the rights of any judge who may have retired before it takes effect;

"(e) The words 'the District Court for the Territory of Alaska,' are stricken out wherever they appear in sections 333, 460, 610, 753, 1252, 1291, 1292, and 1346 of title 28, United States Code;

"(f) The first paragraph of section 1252 of title 28, United States Code, is further amended by striking out the word 'Alaska,' from the clause relating to courts of record;

"(g) Subsection (2) of section 1294 of title 28, United States Code, is repealed and the later subsections of such section are renumbered accordingly;

"(h) Subsection (a) of section 2410 of title 28, United States Code, is amended by striking out the words: 'including the District Court for the Territory of Alaska,';

"(i) Section 3241 of title 18, United States Code, is amended by striking out the words: 'District Court for the Territory of Alaska, the';

"(j) Subsection (e) of section 3401 of title 18, United States Code, is amended by striking out the words: 'for Alaska or';

"(k) Section 3771 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: 'the Territory of Alaska,';

"(*l*) Section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: 'the Territory of Alaska,';

"(m) Section 2072 of title 28, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: 'and of the District Court for the Territory of Alaska';

"(n) Subsection (q) of section 376 of title 28, United States Code, is amended by striking out the words: 'the District Court for the Territory of Alaska,': *Provided,* That the amendment made by this subsection shall not affect the rights under such section 376 of any present or former judge of the District Court for the Territory of Alaska or his survivors;

"(*o*) The last paragraph of section 1963 of title 28, United States Code, is repealed;

"(p) Section 2201 of title 28, United States Code, is amended by striking out the words: 'and the District Court for the Territory of Alaska'; and

"(q) Section 4 of the Act of July 28, 1950 (64 Stat. 380; 5 U.S.C., sec. 341b) is amended by striking out the word: 'Alaska,'.

"Sec. 13. [Continuation of suits.]

"No writ, action, indictment, cause, or proceeding pending in the District Court for the Territory of Alaska on the date when said Territory shall become a State, and no case pending in an appellate court upon appeal from the District Court for the Territory of Alaska at the time said Territory shall become a State, shall abate by the admission of the State of Alaska into the Union, but the same shall be transferred and proceeded with as hereinafter provided.

"All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no suit, action, or prosecution shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Alaska in like manner, to the same extent, and with like right of appellate review, as if said State had been created and said courts had been established prior to the accrual of said causes of action or the commission of such offenses; and such of said criminal offenses as shall have been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Alaska.

"Sec. 14. [Appeals.] All appeals taken from the District Court for the Territory of Alaska to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit, previous to the admission of Alaska as a State, shall be prosecuted to final determination as though this Act had not been passed. All cases in which final judgment has been rendered in such district court, and in which appeals might be had except for the admission of such State, may still be sued out, taken, and prosecuted to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit under the provisions of then existing law, and there held and determined in like manner; and in either case, the Supreme Court of the United States, or the United States Court of Appeals, in the event of reversal, shall remand the said cause to either the State supreme court or other final appellate court of said State, or the United States district court for said district, as the case may require: *Provided,* That the time allowed by existing law for appeals from the district court for said Territory shall not be enlarged thereby.

"Sec. 15. [Transfer of cases.] All causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State which are of such nature as to be within the jurisdiction of a district court of the United States shall be transferred to the United States District Court for the District of Alaska for final disposition and enforcement in the same manner as is now provided by law with reference to the judgments and decrees in existing United States district courts. All other causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State shall be transferred to the appropriate State court of Alaska. All final judgments and decrees rendered upon such transferred cases in the United States District Court for the District of Alaska may be reviewed by the Supreme Court of the United States or by the United States Court of Appeals for the Ninth Circuit in the same manner as is now provided by law with reference to the judgments and decrees in existing United States district courts.

"Sec. 16. [Succession of courts.] Jurisdiction of all cases pending or determined in the District Court for the Territory of Alaska not transferred to the United States District Court for the District of Alaska shall devolve upon and be exercised by the courts of original jurisdiction created by said State, which shall be deemed to be the successor of the District Court for the Territory of Alaska with respect to cases not so transferred and, as such, shall take and retain custody of all records, dockets, journals, and files of such court pertaining to such cases. The files and papers in all cases so transferred to the United States district court, together with a transcript of all book entries to complete the record in such particular cases so transferred, shall be in like manner transferred to said district court.

"Sec. 17. [Pending cases in the District Court for the Territory of Alaska.] All cases pending in the District Court for the Territory of Alaska at the time said Territory becomes a State not transferred to the United States District Court for the District of Alaska shall be proceeded with and determined by the courts created by said State with the right to prosecute appeals to the appellate courts created by said State, and also with the same right to prosecute appeals or writs of certiorari from the final determination in said causes made by the court of last resort created by such State to the Supreme Court of the United States, as now provided by law for appeals and writs of certiorari from the court of last resort of a State to the Supreme Court of the United States.

"Sec. 18. [Jurisdiction of District Court; termination date.] The provisions of the preceding sections with respect to the termination of the jurisdiction of the District Court for the Territory of Alaska, the continuation of suits, the succession of courts, and the satisfaction of rights of litigants in suits before such courts, shall not be effective until three years after the effective date of this Act, unless the President, by Executive order, shall sooner proclaim that the United States District Court for the District of Alaska, established in accordance with the provisions of this Act, is prepared to assume the functions imposed upon it. During such period of three years or until such Executive order is issued, the United States District Court for the Territory of Alaska shall continue to function as heretofore. The tenure of the judges, the United States attorneys, marshals, and other officers of the United States District Court for the Territory of Alaska shall terminate at such time as that court shall cease to function as provided in this section.

"Sec. 19. [Federal Reserve Act; amendment.] The first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) is amended by striking out the last sentence thereof and inserting in lieu of such sentence the following: 'When the State of Alaska is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this Act and shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section.'

"Sec. 20. [Reservation of coal lands; repeal.] Section 2 of the Act of October 20, 1914 (38 Stat. 742; 48 U.S.C., sec. 433), is hereby repealed.

"Sec. 21. [United States Nationality.] Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, nor restore nationality heretofore lost under any law of the United States or under any treaty to which the United States may have been a party.

"Sec. 22. [Immigration and Nationality Act; amendment.] Section 101(a)(36) of the Immigration and Nationality Act (66 Stat. 170, 8 U.S.C., sec. 1101(a)(36)) is amended by deleting the word 'Alaska,'.

"Sec. 23. [Immigration and Nationality Act; amendment.] The first sentence of section 212(d)(7) of the Immigration and Nationality Act (66 Stat. 188, 8 U.S.C., sec. 1182(d)(7)) is amended by deleting the word 'Alaska,'.

"Sec. 24. [Persons born in Alaska on or after March 30, 1867.] Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 304 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C., sec. 1404).

"Sec. 25. [Immigration and Nationality Act; amendment.] The first sentence of section 310(a) of the Immigration and Nationality Act (66 Stat. 239, 8 U.S.C., sec. 1421(a)) is amended by deleting the words 'District Courts of the United States for the Territories of Hawaii and Alaska' and substituting therefor the words 'District Court of the United States for the Territory of Hawaii'.

"Sec. 26. [Immigration and Nationality Act; amendment.] Section 344(d) of the Immigration and Nationality Act (66 Stat. 265, 8 U.S.C., sec. 1455(d)) is amended by deleting the words 'in Alaska and'.

"Sec. 27. [Transportation by water.]

"(a) The third proviso in section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C., sec. 883), is further amended by striking out the word 'excluding' and inserting in lieu thereof the word 'including'.

"(b) Nothing contained in this or any other Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Alaska and other ports in the United States, its Territories or possessions, or as conferring upon the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

"Sec. 28. [Mines and mining.]

"(a) The last sentence of section 9 of the Act entitled 'An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes', approved October 20, 1914 (48 U.S.C. 439), is hereby amended to read as follows: 'All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.'

"(b) Section 35 of the Act entitled 'An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain', approved February 25, 1920, as amended (30 U.S.C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ', and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof'.

"Sec. 29. [Separability clause.] If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word to other persons and circumstances shall not be affected thereby.

"Sec. 30. [Repeal of inconsistent laws.] All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress, are hereby repealed."

Alaska Omnibus Act

Pub. L. 86-70, June 25, 1959, 73 Stat. 141, as amended, provided:

"[Sec. 1. Short Title.] That this Act may be cited as the 'Alaska Omnibus Act'.

"Sec. 2 [Federal jurisdiction.] (a) Section 4 of the Act of July 7, 1958 (72 Stat. 339), providing for the admission of the State of Alaska into the Union, is amended by striking out the words 'all such lands or other property, belonging to the United States or which may belong to said natives', and inserting in lieu thereof the words 'all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held by the United States in trust for said natives'.

"(b) Section 6(e) of said Act is amended by striking out the word 'legislative' and inserting in lieu thereof the word 'calendar'.

"Sec. 3. [Termination of application of certain Federal laws.] Any Territorial law, as that term is defined in section 8(d) of the Act of July 7, 1958 (72 Stat. 339, 344), providing for the admission of the State of Alaska into the Union—

"(a) which provides for the regulation of commerce within Alaska by an agency of the United States, and

"(b) the application of which to the State of Alaska is continued solely by reason of such section 8(d), shall cease to apply to the State of Alaska on June 30, 1961, or on the effective date of any law enacted by the Legislature of the State of Alaska which modifies or changes such Territorial law, whichever occurs first.

"Sec. 4. [Sugar Act; amendment.] Section 101 of the Sugar Act of 1948, as amended (7 U.S.C., supp. V, sec. 1101), is further amended by adding thereto a new subsection, to be designated subsection '(o)' and to read as follows:

"'(o) The term "continental United States" means the 49 States and the District of Columbia.'

"Sec. 5. [Soil Bank Act; amendment.] Section 113 of the Soil Bank Act (7 U.S.C., supp. V, sec. 1837), is amended to read as follows: 'This subtitle B shall apply to the continental United States, except Alaska, and, if the Secretary determines it to be in the national interest, to the State of Alaska, the Territory of Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands, and as used in this subtitle B, the term "State" includes Hawaii, Puerto Rico, and the Virgin Islands.'

"Sec. 6. [Armed Forces; amendment.] (a) Title 10, United States Code, section 101(2), is amended by striking out the words 'Alaska, Hawaii,' and inserting in lieu thereof the word 'Hawaii'.

"(b) Title 10, United States Code, sections 802(11) and 802(12), are each amended by striking out the words 'that part of Alaska east of longitude 172 degrees west,'.

"(c) Title 10, United States Code, section 2662(c), is amended by striking out the word 'Alaska,'.

"Sec. 7. [National Bank Act; amendment.] Section 5192 of the Revised Statutes, as amended (12 U.S.C. 144), is further amended by striking out the words 'in Alaska or'.

"Sec. 8. [Federal Reserve Act; amendment.] (a) Section 1 of the Federal Reserve Act, as amended (12 U.S.C. 221), is further amended by deleting the period at the end of such section and inserting in lieu thereof the

following: '; the term "the continental United States" means the States of the United States and the District of Columbia.'

"(b) Section 19 of the Federal Reserve Act, as amended (12 U.S.C. 466), is further amended by striking the words 'in Alaska or'.

"Sec. 9. [Home Loan Bank Board.] (a) Paragraph (3) of section 2 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1422(3)), is further amended by striking out the words 'Territories of Alaska and Hawaii' and inserting in lieu thereof the words 'Territory of Hawaii'.

"(b) Section 7 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1466), is further amended by striking out the words 'continental United States, to the Territories of Alaska and Hawaii' and inserting in lieu thereof the words 'continental United States (including Alaska), to the Territory of Hawaii'.

"Sec. 10. [National Housing Act; amendment.] The National Housing Act is amended by—

"(a) striking out the word 'Alaska,' in sections 9, 201(d), 207(a)(7), 601(d), 713(q), and 801(g) (12 U.S.C., secs. 1706d, 1707(d), 1713(a)(7), 1736(d), 1747*l* (q); supp. V, sec. 1748(g));

"(b) striking out the words 'the Territory of Alaska,' in section 207(c)(2) (12 U.S.C., supp. V, sec. 1713(c)(2)), and inserting the word 'Alaska' in lieu thereof;

"(c) by striking out the words 'the Territory of Alaska or in Guam' in section 214 (12 U.S.C., supp. V, sec. 1715d; 48 U.S.C., supp. V, sec. 484d), and inserting the words 'Alaska, Guam,' in lieu thereof; and

"(d) striking out the words 'Territory' in the two places where it appears in section 806 (12 U.S.C., supp. V, sec. 1748e), and inserting the word 'State' in lieu thereof.

"Sec. 11. [Coast Guard; amendment.] Title 14, United States Code, section 634(b), is amended by striking out the words 'and for the territory of' in both places where they appear therein.

"Sec. 12. [Securities and Exchange Commission.] (a) Paragraph (6) of section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b(6)), is further amended by striking out the word 'Alaska,'.

"(b) Paragraph (16) of section 3(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(16)), is further amended by striking out the word 'Alaska,'.

"(c) Paragraph (18) of section 202(a) of the Investment Advisers Act of 1940, as amended (15 U.S.C. 80b-2(a)(18)), is further amended by striking out the word 'Alaska,'.

"(d) Paragraph (37) of section 2(a) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)(37)), is further amended by striking out the word 'Alaska,'.

"(e) Paragraph (1) of section 6(a) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-6(a)(1)), is further amended by striking out the word 'Alaska,'.

"Sec. 13. [Soil Conservation.] (a) Section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C., supp. V, sec. 590h(b)), is further amended by inserting, immediately following the words 'continental United States', the words ', except in Alaska'.

"(b) Section 17(a) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590q(a)), is further amended by striking out the words 'the United States, the Territories of Alaska and Hawaii' and inserting in lieu thereof the words 'the States, the Territory of Hawaii', and by striking out the word 'Alaska' the second time it appears therein.

"Sec. 14. [Bald Eagles.] Section 1 of the Act of June 8, 1940 (16 U.S.C. 668), is amended by striking out the words 'except the Territory of Alaska,'.

"Sec. 15. [Wildlife restoration.] Section 8(a) of the Act of September 2, 1937, as amended (16 U.S.C., supp. V, sec. 669g-1), is further amended by striking out the words 'the Alaska Game Commission,', 'said Territory of Alaska,', 'not exceeding $75,000 for Alaska, and', and 'the Territory of Alaska,'.

"Sec. 16. [Fish restoration.] Section 12 of the Act of August 9, 1950, as amended (16 U.S.C., supp. V, sec. 777k), is further amended by striking out the words 'the Alaska Game Commission,', 'said Territory of Alaska,', 'not exceeding $75,000 for Alaska, and', and 'the Territory of Alaska,'.

"Sec. 17. [Criminal Code; amendments.] (a) Title 18, United States Code, section 5024, is amended by striking out the words 'other than Alaska' and inserting in lieu thereof the words 'including Alaska'.

"(b) Section 6 of the Act of August 25, 1958 (72 Stat. 845, 847), is amended by striking out the words 'other than Alaska' and inserting in lieu thereof the words 'including Alaska'.

"(c) Subsections (a) and (b) of this section shall be effective on July 7, 1961, or on the date of the Executive order referred to in section 18 of the Act of July 7, 1958 (72 Stat. 339, 350), providing for the admission of the State of Alaska into the Union, whichever occurs first.

"(d) Title 18, United States Code, section 1385, is amended by deleting the last sentence thereof.

"Sec. 18. [Education.] (a)(1) Subsection (a) of section 103 of the National Defense Education Act of 1958 (72 Stat. 1580, 1582), relating to definition of State, is amended by striking out 'Alaska,' each time it appears.

"(2) Paragraph (3)(B) of section 302(a) of such Act (72 Stat. 1580, 1588), relating to definition of continental United States for purposes of allotments for science, mathematics and modern foreign language instruction equipment, is amended by striking out 'does not include Alaska' and inserting in lieu thereof 'includes Alaska'.

"(3) Section 1008 of such Act (72 Stat. 1580, 1605), relating to allotments to territories, is amended by striking out 'Alaska,'.

"(b)(1) Section 4 of the Act of February 23, 1917 (20 U.S.C. 14), relating to allotments for teacher-training, is amended by striking out '$90,000' and inserting in lieu thereof '$98,500'. The proviso in the last paragraph of section 5 of such Act (20 U.S.C. 16) and so much of section 12 of such Act (20 U.S.C. 22) as follows the last semicolon shall not be applicable to Alaska prior to the third fiscal year which begins after the enactment of this Act.

"(2) Paragraph (1) of section 2 of the Vocational Education Act of 1946 (20 U.S.C. 15i), relating to definition of States and Territories, is amended by striking out 'the Territories of Alaska and Hawaii' and inserting in lieu thereof 'the Territory of Hawaii'.

"(3) Subsection (e) of section 210 (20 U.S.C., supp. V, sec. 15jj(e)), and subsection (a) of section 307 of such Act (72 Stat. 1580, 1600), relating to definition of State, are each amended by striking out 'Alaska,'.

"(c) Paragraph (13) of section 15 of the Act of September 23, 1950, as amended (72 Stat. 548, 558), relating to definition of State, is amended by striking out 'Alaska,'.

"(d)(1) The material in the parentheses in the first sentence of subsection (d) of section 3 of the Act of September 30, 1950, as amended, relating to determination of local contribution rate, is amended to read: '(other than a local educational agency in Hawaii, Puerto Rico, Wake Island, Guam, or the Virgin Islands, or in a State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency)'.

"(2) The fourth sentence of such subsection is amended by inserting '(including Alaska)' after 'continental United States' the first time it appears in such sentence. The fifth sentence of such subsection is amended by inserting '(including Alaska)' after 'continental United States' the second time it appears in such sentence.

"(3) The last sentence of such subsection is amended by striking out 'Alaska,' and by inserting after 'the Virgin Islands,' the following: 'or in any State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency,'.

"(4) Paragraph (8) of section 9 of such Act (20 U.S.C., supp. V, sec. 244(8)), relating to definition of State, is amended by striking out 'Alaska,'.

"Sec. 19. [Importation of milk and cream.] Subsection (b) of section 9 of the Act of February 15, 1927 (21 U.S.C. 149(b)), is amended by inserting the words, ', including Alaska' immediately following the words 'continental United States'.

"Sec. 20. [Opium Poppy Control.] Section 12 of the Opium Poppy Control Act of 1942 (21 U.S.C. 188k) is

amended by deleting therefrom the words 'the Territory of Alaska,'.

"Sec. 21. [Highways.] (a) The Secretary of Commerce shall transfer to the State of Alaska by appropriate conveyance without compensation, but upon such terms and conditions as he may deem desirable, all lands or interests in lands, including buildings and fixtures, all personal property, including machinery, office equipment, and supplies, and all records pertaining to roads in Alaska, which are owned, held, administered by, or used by the Secretary in connection with the activities of the Bureau of Public Roads in Alaska, (i) except such lands or interests in lands, including buildings and fixtures, personal property, including machinery, office equipment, and supplies, and records as the Secretary may determine are needed for the operations, activities, and functions of the Bureau of Public Roads in Alaska after such transfer, including services or functions performed pursuant to section 44 of this Act; and (ii) except such lands or interests in lands as he or the head of any other Federal agency may determine are needed for continued retention in Federal ownership for purposes other than or in addition to road purposes.

"(b) Notwithstanding any other provision of this section, any contract entered into by the Federal Government in connection with the activities of the Bureau of Public Roads in Alaska which has not been completed on the date of the transfer provided under subsection (a) hereof may be completed according to the terms thereof.

"(c)(1) The State of Alaska shall be responsible for the maintenance of roads, including bridges, tunnels, and ferries, transferred to it under subsection (a) of this section, as long as any such road is needed for highway purposes.

"(2) Federal-aid funds apportioned to Alaska under title 23, United States Code, for fiscal year 1960 and prior fiscal years, and unobligated on the date of enactment of this Act, may be used for maintenance of highways on the Federal-aid systems in Alaska.

"(d) Effective July 1, 1959, the following provisions of law are repealed:

"(1) Title 23, United States Code, section 103 (f);

"(2) Title 23, United States Code, section 116(d);

"(3) Title 23, United States Code, section 119;

"(4) Title 23, United States Code, section 120(h), except that the portion of the first sentence thereof relating to the percentage of funds to be contributed by Alaska shall continue to apply to funds apportioned to Alaska for fiscal year 1960 and prior fiscal years;

"(5) Sections 107 (b) and (d) of the Federal-Aid Highway Act of 1956 (70 Stat. 374, 377, 378);

"(6) Section 2 of the Act of January 27, 1905 (33 Stat. 616), as amended (48 U.S.C. 322 and the following); and

"(7) The Act of June 30, 1932 (47 Stat. 446), as amended (48 U.S.C. 321(a) and the following).

"(e) Effective on July 1, 1959, the following provisions of law are amended:

"(1) The definition of the term 'State' in title 23, United States Code, section 101(a), is amended to read as follows:

"'The term "State" means any one of the forty-nine States, the District of Columbia, Hawaii, or Puerto Rico.';

"(2) Title 23, United States Code, section 104(b), is amended by deleting the phrase ', except that only one-third of the area of Alaska shall be included' where it appears in paragraphs (1) and (2) of said section 104(b);

"(3) Title 23, United States Code, section 116(a), is amended by deleting the phrase 'Except as provided in subsection (d) of this section,' and by capitalizing the word 'it' immediately following such phrase; and

"(4) Title 23, United States Code, section 120(a), is amended by deleting the phrase 'subsection (d) and (h)' and by inserting in lieu thereof the phrase 'subsection (d)'.

"(f) Notwithstanding the limitation contained in subsection (f) of section 120 of Title 23, United States Code, the Secretary of Commerce is authorized to make expenditures from the emergency fund under section 125 of such title for the repair or reconstruction of highways on the Federal-aid highway systems of Alaska which have been damaged or destroyed by the 1964 earthquake and subsequent seismic waves, in accordance with the Federal share payable under subsection (a) of section 120 of such title. The increase in expenditures resulting from the difference between the Federal share authorized by this subsection and that authorized by subsection (f) of section 120 of such title shall be reimbursed to the emergency fund by an appropriation from the general fund of the Treasury: *Provided,* That such increase in expenditures shall not exceed $15,000,000 in the aggregate. (As amended Pub. L. 88-451, § 3, Aug. 19, 1964, 78 Stat. 505.)

"Sec. 22. [Internal Revenue.] (a) Section 2202 of the Internal Revenue Code of 1954 (relating to missionaries in foreign service), and sections 3121(e)(1), 3306(j), 4221(d)(4), and 4233(b) of such Code (each relating to a special definition of 'State') are amended by striking out 'Alaska,'.

"(b) Section 4262(c)(1) of the Internal Revenue Code of 1954 (definition of 'continental United States') is amended to read as follows:

"'(1) Continental United States.—The term "continental United States" means the District of Columbia and the States other than Alaska.'

"(c) Section 4502(5) of the Internal Revenue Code of 1954 (relating to definition of 'United States') is amended by striking out 'the Territories of Hawaii and Alaska' and by inserting in lieu thereof 'the Territory of Hawaii'.

"(d) Section 4774 of the Internal Revenue Code of 1954 (relating to territorial extent of law) is amended by striking out 'the Territory of Alaska,'.

"(e) Section 7621 (b) of the Internal Revenue Code of 1954 (relating to boundaries of internal revenue districts) is amended to read as follows:

"'(b) Boundaries.—For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite into one district two or more States or a Territory and one or more States.'

"(f) Section 7653(d) of the Internal Revenue Code of 1954 is amended by striking out 'its Territories or possessions' and inserting in lieu thereof 'its possessions or the Territory of Hawaii'.

"(g) Section 7701(a)(9) of the Internal Revenue Code of 1954 (relating to definition of 'United States') is amended by striking out 'the Territories of Alaska and Hawaii' and inserting in lieu thereof 'the Territory of Hawaii'.

"(h) Section 7701(a)(10) of the Internal Revenue Code of 1954 (relating to definition of State) is amended by striking out 'Territories' and inserting in lieu thereof 'Territory of Hawaii'.

"(i) The amendments contained in subsections (a) through (h) of this section shall be effective as of January 3, 1959.

"Sec. 23. [Courts.] (a) The Judicial Conference of the United States, with the assistance of the Administrative Office of the United States Courts, shall conduct a study, including a field survey, of the Federal judicial business arising in the State of Alaska with a view toward directing the United States Court of Appeals for the Ninth Circuit to hold such terms of court in Anchorage or such other Alaskan cities as may be necessary for the prompt and efficient administration of justice.

"(b) Title 28, United States Code, section 81A, is amended by inserting the word 'Ketchikan,' immediately following the word 'Juneau,'.

"(c) Such authority as has been exercised by the Attorney General heretofore, with regard to the Federal court system in Alaska, pursuant to section 30 of the Act of June 6, 1900 (48 U.S.C. 25), shall continue to be exercised by him after the court created by section 12(b) of the Act of July 7, 1958 (72 Stat. 339, 348), providing for the admission of the State of Alaska into the Union, is established.

"(d) All balances of public moneys received by the clerks of each division of the District Court for the Territory of Alaska pursuant to section 10 of the Act of June 6, 1900, as amended (48 U.S.C. 107), which are on hand after all payments ordered by that court and approved by the Administrative Office of the United States Courts shall have been made, shall be covered into the Treasury of the United States as required by law, and the Secretary

of the Treasury shall pay the amounts so covered, which are hereby appropriated, to the State of Alaska.

"Sec. 24. [Vocational Rehabilitation Act; amendment.] (a) Subsection (g) of section 11 of the Vocational Rehabilitation Act (29 U.S.C., supp. V, sec. 41(g)), relating to definition of State, is amended by striking out 'Alaska,'.

"(b)(1) Subsection (i) and paragraph (1) of subsection (h) of such section, relating to definition of allotment percentages and Federal shares for purposes of allotment and matching for vocational rehabilitation services, are each amended by striking out '(excluding Alaska)' and inserting in lieu thereof '(including Alaska)'.

"(2) Paragraph (1) of such subsection (h) is further amended by striking out 'Alaska,'.

"(3) Such subsection (i) is further amended by striking out 'Hawaii and Alaska' in clause (B) and inserting in lieu thereof 'Hawaii',

"Sec. 25. [Gold Reserve Act; amendment.] Section 15 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 444), is further amended by striking out the words ', the District of Columbia, and the Territory of Alaska' and inserting in lieu thereof the words 'and the District of Columbia'.

"Sec. 26. [Silver Purchase Act; amendment.] Section 10 of the Silver Purchase Act of 1934 (31 U.S.C. 448b), is amended by striking out the words ', the District of Columbia, and the Territory of Alaska' and inserting in lieu thereof the words 'and the District of Columbia'.

"Sec. 27. [National Guard; amendment.] Title 32, United States Code, section 101(1), is amended by striking out the words 'Alaska, Hawaii,' and inserting in lieu thereof the word 'Hawaii'.

"Sec. 28. [Water Pollution Control Act; amendment.] (a) Paragraph (1) of section 5(h) of the Federal Water Pollution Control Act (33 U.S.C., supp. V, sec. 466d(h)(1)), relating to Federal share for purposes of matching for program operation, is amended by striking out '(excluding Alaska)' and inserting in lieu thereof '(including Alaska)' and by striking out, in clause (B), 'and Alaska'.

"(b) Subsection (d) of section 11 of such Act (33 U.S.C., supp. V, sec. 466j(d)), is amended by striking out 'Alaska,'.

"Sec. 29. [Veterans' Benefits; amendment.] (a) Title 38, United States Code, section 903(b), is amended by striking out the words ', or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care'; by inserting the word 'continental' immediately before the words 'United States' the second time they appear in such section; and by inserting, immediately following the words 'continental United States' in both places where they appear in such section, the parenthetical phrase '(including Alaska)'.

"(b) Title 38, United States Code, section 2007(c), is amended by striking out the word 'Alaska,'.

"Sec. 30. [Federal Property and Administrative Services Act; amendment.] (a) Subsection (f) of section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(f)), is amended by striking out the words ', Hawaii, Alaska,' and inserting in lieu thereof the words '(including Alaska), Hawaii,'.

"(b) Subsection (a) of section 702 of such Act (40 U.S.C., supp. V, sec. 522(a)), is amended by striking out the words 'Territories of Alaska and Hawaii' and inserting in lieu thereof the words 'Territory of Hawaii'.

"Sec. 31. [Public Health Service Act; amendment.] (a) Subsection (f) of section 2 of the Public Health Service Act (42 U.S.C. 201(f)), relating to definition of State, is amended by striking out 'Hawaii, Alaska,' and inserting in lieu thereof 'Hawaii,' and by striking out ', the District of Columbia, or Alaska' and inserting in lieu thereof 'or the District of Columbia'.

"(b)(1) Effective July 1, 1959, section 371 of the Public Health Service Act, as added by the Alaska Mental Health Enabling Act (42 U.S.C., supp. V, sec. 273), is repealed.

"(2) Subsection (a) of section 372 of such Act (42 U.S.C., supp. V, sec. 274(a)), is amended by striking out 'the Territory of'.

"(3) Subsections (b), (c), and (e) of such section are each amended by striking out 'the Territory' each time it appears and inserting in lieu thereof 'Alaska'.

"(4) Such subsection (e) is further amended by striking out 'the Territory's' and inserting in lieu thereof 'Alaska's'.

"(c)(1) Subsection (a) of section 631 of such Act (42 U.S.C., supp. V, sec. 291i(a)), relating to definition of allotment percentage for purposes of allotments for construction, is amended by striking out '(excluding Alaska)' and inserting in lieu thereof '(including Alaska)' and by striking out 'for Alaska and Hawaii shall be 50 per centum each' in clause (2) and inserting in lieu thereof 'for Hawaii shall be 50 per centum'.

"(2) Subsection (d) of such section, relating to definition of State, is amended by striking out 'Alaska,'.

"Sec. 32. [Social Security Act; amendment.] (a) Paragraph (8) of section 1101(a) of the Social Security Act (72 Stat. 1013, 1050), relating to definition of Federal percentage for purposes of matching for public assistance grants, is amended by striking out 'Alaska and' in clause (ii) of subparagraph (A) and by striking out '(excluding Alaska)' in subparagraphs (A) and (B) and inserting in lieu thereof '(including Alaska)'.

"(b)(1) Subsection (a) of section 524 of the Social Security Act (72 Stat. 1013, 1054), relating to definition of allotment percentage for purposes of allotments for child welfare services, is amended by striking out '50 per centum in the case of Alaska and' in clause (B).

"(2) Subsection (b) of such section, relating to definition of Federal share for purposes of matching for child welfare services, is amended by striking out '50 per centum in the case of Alaska and' in clause (2).

"(3) Such subsections (a) and (b), and subsection (c) of such section, relating to promulgation of Federal shares and allotment percentages, are each amended by striking out '(excluding Alaska)' and inserting in lieu thereof '(including Alaska)'.

"(c)(1) The last sentence of section 202(i) of the Social Security Act (42 U.S.C., supp. V, sec. 402(i)), is amended by striking out 'forty-eight' and inserting in lieu thereof 'forty-nine'.

"(2) Subsections (h) and (i) of section 210 of such Act (42 U.S.C. 410 (h), (i)), relating to definitions of State and United States for purposes of old-age, survivors, and disability insurance, are each amended by striking out 'Alaska,'.

"(d)(1) Paragraph (1) of section 1101(a) of the Social Security Act (42 U.S.C., supp. V, sec. 1301(a)(1)), relating to definition of State, is amended by striking out 'Alaska, Hawaii,' and inserting in lieu thereof 'Hawaii'.

"(2) Paragraph (2) of such section (42 U.S.C. 1301(a)(2)), relating to definition of United States, is amended by striking out 'Alaska,'.

"Sec. 33. [Congressional Record.] Section 73 of the Act of January 12, 1895, as amended (44 U.S.C., supp. V, sec. 183), is further amended by striking out the word 'Alaska,'.

"Sec. 34. [Federal Register.] Section 8 of the Federal Register Act (44 U.S.C. 308) is amended by striking out the parenthetical phrase '(not including Alaska)' and inserting in lieu thereof the parenthetical phrase '(including Alaska)'.

"Sec. 35. [Airports.] (a) The Administrator of the Federal Aviation Agency is authorized and directed to transfer to the State of Alaska by appropriate conveyance, and subject to such terms and conditions as he may deem appropriate, all the right, title, and interest of the United States in and to the public airports constructed and operated pursuant to the Act of May 28, 1948, as amended (48 U.S.C. 485 and the following), including all the land, buildings, structures, facilities, equipment, and other personal property appurtenant thereto and necessary for the operation thereof, except for such property, real or personal, as the Administrator may determine is needed for the performance of functions of the United States in Alaska after such transfer. Such transfer shall be without monetary consideration to the United States.

"(b) Notwithstanding any other provisions of this section, any contract entered into by the Federal Aviation Agency in connection with its activities with respect to public airports constructed and operated pursuant to the Act of May 28, 1948, as amended (48 U.S.C. 485 and

the following), which has not been completed by the date of enactment of this Act, may be completed according to the terms thereof.

"Sec. 36. [Selective Service.] Section 16(b) of the Universal Military Training and Service Act, as amended (50 U.S.C., app., sec. 466(b)), is further amended by striking out the word 'Alaska,'.

"Sec. 37. [Real property transactions.] Section 43(c) of the Act of August 10, 1956 (50 U.S.C. app., supp. V, sec. 2285(c)), is amended by striking out the word 'Alaska,'.

"Sec. 38. [Recreation facilities.] Section 2 of the Act of May 4, 1956 (70 Stat. 130), is hereby repealed. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1960, such sums as may be necessary to complete the construction of facilities described in section 1 of such Act, as amended by the Act of August 30, 1957 (71 Stat. 510), if construction was begun prior to June 30, 1959, and to maintain the facilities pending their transfer pursuant to such section.

"Sec. 39. [Aircraft loan guarantees.] Section 3 of the Act of September 7, 1957 (71 Stat. 629), is amended by striking out the words 'Territory of Alaska' and inserting in lieu thereof the words 'State of Alaska'.

"Sec. 40. [Defense Base Act; amendment.] (a) Paragraphs (2) and (3) of section 1(a) of the Defense Base Act, as amended (55 Stat. 622; 42 U.S.C. 1651 and the following), are amended by striking out 'Alaska;' in the parenthetical phrase in each paragraph.

"(b) Paragraph (6) of section 1(a) of that Act is amended by striking out 'or in Alaska or the Canal Zone'.

"(c) Section 1(b) of that Act is amended by striking the period at the end of paragraph (3), inserting in lieu thereof a semicolon, and adding the following paragraph:

'(4) the term "continental United States" means the States and the District of Columbia.'

"Sec. 41. [Timber removal.] The Act of March 3, 1891 (26 Stat. 1093), as amended (16 U.S.C. 607), is further amended by deleting the words 'Territory of Alaska' and the words 'or Territory' where they there appear and by inserting the word 'Alaska,' after the words 'In the State of'.

"Sec. 42. [War Hazards Compensation Act; amendment.] (a) Paragraphs (2), (3), and (5) of section 101(a) of the War Hazards Compensation Act, as amended (56 Stat. 1028; 42 U.S.C. 1701 and the following), are amended by striking out 'or in Alaska or the Canal Zone'.

"(b) Section 104 of that Act is amended by adding the following new subsection at the end thereof:

"'(c) The provisions of this section shall not apply with respect to benefits on account of any injury or death occurring within any State.'

"(c) Section 201 of that Act is amended by adding the following new subsection at the end thereof:

"'(f) the term "continental United States" means the States and the District of Columbia.'

"Sec. 43. [Buy American Act; amendment.] Section 1(b) of Title III of the Act of March 3, 1933 (41 U.S.C. 10c(b)), is amended by striking out the word 'Alaska,'.

"Sec. 44. [Transitional grants.] (a) In order to assist the State of Alaska in accomplishing an orderly transition from Territorial status to statehood, and in order to facilitate the assumption by the State of Alaska of responsibilities hitherto performed in Alaska by the Federal Government, there are hereby authorized to be appropriated to the President, for the purpose of making transitional grants to the State of Alaska, the sum of $10,500,000 for the fiscal year ending June 30, 1960; the sum of $6,000,000 for each of the fiscal years ending June 30, 1961, and June 30, 1962; the sum of $3,000,000 for each of the fiscal years ending June 30, 1963, and June 30, 1964; and the sum of $23,500,000 for the period ending June 30, 1966.

"(b) The Governor of Alaska may submit to the President a request that a Federal agency continue to provide services or facilities in Alaska for an interim period, pending the provision of such services or facilities by the State of Alaska. Such interim period shall not extend beyond June 30, 1966. In the event of such request, and in the event of the approval thereof by the President, the President may allocate, at his discretion, to such agency the funds necessary to finance the provision of such services or facilities. Such funds shall be allocated from appropriations made pursuant to subsection (a) hereof, and the amount of such funds shall be deducted from the amount of grants available to the State of Alaska pursuant to such subsection.

"(c) After the transfer or conveyance to the State of Alaska of any property or function pursuant to the Act of July 7, 1958 (72 Stat. 339), providing for the admission of the State of Alaska into the Union, or pursuant to this Act or any other law, and until June 30, 1966, the head of the Federal agency having administrative jurisdiction of such property prior to its transfer or conveyance may contract with the State of Alaska for the performance by such agency, on a reimbursable basis, of some or all of the functions authorized to be performed by it in Alaska immediately preceding such conveyance or transfer. (As amended Pub. L. 88-311, §§ 1, 2, May 27, 1964, 78 Stat 201.)

"Sec. 45. [Transfer of property.] (a) If the President determines that any function performed by the Federal Government in Alaska has been terminated or curtailed by the Federal Government and that performance of such function or substantially the same function has been or will be assumed by the State of Alaska, the President may, until July 1, 1966, in his discretion, transfer and convey to the State of Alaska, without reimbursement, any property or interest in property, real or personal, situated in Alaska which is owned or held by the United States in connection with such function, the assumption of which function is pursuant to this Act or the Act of July 7, 1958 (72 Stat 339).

"(b) Structures and improvements of block 32 of the city of Juneau granted to the State of Alaska by section 6(c) of the Act providing for the admission of Alaska into the Union (72 Stat. 339, 340), shall include all furnishings and equipment in the structure known as the Governor's mansion, or used in the operation or maintenance thereof. (As amended Pub. L. 88-311, § 2, May 27, 1964, 78 Stat. 201.)

"Sec. 46. [Claims Commission.] (a) In the event that any disputes arise between the United States and the State of Alaska prior to January 1, 1965, concerning the transfer, conveyance, or other disposal of property to the State of Alaska pursuant to section 6(e) of the Act of July 7, 1958 (72 Stat. 339, 340), providing for the admission of the State of Alaska into the Union, or pursuant to this Act, the President is authorized (1) to appoint by and with the advice and consent of the Senate a temporary commission of three persons, to consider, ascertain, adjust, determine, and settle such disputes, and (2) to make such rules and regulations as may be necessary to establish such temporary commission or as may be necessary to terminate such temporary commisison at the conclusion of its duties. In carrying out its duties under this section, such commission may hold such hearings, take such testimony, sit and act at such times and places, and incur such expenditures as the commission deems necessary. No commission shall be appointed under authority of this subsection after June 30, 1965.

"(b) The commission may, without regard to the civil service laws and the Classification Act of 1949, employ and fix the compensation of such employees as it deems necessary to carry out its duties under this section. The commission is authorized to use the facilities, information, and personnel of the departments, agencies, and establishments of the executive branch of the United States Government which it deems necessary to carry out its duties; and each such department, agency, and instrumentality is authorized to furnish such facilities, information, and personnel to the commission upon request made by the commission. The commission shall reimburse each such department, agency, or instrumentality for the services of any personnel utilized. The commission may establish such procedures, rules, and regulations as may be necessary to carry out its duties under this section.

"(c) No member of such commission shall be an officer or employee of the United States or of the State of Alaska. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission. Each member of the commission

shall be paid compensation at the rate of $50 per day for each day spent in the work of the commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance in accordance with the provisions of the Travel Expense Act of 1949, as amended, when away from his usual place of residence.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the commission to perform its duties under this section.

"Sec. 47. [Effective dates.] (a) The amendments made by paragraph (2) of subsection (a) of section 18, by subsection (a) of section 28, by paragraph (1) of subsection (c) of section 31, by subsections (a) and (b) of section 32, and, except as provided in subsection (c) of this section, by subsection (b) of section 24, shall be applicable in the case of promulgations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, and for this purpose such promulgations shall, before such data for the full period required by the applicable statutory provision as so amended are available from the Department of Commerce, be based on satisfactory data available from such Department for such one full year or, when such data for a two-year period are available, for such two years.

"(b) The amendments made by paragraphs (1) and (3) of subsection (a) of section 18 shall be applicable, in the case of allotments under section 302(b) or 502 of the National Defense Education Act of 1958, for fiscal years beginning July 1, 1959, and in the case of allotments under section 302(a) of such Act, in the case of allotments based on allotment ratios, promulgated under such section 302(a), to which the amendment made by paragraph (2) of subsection (a) of section 18 of this Act is applicable.

"(c) [Repealed. Pub. L. 86–624, § 47(g)(4), July 12, 1960, 74 Stat. 424.]

"(d) The amendments made by paragraphs (2) and (3) of subsection (b), by subsection (c), and by paragraph (4) of subsection (d) of section 18; by subsection (a) of section 24; by subsection (b) of section 28; by subsection (a), by subparagraphs (2), (3), and (4) of subsection (b), and by paragraph (2) of subsection (c) of section 31; by paragraph (2) of subsection (c) and by subsection (d) of section 32; and, except as provided in subsection (b) of this section by paragraph (1) of subsection (a) of section 18, shall be effective on January 3, 1959.

"(e) The amendment made by paragraph (1) of subsection (c) of section 32 shall apply in the case of deaths occurring on or after January 3, 1959.

"(f) The amendments made by paragraph (1) of subsection (b) and paragraphs (1), (2), and (3) of subsection (d) of section 18 shall be applicable for fiscal years beginning July 1, 1959.

"(g) The amendments in sections 40 and 42 shall take effect when enacted: *Provided, however,* That with respect to injuries or deaths occurring on or after January 3, 1959, and prior to the effective date of these amendments, claims filed by employees engaged in the State of Alaska in any of the employments covered by the Defense Base Act (and their dependents) may be adjudicated under the Workmen's Compensation Act of Alaska instead of the Defense Base Act. (As amended Pub. L. 86–624, § 47(g)(4), July 12, 1960, 74 Stat. 424.)

"Sec. 48. [Definition of "Continental United States".] Whenever the phrase 'continental United States' is used in any law of the United States enacted after the date of enactment of this Act, it shall mean the 49 States on the North American Continent and the District of Columbia, unless otherwise expressly provided.

"Sec. 49. [Other subjects.] The amendment by this Act of certain statutes by deleting therefrom specific references to Alaska or such phrases as 'Territory of Alaska' shall not be construed to affect the applicability or inapplicability in or to Alaska of other statutes not so amended.

"Sec. 50. [Separability.] If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

"Sec. 51. [New Federal Loan Adjustments.] (a) The Secretary of Agriculture is authorized to compromise or release such portion of a borrower's indebtedness under programs administered by the Farmers Home Administration in Alaska as he finds necessary because of loss resulting from the 1964 earthquake and subsequent seeismic waves, and he may refinance outstanding indebtedness of applicants in Alaska for loans under section 502 of the Housing Act of 1949 [section 1472 of Title 42] for the repair, reconstruction, or replacement of dwellings or farm buildings lost, destroyed, or damaged by such causes and securing such outstanding indebtedness. Such loans may also provide for the purchase of building sites, when the original sites cannot be utilized.

"(b) The Secretary of Agriculture is authorized to compromise or release such portion of a borrower's indebtedness under programs administered by the Rural Electrification Administration in Alaska as he finds necessary because of loss, destruction, or damage of property resulting from the 1964 earthquake and subsequent seismic waves. (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 505.)

"Sec. 52. [Compromise or Release of Notes or Other Obligations.] The Secretary of Housing and Urban Development is authorized to compromise or release such portion of any note or other obligation held by him with respect to property in Alaska pursuant to Title II of the Housing Amendments of 1955 [sections 1491—1497 of Title 42] or included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, as he finds necessary because of loss, destruction, or damage to facilities securing such obligations by the 1964 earthquake and subsequent seismic waves. (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 506, and amended Pub. L. 90–19, § 15(a), May 25, 1967, 81 Stat. 24.)

"Sec. 53. [Urban Renewal.] The Secretary of Housing and Urban Development is authorized to enter into contracts for grants not exceeding $25,000,000 for urban renewal projects in Alaska, including open land projects, under section 111 of the Housing Act of 1949 [section 1462 of title 42], which he determines will aid the communities in which they are located in reconstruction and redevelopment made necessary by the 1964 earthquake and subsequent seismic waves. Such authorization shall be in addition to and separate from any grant authorization contained in section 103(b) of said Act [section 1453(b) of title 42].

"The Secretary may increase the capital grant for a project assisted under this section to not more than 90 per centum of net project cost where he determines that a major portion of the project area has either been rendered unusable as a result of the 1964 earthquake and subsequent seismic waves or is needed in order adequately to provide, in accordance with the urban renewal plan for the project, new locations for persons, businesses, and facilities displaced by the earthquake. (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 506, and amended Pub. L. 90–19, § 15, May 25, 1967, 1967, 81 Stat. 24.)

"Sec. 54. [Extension of Term of Home Disaster Loans.] Loans made pursuant to paragraph (1) of section 7(b) of the Small Business Act (72 Stat. 387), as amended (15 U.S.C. 636(b)), for the purpose of replacing, reconstructing, or repairing dwellings in Alaska damaged or destroyed by the 1964 earthquake and subsequent seismic waves, may have a maturity of up to thirty years: *Provided,* That the provisions of section 7(c) of said Act [section 636(c) of title 15] shall not be applicable to such loans. (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 506.)

"Sec. 55. [Modification of Civil Works Projects.] The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to make such modifications to previously authorized civil works projects in Alaska adversely affected by the 1964 earthquake and subsequent seismic waves as he finds necessary to meet changed conditions and to provide for current and reasonably prospective requirements of the communities they serve, at an estimated cost of $10,000,000. (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 506.)

"Sec. 56. [Purchase of Alaska State Bonds.] The Secretary of Housing and Urban Development is authorized

to purchase, in accordance with the provisions of sections 202(b), 203, and 204 of Title II of the Housing Amendments of 1955 [sections 1492(b), 1493, and 1494 of Title 42], the securities and obligations of, or make loans to, the State of Alaska to finance any part of the programs needed to carry out the reconstruction activities in Alaska related to the 1964 earthquake and subsequent seismic waves or to complete capital improvements begun prior to the earthquake: *Provided,* That the aggregate amount of such purchase or loan shall not exceed $25,000,000." (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 506, and amended Pub. L. 90–19, § 15(a), May 25, 1967, 81 Stat. 24.)

"Sec. 57. [Retirement or Adjustment of Outstanding Mortgage Obligation.] For the purpose of enabling the State of Alaska to retire or adjust outstanding home mortgage obligations or other real property liens secured by one to four family homes which were severely damaged or destroyed in the March 1964 earthquake and subsequent seismic waves, the President is authorized to make additional grants to the State of Alaska in an amount not to exceed a total of $5,500,000 to match, on a fifty-fifty basis, any funds provided by the State to pay the costs of retiring or adjusting such mortgage obligations. In order to be approved, a State application for a grant for carrying out the purpose of this section must: (1) be in accordance with a plan submitted by the State, to be approved by the President, for the implementation of the purpose of this section; (2) designate the State agency for retiring or adjusting said mortgage obligations; (3) provide that the mortgagor shall be required to absorb the damage loss to the entire extent of his equity interest in the property and also agree to pay at least $1,000 of the outstanding mortgage balance; (4) provide that no payments for retiring or adjusting mortgage obligations on a single property shall exceed $30,000; (5) provide regulations to assure equitable treatment among home owners and to prevent unjustified payments or gains to the State, mortgagees or mortgagors; and (6) provide that the State agency will make such reports, in such form and containing such information as the President may from time to time require, and give the President, upon demand, access to the records on which such reports are based." (Added Pub. L. 88–451, § 4, Aug. 19, 1964, 78 Stat. 507.)

ASSISTANCE TO ALASKA FOR RECONSTRUCTION OF AREAS DAMAGED BY EARTHQUAKE

Pub. L. 88–451, Aug. 19, 1964, 78 Stat. 505, as amended.

"[Section 1. Short Title.] That this Act may be cited as the '1964 Amendments to the Alaska Omnibus Act.'

"Sec. 2. [Congressional Declaration.] The Congress hereby recognizes that the State of Alaska has experienced extensive property loss and damage as a result of the earthquake of March 27, 1964, and subsequent seismic waves, and declares the need for special measures designed to aid and accelerate the State's efforts in providing for the reconstruction of the areas in the State devastated by this natural disaster.

"Sec. 3. [This section added subsec. (f) to section 21 of the Alaska Omnibus Act, Pub. L. 86–70, June 25, 1959, 73 Stat. 141, set out preceding section 21 of this title.]

Sec. 4. [This section added sections 51—57 to the Alaska Omnibus Act, Pub. L. 86–70, June 25, 1959, 73 Stat. 141, set out above.]

"Sec. 5. [Authorization of Appropriations.] There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, which shall be available for obligation until June 30, 1967, except that any sums so appropriated to carry out section 53 of the Alaska Omnibus Act [set out above] shall be available after such date for obligation in connection with one or more of the following urban renewal projects authorized for execution prior to June 30, 1967: Alaska R–8, Westchester; Alaska R–19, Kodiak; Alaska R–20, downtown Anchorage; Alaska R–21, Seward; Alaska R–22, Valdez; Alaska R–25, Mineral Creek; Alaska R–26, Seldovia; Alaska R–28, Cordova. There is also authorized to be appropriated such sums as may be necessary for the expenses of such advisory commissions or committees as the President may establish in connection with the reconstruction and development planning of the State of Alaska. The total amount authorized to be appropriated pursuant to this section shall not exceed $55,650,000. (As amended Pub. L. 91–367, § 1, July 31, 1970, 84 Stat. 691.)

"Sec. 6. [Termination Date.] The authority contained in this Act shall expire on June 30, 1967, except that such expiration shall not affect—

"(1) the authority conferred by section 53 of the Alaska Omnibus Act [set out above] until the completion of the following urban renewal projects authorized for execution prior to June 30, 1967: Alaska R–8, Westchester; Alaska R–19, Kodiak; Alaska R–20, downtown Anchorage; Alaska R–21, Seward; Alaska R–22, Valdez; Alaska R–25, Mineral Creek; Alaska R–26, Seldovia; Alaska R–28, Cordova; or

"(2) the payment of expenditures for any obligation or commitment entered into under this Act prior to June 30, 1967.

(As amended Pub. L. 91–367, § 2, July 31, 1970, 84 Stat. 691.)

"Sec. 7. [Report to the Congress.] The President shall report semiannually during the term of this Act to the President of the Senate and the Speaker of the House on the actions taken under this Act by the various Federal agencies. The first such report shall be submitted not later than February 1, 1965, and shall cover the period ending December 31, 1964."

Delegation of Functions

Functions of the President under section 6(b) of the Alaska Statehood Act of July 7, 1958, delegated to the Secretary of the Interior, see Ex. Ord. No. 10950, June 27, 1961, 26 F.R. 5787, set out as a note under section 301 of Title 3, The President.

Functions of the President under sections 44(a) and 45(a) of the Alaska Omnibus Act of June 25, 1959, delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget], see section 1 (26, 27) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

Transfer of Functions

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under the Alaska Omnibus Act, as amended, relating generally to highways, were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(1)(I) of Title 49, Transportation.

United States District Court of Alaska

Readiness of United States District Court for District of Alaska to assume functions imposed upon it, see Ex. Ord. No. 10867, Feb. 20, 1960, 25 F.R. 1584, set out as a note under section 81A of Title 28, Judiciary and Judicial Procedure.

Proc. No. 3269. Admission of the State of Alaska into the Union

Proc. No. 3269, Jan 3, 1959, 24 F.R. 81, 73 Stat. c16, provided:

WHEREAS the Congress of the United States by the act approved on July 7, 1958 (72 Stat. 339), accepted, ratified, and confirmed the constitution adopted by a vote of the people of Alaska in an election held on April 24, 1956, and provided for the admission of the State of Alaska into the Union on an equal footing with the other States of the Union upon compliance with certain procedural requirements specified in that act; and

WHEREAS it appears from information before me that a majority of the legal votes cast at an election held on August 26, 1958, were in favor of each of the propositions required to be submitted to the people of Alaska by section 8(b) of the Act of July 7, 1958; and

WHEREAS it further appears from information before me that a general election was held on November 25, 1958, and that the returns of the general election were made and certified as provided in the act of July 7, 1958; and

WHEREAS the Acting Governor of Alaska has certified to me the results of the submission to the people of Alaska of the three propositions set forth in section 8(b) of the act of July 7, 1958, and the results of the general election; and

WHEREAS I find and announce that the people of Alaska have duly adopted the propositions required to be submitted to them by the act of July 7, 1958, and have duly elected the officers required to be elected by that act:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby declare and proclaim that the procedural requirements imposed by the Congress on the State of Alaska to entitle that State to admission into the Union have been complied with in all respects and that admission of the State of Alaska into the Union on an equal footing with the other States of the Union is now accomplished.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington at one minute past noon on this third day of January in the year of our Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

[SEAL]

DWIGHT D. EISENHOWER

EX. ORD. NO. 10857. TERMINATION OF FEDERAL FUNCTIONS IN ALASKA AND TRANSFER OF PROPERTY HELD BY UNITED STATES

Ex. Ord. No. 10857, Dec. 29, 1959, 25 F.R. 33, provided:

Whereas section 6(e) of the act of July 7, 1958, 72 Stat. 339, as amended, provides that the administration and management of the fish and wildlife resources of Alaska shall be transferred to the State of Alaska on the first day of the first calendar year following the expiration of ninety calendar days after the Secretary of the Interior certifies to the Congress that the Alaska State Legislature has made adequate provision for the administration, management, and conservation of such resources in the broad national interest; and

Whereas the Secretary of the Interior made such certification to the Congress on April 27, 1959; and

Whereas section 45(a) of the Alaska Omnibus Act (73 Stat. 152) provides that if the President determines that any function performed by the Federal Government in Alaska has been terminated by the Federal Government and that performance of such function or substantially the same function has been or will be assumed by the State of Alaska, the President may, until July 1, 1964, in his discretion, transfer and convey to the State of Alaska, without reimbursement, any property or interest in property, real or personal, situated in Alaska which is owned or held by the United States in connection with such function; and

Whereas it appears that it would be in the public interest to delegate to the Secretary of the Interior, to the extent hereinafter indicated, the authority vested in the President by section 45(a) of the Alaska Omnibus Act:

Now, therefore, by virtue of the authority vested in me by section 45(a) of the Alaska Omnibus Act (73 Stat. 152) and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. It is hereby determined that the functions performed by the United States in Alaska pursuant to the Alaska game law of July 1, 1943, 57 Stat. 301 [sections 192, 193, and 195—211 of this title], the act of June 26, 1906, 34 Stat. 478, the act of June 6, 1924, 43 Stat. 465, and the acts amending or supplementing such acts, will terminate on December 31, 1959, and that the same functions or substantially the same functions will be assumed by the State of Alaska.

SEC. 2. There is hereby delegated to the Secretary of the Interior, effective January 1, 1960, the authority vested in the President by section 45(a) of the Alaska Omnibus Act to transfer and convey to the State of Alaska, without reimbursement, any property or interest in property, real or personal, situated in Alaska which is owned or held by the United States in connection with the functions described in section 1 hereof.

SEC. 3. The Secretary of the Interior is hereby authorized to redelegate to (1) the Assistant Secretary for Fish and Wildlife, (2) the Commissioner of Fish and Wildlife, (3) the Directors of the Bureaus of Commercial Fisheries and Sport Fisheries and Wildlife, and (4) the Regional Directors, Alaska Region, of the Bureaus of Commercial Fisheries and Sport Fisheries and Wildlife all or any part of the authority delegated to the Secretary of the Interior by section 2 hereof.

SEC. 4. All transfers and conveyances made under or pursuant to this order shall be made in accordance with such policies, conditions, and procedures as may be prescribed by the Secretary of the Interior.

DWIGHT D. EISENHOWER

TRANSFER OF FUNCTIONS IN ADMINISTRATION OF ALASKA RAILROAD

The administration of the Alaska Railroad and all functions authorized to be carried out relative thereto by the Secretary of the Interior were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(i) of Title 49, Transportation.

§§ 21 to 488f. Omitted, repealed, or transferred.

CODIFICATION

Sections 21—488f of this title, applicable to the Territory of Alaska, are omitted from this title since the scope of this title limits it to general and permanent laws applicable to Territories and Insular Possessions, and Alaska was admitted into the Union as a State on January 3, 1959. See the notes following the heading of this chapter.

Many of the provisions encompassed by former sections 21—488f of this title were enacted by the Legislature of the State of Alaska on February 19, 1963, as part of the Alaska Statutes.

Section 21, act Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512, provided for the organization and administration of the Territory of Alaska.

Section 22, act Aug. 24, 1912, ch. 387, § 2, 37 Stat. 512, directed that the Capital of the Territory be at Juneau.

Section 23, act Aug. 24, 1912, ch. 387, § 3, 37 Stat. 512, extended the Constitution and laws of the United States to the Territory.

Section 24, acts Aug. 24, 1912, ch. 387, § 3, 37 Stat 512; July 28, 1956, ch. 772, Title III, § 301(c), 70 Stat. 713, limited the authority of the Territorial legislature to repeal or amend existing laws.

Section 25, act June 6, 1900, ch. 786, § 30, 31 Stat. 332, empowered the Attorney General to prescribe fees of officers not otherwise compensated.

Section 26, act June 6, 1900, ch. 786, § 2, 31 Stat. 321, authorized the governor to appoint notaries public.

Section 27, act June 6, 1900, ch. 786, § 2, 31 Stat. 321, validated appointments of notaries public made prior to June 6, 1900.

Section 28, act June 6, 1900, ch. 786, § 17, 31 Stat. 328, related to residence, term of office, and removal from office of notaries public, and was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section 29, act June 6, 1900, ch. 786, §§ 22, 23, 31 Stat. 329, related to official bonds of notaries public.

Section 30, acts June 6, 1900, ch. 786, § 32, 31 Stat. 333; Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029, prescribed the fee for issuance of notary public commission.

Section 31, act June 6, 1900, ch. 786, § 18, 31 Stat. 328, related to duties of notaries public.

Section 32, act June 6, 1900, ch. 786, § 19, 31 Stat. 329, provided for protests of bills or notes by notaries public.

Section 33, act June 6, 1900, ch. 786, § 24, 31 Stat. 329, related to liability of notaries public for misconduct or neglect.

Section 34, act June 6, 1900, ch. 786, § 20, 31 Stat. 329, directed notaries to deposit their records with district court on resignation, removal or death.

Section 35, act June 6, 1900, ch. 786, § 21, 31 Stat. 329, related to the duty of the clerk in safe-keeping records deposited.

Section 35a, acts Aug. 5, 1939, ch. 480, § 1, 53 Stat. 1219; Dec. 11, 1945, ch. 563, 59 Stat. 605, empowered postmasters to act as notaries public.

Section 35b, acts Aug. 5, 1939, ch. 480, § 2, 53 Stat. 1219; Dec. 11, 1945, ch. 563, 59 Stat. 606, provided for the signature and seal of postmasters acting as notaries.

Section 35c, act Aug. 5, 1939, ch. 480, § 3, 53 Stat. 1219, related to fees of postmasters acting as notaries.

Section 36, acts June 6, 1900, ch. 786, § 32, 31 Stat. 333;

Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029, prescribed the fee for certificates issued to members of the bar authorizing them to practice law.

Section 37, act June 11, 1896, ch. 420, § 1, 29 Stat. 413, empowered the Secretary of the Treasury to fix the rates of dockage and wharfage to be paid for the use of the wharf at Sitka.

Section 38, act Jan. 3, 1923, ch. 22, 42 Stat. 1106, related to repairs to the wharf at Sitka.

Section 39, acts Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1338; May 24, 1922, ch. 199, 42 Stat. 584; Jan. 24, 1923, ch. 42, 42 Stat. 1205; June 5, 1924, ch. 264, 43 Stat. 427; Mar. 3, 1925, ch. 462, 43 Stat. 1181; May 10, 1926, ch. 277, § 1, 44 Stat. 492; Jan. 12, 1927, ch. 27, § 1, 44 Stat. 968, related to the handling and disposition of reindeer in Alaska, and was repealed by act Oct. 31, 1951, ch. 654, § 1 (118)—(124), 65 Stat. 706.

Section 40, act June 6, 1900, ch. 786, § 31, 31 Stat. 332, related to court rooms and offices of the civil government.

Section 41, acts Jan. 27, 1905, ch. 277, § 1, 33 Stat. 616; May 14, 1906, ch. 2458, § 1, 34 Stat. 192; Feb. 6, 1909, ch. 80, § 7, 35 Stat. 601; Mar. 3, 1913, ch. 109, 37 Stat. 728, related to deposits to the Alaska fund in the Treasury Department.

Section 42, acts June 6, 1900, ch. 786, § 32, 31 Stat. 333; Mar. 3, 1905, ch. 1497, § 2, 33 Stat. 1266, provided for disbursements to Alaska Historical Library and Museum and prescribed contents thereof, and was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section 43, acts June 6, 1900, ch. 786, § 33, 31 Stat. 333; Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029, designated the Alaska Historical Library and Museum as a depository of Government publications.

Section 44, acts Aug. 24, 1912, ch. 387, § 9, 37 Stat. 514; June 3, 1948, ch. 396, 62 Stat. 302, limited the amount of taxes that could be levied by incorporated towns or municipalities.

Section 44a, act May 28, 1936, ch. 467, § 1, 49 Stat. 1388, related to bonded indebtedness of municipalities for public works.

Section 44b, acts May 28, 1936, ch. 467, § 2, 49 Stat. 1388; June 14, 1937, ch. 337, 50 Stat. 258, related to approval by electors of bonded indebtedness incurred by municipal corporation.

Section 44c, act May 28, 1936, ch. 467, § 3, 49 Stat. 1388, provided for the issuance, sale and redemption, and interest rates of bonds.

Section 44d, act May 28, 1936, ch. 467, § 4, 49 Stat. 1389, authorized tax levies for payment of bonds.

Section 44e, act May 28, 1936, ch. 467, § 5, 49 Stat. 1389, repealed conflicting laws.

Section 44f, act Mar. 6, 1946, ch. 52, § 1, 60 Stat. 33, authorized bonds for public works by municipalities and public utility districts.

Section 44g, act Mar. 6, 1946, ch. 52, § 2, 60 Stat. 33, related to issuance, sale and redemption, and interest rates on bonds for public works.

Section 44h, act Mar. 6, 1946, ch. 52, § 3, 60 Stat. 34, related to covenants in bonds issued for public works.

Section 44i, act Mar. 6, 1946, ch. 52, § 4, 60 Stat. 34, repealed laws inconsistent with sections 44f—44i of this title.

Section 45, act Aug. 24, 1912, ch. 387, § 9, 37 Stat. 514, prescribed residence qualifications for divorce actions.

Section 46, acts Feb. 6, 1909, ch. 80, § 7, 35 Stat. 601; Oct. 14, 1942, ch. 601, § 2, 56 Stat. 782; July 28, 1956, ch. 722, title III, § 301 (b) (1), 70 Stat. 712, authorized the Governor of Alaska or his designee to contract for the care and custody of insane persons, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 46–1, act July 28, 1956, ch. 772, title I, § 101, 70 Stat. 709, authorized the Territorial legislature to enact laws on the subject of mental health.

Section 46–2, act July 28, 1956, ch. 772, title I, § 102, 70 Stat. 709, related to jurisdiction, functions and duties of commissioners and courts in carrying out section 46–1 of this title.

Section 46–3, act July 28, 1956, ch. 772, title II, § 202, 70 Stat. 711, prescribed a land-grant program for the purposes of section 46–1 of this title.

Section 46a, act Mar. 4, 1929, ch. 707, 45 Stat. 1644, provided for the detailing of a Public Health Service medical officer to supervise the care and maintenance of insane in Alaska and payment of his compensation and expenses, and was repealed by act July 1, 1944, ch. 373, title IX, § 913, formerly title VI, § 611, 78 Stat. 714.

Section 46b, act June 25, 1910, ch. 424, § 1, 36 Stat. 852, established detention hospitals at Fairbanks and Nome for the temporary care and detention of the insane, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 46c, acts Oct. 14, 1942, ch. 601, § 1, 56 Stat. 782; July 28, 1956, ch. 772, title III, § 301 (b) (1), 70 Stat. 712, defined terms used in former sections 46, 47a—47c, 48a, 50 and 50a of this title, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 47, act Jan. 27, 1905, ch. 277, § 8, 33 Stat. 619, related to the commitment of the insane in Alaska, provided for the compensation of commissioners, jurors, and witnesses, and prescribed method of payment of compensation, mileage, fees, and other expenses, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 47a, act Oct. 14, 1942, ch. 601, § 3, 56 Stat. 783, related to the custody, use, and return of money and personal property of committed persons, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 47b, acts Oct. 14, 1942, ch. 601, § 6, 56 Stat. 783; July 28, 1956, ch. 772, title III, § 301 (b) (1), 70 Stat. 712, related to discharge of patients from mental institutions, permitted leaves of absences to patients, and required issuance of suitable clothing upon discharge, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 47c, acts Oct. 14, 1942, ch. 601, § 7, 56 Stat. 784; July 28, 1956, ch. 772, title III, § 301 (b) (1), 70 Stat. 712, authorized the superintendent of any mental institution to board patients with private families, provided for inspection, and empowered the superintendent to remove patients from boarding places, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a) 70 Stat. 713, effective July 1, 1957.

Section 48, acts Oct. 14, 1942, ch. 601, § 9, 56 Stat. 785; July 28, 1956, ch. 772, title III, § 301 (b) (1), 70 Stat. 712, provided for a statement of the legal residence of insane persons in the commitment papers, required the return of nonresident patients, and for payment of expenses in connection with such return, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 48a, acts Oct. 14, 1942, ch. 601, § 9, 56 Stat. 785; July 21, 1956, ch. 772, title III, § 301 (b) (1), 70 Stat. 712, required payment of expenses of care by the patient, his legal representative, spouse, parents, or adult children, and was repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat. 713, effective July 1, 1957.

Section 49, act Jan. 12, 1927, ch. 27, § 1, 44 Stat. 968, provided for admission to hospitals.

Sections 50, 50a, acts Apr. 24, 1926, ch. 177, §§ 1, 2, 44 Stat. 322; Oct. 14, 1942, ch. 601, §§ 4, 5, 56 Stat. 783; July 28, 1956, ch. 772, title III, § 301 (b) (1) 70 Stat. 712, related to disposition of unclaimed funds of insane persons and of funds which were the subject of claim, and were repealed by act July 28, 1956, ch. 772, title III, § 301(a), 70 Stat, 713, effective July 1, 1957.

Section 50b, act Mar. 7, 1928, ch. 137, § 1, 45 Stat. 239 authorized the Secretary of the Interior to accept donations for school, medical, and reindeer service.

Section 50c, act May 14, 1930, ch. 273, § 1, 46 Stat. 321, related to availability of apporpriations for education, medical relief, and reindeer.

Section 50d, act May 9, 1938, ch. 187, § 1, 52 Stat. 311, empowered the Secretary of the Interior to authorize officers to incur obligations for benefit of natives prior to appropriation.

Section 50d–1, act June 1, 1944, ch. 220, § 1, 58 Stat. 266, empowered the Secretary to authorize officers to incur obligations for benefit of natives in excess of current appropriations.

Section 50e, act Feb. 20, 1942, ch. 96, 56 Stat. 95, authorized the purchase of supplies for resale to natives, cooperatives, and Department of Interior employees.

Section 50f, act Feb. 20, 1942, ch. 98, 56 Stat. 95, related to disposal of miscellaneous revenues from schools, hospitals, and other Indian Service facilities.

Section 50g, act Aug. 2, 1956, ch. 883, § 1, 70 Stat. 939, related to facilities at Alaska-Canadian border.

Section 50h, act Aug. 2, 1956, ch. 883, § 2, 70 Stat. 939, required the site selected under section 50g of this title to consist of lands owned or controlled by the United States.

Section 50i, act Aug. 2, 1956, ch. 883, § 3, 70 Stat. 939, provided for arrangements for use of sites and facilities.

Section 50j, act Aug. 2, 1956, ch. 883, § 4, 70 Stat. 940, authorized appropriations for the purposes of sections 50g—50i of this title.

Section 51, act Mar. 3, 1927, ch. 363, § 1, 44 Stat. 1392, related to educational qualifications of voters and electors.

Section 52, act Mar. 3, 1927, ch. 363, § 2, 44 Stat. 1393, provided that inability to read and write was a ground for challenge at polls.

Section 53, act Mar. 3, 1927, ch. 363, § 3, 44 Stat. 1393, related to the manner of proving ability to read and write.

Section 54, act Mar. 3, 1927, ch. 363, § 4, 44 Stat. 1393, related to exemption from the provisions of section 51 of this title by reason of physical disability.

Section 55, act Mar. 3, 1927, ch. 363, § 5, 44 Stat. 1393, authorized election judges to mark ballots for voters physically incapable of marking ballots.

Section 56, act Mar. 3, 1927, ch. 363, § 6, 44 Stat. 1393, provided that persons refused permission to vote shall not make any further attempt to vote.

Section 57, act Mar. 3, 1927, ch. 363, § 7, 44 Stat. 1394, enumerated qualifications requisite to voting.

Section 58, act Mar. 3, 1927, ch. 363, § 8, 44 Stat. 1394, prescribed penalties for violation of sections 51—57 of this title.

Section 61, acts June 6, 1900, ch. 786, § 2, 31 Stat. 321; May 29, 1928, ch. 901, § 1(109), 45 Stat. 994; July 25, 1947, ch. 332, § 1, 61 Stat. 459, authorized appointment of a Governor for the Territory, and detailed his duties.

Section 62, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; Mar. 3, 1925, ch. 462, 43 Stat. 1181; Mar. 4, 1931, ch. 516, 46 Stat. 1530; June 25, 1948, ch. 646, § 13, 62 Stat. 987; Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, related to the appointment of the Governor and his compensation.

Section 63, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; June 25, 1948, ch. 646, § 13, 62 Stat. 987, related to expenses of the Governor.

Section 64, act June 6, 1900, ch. 786, § 2, 31 Stat. 321, directed the Governor to make an annual report to the President, and empowered the President to confirm or annul acts of the Governor.

Section 65, act Mar. 3, 1905, ch. 1497, § 3, 33 Stat. 1266, required bond from Secretary of Territory, and was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section 65a, act Mar. 4, 1931, ch. 516, 46 Stat. 1530, related to salary of Secretary of the Territory, and was repealed by act Apr. 3, 1944, ch. 155, § 2 58 Stat. 187.

Section 65b, act Apr. 3, 1944, ch. 155, § 1, 58 Stat. 187, prescribed the salary of the secretary of the Territory.

Section 66, act Mar. 3, 1905, ch. 1497, § 1, 33 Stat. 1265, related to fees of the secretary of the Territory.

Section 67, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1016, provided that the legislative power and authority of the Territory shall be vested in a Senate and a House of Representatives.

Section 68, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1016, related to membership of the Senate and terms of office of Senators.

Section 69, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1016, related to membership of the House of Representatives.

Section 69a, act Aug. 24, 1912, ch. 387, § 4, as added Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1017, provided for the establishment and adjustment of legislative districts.

Section 70, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1017, prescribed election procedure for senators and representatives.

Section 71, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1018, required the Governor to order elections to fill vacancies in the legislature.

Section 72, acts Aug. 24, 1912, ch. 387, § 4, 37 Stat. 513; Nov. 13, 1942, ch. 637, § 1, 56 Stat. 1018, prescribed salaries and mileage of members of the legislature.

Section 73, acts Aug. 24, 1912, ch. 387, § 5, 37 Stat. 513; Mar. 3, 1927, ch. 363, § 1, 44 Stat. 1392; Mar. 26, 1934, ch. 86, § 1, 48 Stat. 465, specified the time of election of members of the legislature.

Section 73a, act Mar. 26, 1934, ch. 86, § 4, 43 Stat. 466, empowered the legislature to change the date of elections.

Section 74, acts Aug. 24, 1912, ch. 387, § 6, 37 Stat. 514; Apr. 18, 1940, ch. 105, § 1, 54 Stat. 111, related to the convening of the legislature, length of session, and extraordinary sessions.

Section 75, acts June 19, 1878, ch. 329, § 1, 20 Stat. 193; Aug. 24, 1912, ch. 387, § 7, 37 Stat. 514; Nov. 13, 1942, ch. 637, § 2, 56 Stat. 1018, related to the organization of the legislature, election of president of Senate and Speaker of House and subordinate officers.

Section 76, act Aug. 24, 1912, ch. 387, § 8, 37 Stat. 514, specified the enacting clause of all laws, and provided that no law shall embrace more than one subject.

Section 77, acts Aug. 24, 1912, ch. 387, § 9, 37 Stat. 514; Apr. 13, 1934, ch. 119, § 2, 48 Stat. 583; June 3, 1948, ch. 396, 62 Stat. 302, detailed the general legislative power and limitation.

Section 78, acts Aug. 24, 1912, ch. 387, § 9, 37 Stat. 514; June 3, 1948, ch. 396, 62 Stat. 302, required all taxes to be uniform.

Section 79, acts Aug. 24, 1912, ch. 387, § 9, 37 Stat. 514; June 3, 1948, ch. 396, 62 Stat. 302, limited the amount of taxes for Territorial purposes.

Section 80, act Aug. 24, 1912, ch. 387, § 3, 37 Stat. 512, prohibited the legislature from passing laws depriving judges, officers, etc., of district court of authority or jurisdiction.

Section 81, act Aug. 24, 1912, ch. 387, § 10, 37 Stat. 515, related to the rules of the legislature, quorum and majority.

Section 82, act Aug. 24, 1912, ch. 387, § 11, 37 Stat. 516, prohibited members of the legislature from holding other office.

Section 83 act Aug. 24, 1912, ch. 387, § 11, 37 Stat. 516, prohibited persons holding appointment under the United States from being members of the legislature or holding other Territorial office.

Section 84, act Aug. 24, 1912, ch. 387, § 12, 37 Stat. 516, specified the exemptions and privileges of members of the legislature.

Section 85, act Aug. 24, 1912, ch. 387, § 13, 37 Stat. 516, described the manner of passage of laws.

Section 86, act Aug. 24, 1912, ch. 387, § 14, 37 Stat. 516, related to the veto power of the governor.

Section 87, acts Aug. 24, 1912, ch. 387, § 15, 37 Stat. 516; Nov. 13, 1942, ch. 637, § 3, 56 Stat. 1018, provided for legislative expenses.

Section 88, act Aug. 24, 1912, ch. 387, § 16, 37 Stat. 517, directed the transmission of copies of law to the President and the Secretary of State.

Section 89, act Aug. 24, 1912, ch. 387, § 16, 37 Stat. 517, required the legislature to make provision for printing of laws and distribution in the Territory.

Section 90, act Aug. 24, 1912, ch. 387, § 20, 37 Stat. 518, required all Territorial laws to be submitted to Congress.

Section 91, act Aug. 29, 1914, ch. 292, 38 Stat. 710, related to powers of courts and legislature.

Section 92, act Feb. 18, 1929, ch. 260, 45 Stat. 1228, directed all appropriations by the legislature to be in conformity with sections 23, 24, 67—73, and 74—90 of this title.

Section 101, acts June 6, 1900, ch. 786, § 4, 31 Stat. 322; Mar. 3, 1909, ch. 269, § 2, 35 Stat. 839; Mar. 2, 1921, ch. 110, 41 Stat. 1203; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; July 31, 1946, ch. 704, § 1, 60 Stat. 716; June 1, 1948, ch. 363, 62 Stat. 283; June 25, 1948, ch. 646, § 9, 62 Stat. 986; Aug. 23, 1954, ch. 836, §§ 1, 2, 68 Stat. 772; Mar. 2, 1955, ch. 9, § 1(g), 69 Stat. 10; Aug. 1, 1955, ch. 443, 69 Stat. 430, established a district court for the District of Alaska and provided for its judges and divisions.

Section 101a was from a sentence added to R.S. § 5296 by act May 24, 1935, ch. 142, 49 Stat. 289. R.S. § 5296 was subsequently amended in full by act June 29, 1940, ch.

499, § 4, 54 Stat. 692, which failed to include provisions on the subject of that sentence or to refer to the 1935 amendment adding it. That sentence provided as follows: "The District Court of the Territory of Alaska shall be deemed a court of the United States, and the commissioners appointed by the judges of the said District Court of the Territory of Alaska under the provisions of title I, chapter 1, section 6, of the act of June 6, 1900 (31 Stat. 323, 324 [sections 104 and 108 of this title]), shall be deemed commissioners of a United States court, within the intent and meaning of this section [former section 641 of title 18]."

Section 102, acts June 6, 1900, ch. 786, § 4, 31 Stat. 322; Mar. 3, 1909, ch. 269, § 2, 35 Stat. 839; Mar. 2, 1921, ch. 110, 41 Stat. 1203; Nov. 22, 1943, ch. 304, 57 Stat. 591, provided for the terms of the court, special terms, and employment of interpreters.

Section 103, act June 6, 1900, ch. 786, § 5, 31 Stat. 323, specified the jurisdiction of the divisions of the court, and provided for change of venue.

Section 103a, act June 6, 1900, ch. 786, § 5a, as added July 18, 1949, ch. 343, § 1, 63 Stat. 445, made the Federal Rules of Civil Procedure applicable to the district court of the Territory.

Section 104, act June 6, 1900, ch. 786, § 6, 31 Stat. 323, authorized appointment of clerks and commissioners.

Section 104a, act June 6, 1900, ch. 786, § 6, as added Apr. 13, 1954, ch. 136, 68 Stat. 52, authorized appointment of Deputy Commissioners, provided for their compensation, prescribed their powers and duties, and required the posting of a bond.

Section 105, acts June 6, 1900, ch. 786, § 12, 31 Stat. 326; June 25, 1948, ch. 646, §§ 1, 39, 62 Stat. 914, 926, 927, 996, required clerks and commissioners to post bonds.

Section 106, acts June 6, 1900, ch. 786, § 7, 31 Stat. 324; Mar. 3, 1909, ch. 269, § 3, 35 Stat. 840; June 13, 1940, ch. 350, 54 Stat. 384; June 25, 1948, ch. 646, § 10, 62 Stat. 987, detailed the duties of the clerk.

Section 107, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; June 25, 1948, ch. 646, §§ 13, 39, 62 Stat. 987, related to clerk's fees, accounts, and clerical help.

Section 108, act June 6, 1900, ch. 786, § 6, 31 Stat. 323, directed that the commissioners shall be ex officio justices of the peace, empowered them to grant writs of habeas corpus, and prescribed other powers and duties.

Section 109, acts June 6, 1900, ch. 786, § 8, 31 Stat. 324; Mar. 3, 1909, ch. 269, § 4, 35 Stat. 841; June 25, 1948, ch. 646, § 11, 62 Stat. 987, authorized appointment of district attorneys, specified residence requirements and prescribed their duties and salaries.

Section 110, acts June 6, 1900, ch. 786, §§ 9, 10, 31 Stat. 324, 325; June 25, 1948, ch. 646, §§ 12, 39, 62 Stat. 987, 992 authorized appointment of marshals and deputies and prescribed their duties and powers.

Section 111, acts Mar. 3, 1899, ch. 429, § 459, 30 Stat. 1336; Jan. 22, 1902, ch. 3, 32 Stat. 2, provided for increases in the marshal's bond.

Section 112, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; June 25, 1948, ch. 646, § 13, 62 Stat. 987, authorized appointment of attorneys, judges, and marshals.

Section 113, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; June 25, 1948, ch. 646, § 13, 62 Stat. 987, provided for the manner of payment of salaries of judges, marshals, clerks, and district attorneys.

Section 114, acts June 6, 1900, ch. 786, § 10, 31 Stat. 325; Apr. 6, 1914, ch. 52, § 1, 38 Stat. 318; June 25, 1948, ch. 646, § 13, 62 Stat. 987, authorized traveling expenses.

Section 115, act Jan. 3, 1923, ch. 21, title II, 42 Stat. 1083, directed the Attorney General to pay the office expenses of United States marshals.

Section 116, acts June 6, 1900, ch. 786, § 11, 31 Stat. 326; Mar. 3, 1909, ch. 269, § 5, 35 Stat. 841, required preparation of accounts of fees and expenses.

Section 116a, acts Mar. 15, 1948, ch. 121, 62 Stat. 80; July 12, 1952, ch. 701, 66 Stat. 592; Aug. 1, 1956, ch. 864, 70 Stat. 921, related to fees of commissioners.

Section 117, act June 6, 1900, ch. 786, § 13, 31 Stat. 326, authorized establishment of recording districts, their modification or discontinuance, and removal of commissioner.

Section 118, act June 6, 1900, ch. 786, § 14, 31 Stat. 327, required the keeping of record books and prescribed the duties of recorders.

Section 119, act June 6, 1900, ch. 786, § 15, 31 Stat. 327, specified instruments to be recorded.

Section 120, act June 6, 1900, ch. 786, § 16, 31 Stat. 328, required accounts for fees for instruments recorded.

Section 121, act Aug. 29, 1914, ch. 292, 38 Stat. 710, provided for payment of costs of prosecuting crimes under Alaskan laws.

Section 122, act Apr. 11, 1928, ch. 353, 45 Stat. 422, exempted the Territory from posting bond or undertaking in legal proceedings.

Section 131, act May 7, 1906, ch. 2083, § 1, 34 Stat. 169, provided for a Delegate in the House of Representatives of the United States and prescribed his qualifications.

Section 132, act May 7, 1906, ch. 2083, § 2, 34 Stat. 170, prescribed the term of office of the Delegate to Congress.

Section 134, act May 7, 1906, ch. 2083, § 2, 34 Stat. 170, specified the salary and allowances of the Delegate.

Section 135, act May 7, 1906, ch. 2083, § 3, 34 Stat. 170, provided for the election of the Delegate to Congress.

Section 136, act May 7, 1906, ch. 2083, § 4, 34 Stat. 170, related to election districts in towns.

Section 137, act May 7, 1906, ch. 2083, § 5, 34 Stat. 171, related to election districts outside of towns.

Section 138, act May 7, 1906, ch. 2083, § 6, 34 Stat. 171, prescribed the composition of election boards.

Section 139, act May 7, 1906, ch. 2083, § 8, 34 Stat. 172, described the manner of filling vacancies in the office of judge of election.

Section 140, act May 7, 1906, ch. 2083, § 7, 34 Stat. 172, provided for election watchers.

Section 141, act May 7, 1906, ch. 2083, § 9, 34 Stat. 172, prescribed the hours for voting and the form of ballots.

Section 142, act May 7, 1906, ch. 2083, § 10, 34 Stat. 172, related to election challenges and to penalties for false swearing.

Section 143, act May 7, 1906, ch. 2083, § 11, 34 Stat. 173, provided for the canvass of votes, certificates of result and the care of documents.

Section 144, acts May 7, 1906, ch. 2083, § 12, 34 Stat. 173; Aug. 24, 1912, ch. 387, § 17, 37 Stat. 517, enumerated the persons who compose the canvassing board and provided for the manner of conducting the canvass.

Section 144a, act Mar. 26, 1934, ch. 86, § 3, 48 Stat. 465, enumerated the persons who compose the canvassing board and provided for the manner of conducting the canvass.

Section 144b, act Mar. 26, 1934, ch. 86, § 4, 48 Stat. 466, empowered the legislature to change the personnel of the canvassing board, the date of meetings, and to prescribe its duties.

Section 145, acts Aug. 24, 1912, ch. 387, § 17, 37 Stat. 517; Mar. 26, 1934, ch. 86, § 1, 48 Stat. 465, prescribed the date for holding elections to fill vacancies in the office of Delegate.

Section 146, act May 7, 1906, ch. 2083, § 13, 34 Stat. 174, prescribed the compensation of election judges and clerks.

Section 147, acts May 7, 1906, ch. 2083, § 13, 34 Stat. 174; May 25, 1950, ch. 199, 64 Stat. 191, authorized fees for publication for each election.

Section 148, act May 7, 1906, ch. 2083, § 14, 34 Stat. 174, provided for the manner of audit and payment of election expenses.

Section 149, act May 7, 1906, ch. 2083, § 15, 34 Stat. 174, enumerated election offenses and prescribed penalties therefor.

Section 161, act Jan. 27, 1905, ch. 277, § 3, 33 Stat. 617, named the Governor as the ex officio superintendent of public instruction and empowered him to prescribe rules and regulations for examination and qualification of teachers.

Section 162, acts Jan. 27, 1905, ch. 277, § 4, 33 Stat. 617; Mar. 3, 1905, ch. 1491, 33 Stat. 1262, authorized establishment of school districts in towns.

Section 163, acts Jan. 27, 1905, ch. 277, § 4, 33 Stat. 617; Mar. 3, 1905, ch. 1491, 33 Stat. 1262, provided for school boards, their term of office and expenditures.

Section 164, acts Jan. 27, 1905, ch. 277, § 4, 33 Stat. 617; Mar. 3, 1905, ch. 1491, 33 Stat. 1262, empowered school boards to employ teachers and to provide for heating and lighting schoolhouses.

Section 165, act Jan. 27, 1905, ch. 277, § 6, 33 Stat. 619, required clerks of school districts to report to the Governor.

Section 166, act Jan. 27, 1905, ch. 277, § 5, 33 Stat. 617, authorized establishment of school districts outside incorporated towns.

Section 167, act Jan. 27, 1905, ch. 277, § 5, 33 Stat. 617, provided for the manner of election of school boards in school districts outside incorporated towns.

Section 168, acts Jan. 27, 1905, ch. 277, § 5, 33 Stat. 617; June 1, 1938, ch. 312, 52 Stat. 607, directed the Governor to assign proportion of Alaska fund to school districts.

Section 169, act Jan. 27, 1905, ch. 277, § 7, 33 Stat. 619, related to the education of white children, Eskimos, and Indians.

Section 170, act Mar. 3, 1917, ch. 167, 39 Stat. 1131, authorized the legislature to establish schools for white and colored children and to appropriate funds for that purpose.

Section 170a, act May 14, 1930, ch. 273, § 1, 46 Stat. 321, authorized the Secretary of the Interior to enter into contracts with local school boards for the education of children of nontaxpaying natives.

Section 171, act Mar. 21, 1906, J. Res. No. 10, 34 Stat. 824, permitted teachers and other employees of the United States Bureau of Education to make assignments of their pay while employed in Alaska and authorized reimbursement of teachers in Alaska for expenses incurred in the discharge of duty and paid from personal funds, and was repealed by Pub. L. 87-304, § 9(a)(1), Sept. 26, 1961, 75 Stat. 664.

Section 172, act Mar. 3, 1909, ch. 266, 35 Stat. 837, authorized appointment of school employees as special peace officers.

Section 173, act Feb. 25, 1925, ch. 320, § 1, 43 Stat. 978, authorized establishment of a system of vocational training for aboriginal natives.

Section 174, act Feb. 25, 1925, ch. 320, § 2, 43 Stat. 978, related to transfer of buildings for the purpose of vocational training, schools, and hospitals in connection with aboriginal natives in Alaska, and was repealed by act Oct. 31, 1951, ch. 654, § 1 (125), 65 Stat. 706.

Section 175, act July 31, 1946, ch. 719, § 1, 60 Stat. 750, authorized establishment of a geophysical institute at the University of Alaska.

Section 175a, act July 31, 1946, ch. 719, § 2, 60 Stat. 751, provided that buildings and equipment of the geophysical institute shall become property of the University of Alaska.

Section 191, act May 31, 1920, ch. 217, 41 Stat. 716, related to the powers and duties of the Secretary of the Interior with respect to game animals.

Section 192, acts Jan. 13, 1925, ch. 75, § 5, 43 Stat. 741; Feb. 14, 1931, ch. 185, § 3, 46 Stat. 1111; June 25, 1938, ch. 686, § 3, 52 Stat. 1170; July 1, 1943, ch. 183, 57 Stat. 304, prescribed the duties and powers of the Alaska Game Commission, wildlife agents, and other persons.

Section 193, acts Jan. 13, 1925, ch. 75, § 6, 43 Stat. 742; July 1, 1943, ch. 183, 57 Stat. 305, required bonds from employees of the Commission.

Section 194, act Jan. 13, 1925, ch. 75, § 7, 43 Stat. 742, required the Commission to file estimates and submit reports of administration.

Section 195, acts Jan. 13, 1925, ch. 75, § 7, 43 Stat. 743; July 1, 1943, ch. 183, 57 Stat. 305, prescribed restrictions on the taking of animals, birds, fish, etc.

Section 196, acts Jan. 13, 1925, ch. 75, § 7, 43 Stat. 743; Feb. 4, 1931, ch. 185, § 4, 46 Stat. 1112; July 1, 1943, ch. 183, 57 Stat. 305, related to animals and birds escaping from captivity or introduced into the Territory.

Section 197, acts Jan. 13, 1925, ch. 75, § 8, 43 Stat. 743; July 1, 1943, ch. 183, 57 Stat. 305, prohibited the use of poison and required the keeping of records of sales.

Section 198, acts Jan. 13, 1925, ch. 75, § 9, 43 Stat. 743; Feb. 14, 1931, ch. 185, § 5, 46 Stat. 1112; June 25, 1938, ch. 686, § 4, 52 Stat. 1170; Oct. 10, 1940, ch. 54 Stat. 1103; July 1, 1943, ch. 183, 57 Stat. 306, empowered the Secretary to promulgate regulations for the taking of game, limiting the take, seasons, and for the protection of Government property.

Section 199, acts Jan. 13, 1925, ch. 75, § 10, 43 Stat. 744; Feb. 14, 1931, ch. 185, §§ 6—11, 46 Stat. 1112—1114; June 25, 1938, ch. 686, § 5, 52 Stat. 1172; July 1, 1943, ch. 183, 57 Stat. 306, prescribed the types of hunting, trapping and fishing licenses, guide licenses, fees and issuance thereof.

Section 200, acts Jan. 13, 1925, ch. 75, § 11, 43 Stat. 746; July 1, 1943, ch. 183, 57 Stat. 310, prescribed duties of the collectors of customs.

Section 201, acts Jan. 13, 1925, ch. 75, § 13, 43 Stat. 746; Feb. 14, 1931, ch. 185, § 12, 46 Stat. 1114; July 1, 1943, ch. 183, 57 Stat. 310, prescribed duties of United States attorneys.

Section 202, acts Jan. 13, 1925, ch. 75, § 15, 43 Stat. 747; Feb. 14, 1931, ch. 185, § 13, 46 Stat. 1114; June 25, 1938, ch. 686, § 6, 52 Stat. 1172; July 1, 1943, ch. 183, 57 Stat. 311, prescribed penalties for violations of sections 192, 193, and 195—211 of this title, required guides to report violations, and prescribed penalty for violation thereof.

Section 202a, acts Jan. 13, 1925, ch. 75, § 16, 43 Stat. 747; Feb. 14, 1931, ch. 185, § 14, 46 Stat. 1114; July 1, 1943, ch. 183, 57 Stat. 310, related to administration of oaths for purposes of prosecution.

Section 202b, act Jan. 13, 1925, ch. 75, § 12, 43 Stat. 746; July 1, 1943, ch. 183, 57 Stat. 312, related to burden of proof in prosecutions under sections 192, 193, and 195—211 of this title.

Section 203, act Jan. 13, 1925, ch. 75, § 19, as added July 1, 1943, ch. 183, 57 Stat. 312, stated that sections 192, 193, and 195—211 of this title shall not apply to Mount McKinley National Park.

Section 204, act Jan. 13, 1925, ch. 75, § 18, as added July 1, 1943, ch. 183, 57 Stat. 312, declared that the provisions of sections 192, 193, and 195—211 of this title were separable.

Section 204a, acts Jan. 13, 1925, ch. 75, § 17, 43 Stat. 747; July 1, 1943, ch. 183, 57 Stat. 312, authorized appropriations to effectuate provisions of the Alaska Game Law.

Section 205, acts Jan. 13, 1925, ch. 75, § 1, 43 Stat. 739; Jan. 13, 1925, ch. 75, § 20, as added July 1, 1943, ch. 183, 57 Stat. 312, prescribed the effective date and short title of sections 192, 193, and 195—211 of this title.

Section 206, acts Jan. 13, 1925, ch. 75, § 2, 43 Stat. 739; Feb. 14, 1931, ch. 185, § 1, 46 Stat. 1111; June 25, 1938, ch. 686, § 1, 52 Stat. 1169; July 1, 1943, ch. 183, 57 Stat. 301, defined terms used in sections 192, 193, and 195—211 of this title.

Section 207, acts Jan. 13, 1925, ch. 75, § 3, 43 Stat. 740; Feb. 14, 1931, ch. 185, § 2, 46 Stat. 1111; June 25, 1938, ch. 686, § 2, 52 Stat. 1170; July 1, 1943, ch. 183, 57 Stat. 303; Apr. 20, 1949, ch. 81, 63 Stat. 56, provided for residence and citizenship requirements for hunting, fishing, etc.

Section 208, acts Jan. 13, 1925, ch. 75, § 4, 43 Stat. 740; July 1, 1943, ch. 183, 57 Stat. 303; July 23, 1953, ch. 238, 67 Stat. 185, provided for the composition of the Alaska Game Commission, its tenure and the qualifications of members.

Section 209, acts Jan. 13, 1925, ch. 75, § 4, 43 Stat. 740; July 1, 1943, ch. 183, 57 Stat. 303, authorized the Secretary to remove members of the Commission and to fill vacancies.

Section 210, acts Jan. 13, 1925, ch. 75, § 4, 43 Stat. 740; July 1, 1943, ch. 183, 57 Stat. 304; July 24, 1947, ch. 307, § 1, 61 Stat. 415, prescribed the compensation of members of the Commission per diem allowances, and the salary of the executive officer.

Section 211, acts Jan. 13, 1925, ch. 75, § 4, 43 Stat. 740; July 1, 1943, ch. 183, 57 Stat. 304, provided for the office of the commission, its business, and its seal.

Section 212, acts Aug. 18, 1894, ch. 301, § 1 28 Stat. 391; Feb. 14, 1903, ch. 552, § 7, 32 Stat. 828; Mar. 4 1913, ch. 141, § 1, 37 Stat. 736; May 31, 1920, ch. 217, 41 Stat. 716; directed the Secretary to fix the price of blue fox skins paid to natives of St. Paul Island.

Section 213, act May 31, 1920, ch. 217, 41 Stat. 717, enumerated the powers of bird reservation wardens.

Section 220, act Feb. 1903, ch. 552, § 7, 32 Stat. 828, vested the control over the fur seal, salmon and other fisheries of Alaska in the Department of the Interior.

Section 221, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; June 18, 1926, ch. 621, 44 Stat. 752, empowered the Secretary to set aside fishing areas, prescribed closed seasons, and to place limitations on catch.

Section 222, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; June 18, 1926, ch. 621, 44 Stat. 752, declared that fishing in certain areas was unlawful, prohibited the granting of exclusive rights, and provided that citizens shall not be denied fishing rights.

Section 222a, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; Aug. 14, 1937, ch. 622, 50 Stat. 639; Apr. 7, 1938, ch. 110, 52 Stat. 208, prohibited commercial salmon fishing by nonresidents.

Section 223, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; June 18, 1926, ch. 621, 44 Stat. 752, related to prohibited areas in creeks, streams, rivers, etc.

Section 223a, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; June 18, 1926, ch. 621, 44 Stat. 752, authorized the Secretary to permit the taking of fish or shellfish for bait purposes.

Section 223b, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; Aug. 2, 1937, ch. 556, 50 Stat. 557, authorized the Secretary to lease bottoms for oyster cultivation.

Section 224, acts June 6, 1924, ch. 272, § 1, 43 Stat. 464; June 18, 1926, ch. 621, 44 Stat. 752, prohibited importation of salmon during closed seasons.

Section 225, act June 6, 1924, ch. 272, § 2, 43 Stat. 465, related to escapement in certain instances of portion of salmon run in waters of Alaska, and was repealed by Pub. L. 85-296, Sept. 4, 1957, 71 Stat. 617.

Section 226, act June 6, 1924, ch. 272, § 6, 43 Stat. 466, prescribed the penalties for violation of the fishing laws.

Section 227, act June 6, 1924, ch. 272, § 6, 43 Stat. 466, empowered the Director of the Fish and Wildlife Service to designate employees as peace officers.

Section 228, act June 6, 1924, ch. 272, § 8, 43 Stat. 467, provided that nothing in sections 221—224, 226—228, and 232—234 of this title shall not abrogate or curtail any territorial powers.

Section 229, act May 31, 1920, ch. 217, 41 Stat. 717, enumerated powers of bird reservation wardens.

Section 230, act June 26, 1906, ch. 3547, § 1, 34 Stat. 478, established a license tax on canning fish.

Section 231, acts June 26, 1906, ch. 3547, § 2, 34 Stat. 478; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, listed exemptions from the license tax.

Section 232, acts June 26, 1906, ch. 3547, § 4, 34 Stat. 479; June 6, 1924, ch. 272, § 4, 43 Stat. 466, prescribed the manner of taking fish.

Section 233, acts June 26, 1900, ch. 3547, § 3, 34 Stat. 479; June 6, 1924, ch. 272, § 3, 43 Stat. 465; Apr. 16, 1934, ch. 146, § 1, 48 Stat. 594; Mar. 16, 1955, ch. 12, 69 Stat. 12, prohibited obstructions in waters for capturing salmon.

Section 234, acts June 26, 1906, ch. 3547, § 5, 34 Stat. 479; June 6, 1924, ch. 272, § 5, 43 Stat. 466; July 2, 1940, ch. 514, 54 Stat. 723, related to the closed season for salmon and to stationary and floating traps.

Section 235, acts June 26, 1906, ch. 3547, § 7, 34 Stat. 480; Feb. 28, 1929, ch. 365, 45 Stat. 1349, required salmon to be canned or salted within forty-eight hours after being killed.

Section 236, act June 26, 1906, ch. 3547, § 8, 34 Stat. 480, prohibited waste or destruction of food fish.

Section 237, act June 26, 1906, ch. 3547, § 9, 34 Stat. 480, prohibited false labeling or branding of packages of fish.

Section 238, acts June 26, 1906, ch. 3547, § 10, 34 Stat. 480; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, required reports of persons engaged in the fishing industry.

Section 239, acts June 26, 1906, ch. 3547, § 11, 34 Stat. 480; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to the manner of catching or killing fish.

Section 240, acts June 4, 1897, ch. 2, § 1, 30 Stat. 29; June 23, 1913, ch. 3, 38 Stat. 63, authorized appointment of Fishery Management Supervisor and Assistant Fishery Management Supervisor.

Section 241, acts June 26, 1906, ch. 3547, § 12, 34 Stat. 480; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, empowered the Secretary to deputize officers and employees of the Department as law enforcement officers.

Section 242, acts June 26, 1906, ch. 3547, § 14, 34 Stat. 481; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to jurisdiction of prosecutions for violations of sections 230—239, 241, and 242 of this title.

Section 243, acts June 14, 1906, ch. 3299, § 1, 34 Stat. 263; June 25, 1938, ch. 689, 52 Stat. 1174, prohibited fishing by aliens and permitted sales to aliens.

Section 244, act June 14, 1906, ch. 3299, § 2, 34 Stat. 264, prescribed the penalties for violations of sections 243—247 of this title.

Section 245, act June 14, 1906, ch. 3299, § 3, 34 Stat. 264, provided for the jurisdiction of prosecutions under sections 243—247 of this title.

Section 246, acts June 14, 1906, ch. 3299, § 4, 34 Stat. 264; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; ug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 501, authorized searches and seizures of vessels.

Section 247, acts June 14, 1906, ch. 3299, § 5, 34 Stat. 264; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 561, empowered the Secretary to promulgate rules and regulations to carry into effect the provisions of sections 243—246 of this title.

Section 248, Aug. 18, 1941, ch. 368, § 1, 55 Stat. 632; June 29, 1956, ch. 460, §§ 1, 2, 70 Stat. 372, provided for the protection of walruses.

Section 248a, act Aug. 18, 1941, ch. 368, § 2, 55 Stat. 633, prescribed the duties of law enforcement officers, and for the forfeiture of equipment of convicted persons.

Section 248b, act Aug. 18, 1941, ch. 368, § 3, 55 Stat. 633, defined terms used in sections 248—248b of this title.

Section 250, act Sept. 1, 1937, ch. 897, § 1, 50 Stat. 900, declared the purpose of sections 250—250n of this title for the establishment of a reindeer industry.

Section 250a, act Sept. 1, 1937, ch. 897, § 2, 50 Stat. 900, authorized the Secretary of the Interior to acquire reindeer and other property.

Section 250b, act Sept. 1, 1937, ch. 897, § 3, 50 Stat. 900, required the filing of claims to title to reindeer by nonnatives.

Section 250c, act Sept. 1, 1937, ch. 897, § 4, 50 Stat. 900, authorized the Secretary to accept gifts for the purposes of sections 250—250n of this title.

Section 250d, act Sept. 1, 1937, ch. 897, § 5, 50 Stat. 900, empowered the Secretary to receive and expend loans, grants, or allocations for the purposes of sections 250—250n of this title.

Section 250e, act Sept. 1, 1937, ch. 897, § 6, 50 Stat. 900, established a revolving fund for the purposes of sections 250—250n of this title.

Section 250f, act Sept. 1, 1937, ch. 897, § 7, 50 Stat. 900, related to the management of the reindeer industry.

Section 250g, act Sept. 1, 1937, ch. 897, § 8, 50 Stat. 901, empowered the Secretary to distribute reindeer, property, and profits to natives.

Section 250h, act Sept. 1, 1937, ch. 897, § 9, 50 Stat. 901, authorized the Secretary to grant administrative powers to organizations of natives.

Section 250i, act Sept. 1, 1937, ch. 897, § 10, 50 Stat. 901, provided for the alienation of reindeer or interests.

Section 250j, act Sept. 1, 1937, ch. 897, § 11, 50 Stat. 902, defined reindeer as used in sections 250—250n of this title.

Section 250k, act Sept. 1, 1937, ch. 897, § 12, 50 Stat. 902, authorized the Secretary to promulgate rules and regulations.

Section 250*l*, act Sept. 1, 1937, ch. 897, § 13, 50 Stat. 902, directed the Secretary, whenever practicable, to appoint natives to administer the industry.

Section 250m, act Sept. 1, 1937, ch. 897, § 14, 50 Stat. 902, related to the use of public lands.

Section 250n, act Sept. 1, 1937, ch. 897, § 15, 50 Stat. 902, defined "Natives of Alaska" for the purposes of sections 250—250n of this title.

Section 250o, act Sept. 1, 1937, ch. 897, § 16, 50 Stat. 902, authorized the appropriation of $2,000,000.00 to carry out sections 250—250n of this title.

Section 250p, act Sept. 1, 1937, ch. 897, § 17, 50 Stat. 902, repealed provisions inconsistent with sections 250—250n of this title.

Sections 261—291, act Feb. 14, 1917, ch. 53, §§ 1—29, 31, 32, 39 Stat. 903—909, related to prohibition of manufacture or sale of intoxicating liquors, and were repealed by act Apr. 13, 1934, ch. 119, § 1, 48 Stat. 583.

Section 292, act Apr. 13, 1934, ch. 119, § 2, 48 Stat. 583, provided for the manufacture and sale of intoxicating liquors.

Section 293, act Apr. 13, 1934, ch. 119, § 3, 48 Stat. 584, ratified and approved the act to create the board of liquor control, and prescribed penalties for violation of rules and regulations of the board.

Section 301, acts Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305; Apr. 10, 1926, ch. 114, 44 Stat. 239; Aug. 4, 1955, ch. 554, 69 Stat. 494, provided for the location, construction and operation of railroads, and for the use of passes and is now set out as section 975 of Title 43, Public Lands.

Section 301a, act June 24, 1946, ch. 465, 60 Stat. 304, authorized use of funds for Alaska Railroad for maintenance and operation of river steamers and other boats and for other expenses.

Section 302, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305, authorized construction and maintenance of telegraph and telephone lines and is now set out as section 975a of Title 43.

Section 302a, act May 26, 1900, ch. 586, 31 Stat. 206, prohibited establishment of telegraph or cable lines by foreigners and is now set out as section 17 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Section 303, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305, empowered the President to designate town sites, and is set out as section 975b of Title 43.

Section 304, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 505, related to terminals, stations, and rights of way, and is now set out as section 975c of Title 43.

Section 305, act Mar 12, 1914, ch. 37, § 1, 38 Stat. 505, required patents to reserve rights of way to the United States, and is now set out as section 975d of Title 43.

Section 306, act Mar. 12, 1914, ch. 37, § 3, 38 Stat. 307, provided for the disposition of proceeds of lease or sale of public lands, and is now set out as section 975e of Title 43.

Section 307, act Mar. 12, 1914, ch. § 1, 38 Stat. 305, authorized and empowered the president to carry out the provisions dealing with the establishment of public utilities, and is now set out as section 975f of Title 43.

Section 308, act Mar. 12, 1914, ch. 37, § 4, 38 Stat. 307, made mandatory certain annual reports to the president by officers, agents, or agencies covering their activities in connection with the construction and development of public utilities, and is now set out as section 975g of Title 43.

Section 309, act July 18, 1914, ch. 187, 38 Stat. 517, related to taxation of railroads, and was repealed by act Feb. 10, 1939, ch. 2, § 4(a), 53 Stat. 1.

Section 310, act May 26, 1900, ch. 586, 31 Stat. 206, allowed the conduct of commercial business over military telegraph and cable lines.

Section 311, act May 23, 1941, ch. 130, § 1, 55 Stat. 190, allowed payment of charges for interconnection between radio-telephone facilities of the Alaska Communication System and commercial facilities to be made out of receipts of the Alaska Communication System.

Section 312, acts July 31, 1950, ch. 510, § 1, 64 Stat. 382; Aug. 13, 1953, ch. 430, § 1(1, 2), 67 Stat. 574, authorized the construction of the Eklutna project, reservation of mineral rights, disposition of net proceeds, and reservation of water rights.

Section 312a, acts July 31, 1950, ch. 510, § 2, 64 Stat. 382; Aug. 13, 1953, ch. 430, § 1(3), 67 Stat. 574, covered the disposition of electric power produced from the Eklutna project, rate and rate schedules, sale preferences, disposition of receipts, and creation of a continuing fund.

Section 312b, act July 31, 1950, ch. 510, § 3, 64 Stat. 383, authorized the Secretary of the Interior to perform the acts necessary to carry into effect the Eklutna project and otherwise set out his powers and duties in connection with the project.

Section 312c, act July 31, 1950, ch. 510, § 4, 64 Stat. 383, authorized and directed the Secretary to report on the feasibility of transferring the Eklutna project, upon completion, to public ownership.

Section 312d, act July 31, 1950, ch. 510, § 5, 64 Stat. 383, authorized the Secretary to delegate the powers and functions given him in connection with the Eklutna project.

Section 315, acts May 31, 1938, ch. 298, § 1, 52 Stat. 589; July 24, 1946, ch. 610, § 1, 60 Stat. 659, authorized public school and utility districts to construct facilities, incur bonded indebtedness, and perform other defined functions.

Section 315a, acts May 31, 1938, ch. 298, § 2, 52 Stat. 589; July 24, 1946, ch. 610, § 2, 60 Stat. 659, required submission of proposal to electors before any public utility or school district could incur a bonded indebtedness.

Section 315b, act May 31, 1938, ch. 298, § 3, 52 Stat. 589, set out the terms, execution, interest, and sales price of bonds of public utility or school district.

Section 315c, act May 31, 1938, ch. 298, § 4, 52 Stat. 590, laid upon the governing body of each district the duty of levying taxes to provide payment of interest and principal on bonds.

Section 315d, act May 31, 1938, ch. 298, § 5, 52 Stat. 590, repealed laws inconsistent with sections 315—315d and restricted the effect of any limitation placed upon powers granted thereby to such powers and not to powers granted by any other sections.

Section 315e, acts Jan. 17, 1940, ch. 3, § 1, 54 Stat. 14; Aug. 18, 1958, Pub. L. 85–675, § 1, 72 Stat. 625, authorized the issuance of refunding bonds by municipal corporations and public utility districts.

Section 315f, acts Jan. 17, 1940, ch. 3, § 2, 54 Stat. 15; Aug. 18, 1958, Pub. L. 85–675, § 1, 72 Stat. 626, set the terms, interest, negotiability, etc., of refunding bonds.

Section 315g, acts Jan. 17, 1940, ch. 3, § 3, 54 Stat. 15; Aug. 18, 1958, Pub. L. 85–675, § 1, 72 Stat. 626, laid upon the governing body of municipal corporations or public-utility or school district the duty of levying taxes to retire refunding bonds.

Section 315h, act Jan. 17, 1940, ch. 3, § 4, 54 Stat. 15, ratified prior issues of refunding bonds.

Section 315i, Pub. L. 85–675, § 2, Aug. 18, 1958, 72 Stat. 626, ratified prior issues of refunding bonds.

Section 321, acts Jan. 27, 1905, ch. 277, § 2, 33 Stat. 616; May 14, 1906, ch. 2458, § 2, 34 Stat. 192, was omitted from the Code as being covered by former sections 321a—325 and sections 326 and 327 of this title, and section 123 of former Title 5, Executive Departments and Government Officers and Employees.

Sections 321a—321c, act June 30, 1932, ch. 320, §§ 2—4, 47 Stat. 446, related to the execution of laws pertaining to the construction and maintenance of roads and trails, distribution of duties, promulgation of rules and regulations, and to the submission of appropriations, and were repealed by Pub. L. 86–70, § 21(d)(6)(7), June 25, 1959, 73 Stat. 146, eff. July 1, 1959.

Section 321d, act June 30, 1932, ch. 320, § 5, as added July 24, 1947, ch. 313, 61 Stat. 418, required a reservation of right-of-way for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures in patents and deeds, and was repealed by Pub. L. 86–70, § 21(d) (6), (7), June 25, 1959, 73 Stat. 146, eff. July 1, 1959.

Section 322, acts Jan. 27, 1905, ch. 277, § 2, 33 Stat. 616; May 14, 1906, ch. 2458, § 2, 34 Stat. 192; June 30, 1932, ch. 320, § 1, 47 Stat. 446; July 14, 1955, ch. 359, 69 Stat. 321, related to the location, lay out, construction, and maintenance of roads, trails and bridges, and was repealed by Pub. L. 86–70, § 21(d) (6), (7), June 25, 1959, 73 Stat. 146.

Sections 323—325, acts Jan. 27, 1905, ch. 277, § 2, 33 Stat. 616; May 14, 1906, ch. 2458, § 2, 34 Stat. 192; June 30, 1932, ch. 320, § 1, 47 Stat. 446, related to maps, plans and specifications for roads and trails, contracts for permanent work, repair of roads and trails, and to the payment of costs and expenses of laying out, constructing, and repairing roads and trails, and were repealed by Pub. L. 86–70, § 21(d) (6), (7), June 25, 1959, 73 Stat. 146.

Section 326, acts Feb. 12, 1925, ch. 225, title II, 43 Stat. 930; June 30, 1932, ch. 320, § 1, 47 Stat. 446, authorized the incurring of obligations for roads, bridges, and trails in advance of appropriations in certain cases.

Section 327, acts June 30, 1921, ch. 33, § 1, 42 Stat. 90; June 30, 1932, ch. 320, § 1, 47 Stat. 446, authorized the Secretary of Interior to accept contributions from the Territory or from other sources for use in construction, maintenance, or repair of roads, bridges, ferries, trails, and related works in the Territory.

Section 328, act July 9, 1918, ch. 143, 40 Stat. 863, related to estimates for work on roads and was omitted from the Code as being covered by former section 321a of this title.

Section 329, acts Jan. 27, 1905, ch. 277, § 2, 33 Stat. 616; May 14, 1906, ch. 2458, § 2, 34 Stat. 192, related to expenses of board in addition to salary and was omitted from the

Code because former section 321a of this title transferred the duties of the board to the Secretary of the Interior.

Section 330, act Apr. 27, 1914, ch. 72, 38 Stat. 366, related to per diem commutation of Army officer member of the board and was omitted from the Code because former section 321a of this title transferred the duties of the board to the Secretary of the Interior.

Sections 331—337, act Apr. 27, 1904, ch. 1629, 33 Stat. 391–393, provided for road districts and road overseers, and prescribed their term of office, qualifications, duties, and compensation, and were repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Section 338, acts Aug. 1956, ch. 840, § 1, 70 Stat. 888; Apr. 20, 1957, Pub. L. 85–16, 71 Stat. 14; July 6, 1959, Pub. L. 86–78, § 1(1), 73 Stat. 161, established the Alaska International Rail and Highway Commission, set out its size and structure, appointment of its members, and selection of chairman and vice chairman, and authorized the appointment of an Army officer to the Commission.

Section 338a, act Aug. 1, 1956, ch. 840, § 2, 70 Stat. 8888, set out the duties of the Commission.

Section 338b, acts Aug. 1, 1956, ch. 840, § 3, 70 Stat. 888; Aug. 8, 1958, Pub. L. 85–601, § 1(a), 72 Stat. 524, authorized the Commission to cooperate with Canada in carrying out its functions.

Section 338c, act Aug. 1, 1956, ch. 840, § 4, 70 Stat. 889, set out the powers of the Commission to conduct hearings, administer oaths and affirmations, employ experts, utilize facilities, information, and personnel of other federal departments and agencies, and use information contained in certain named surveys and plans.

Section 338d, act Aug. 1, 1956, ch. 840, § 5, 70 Stat. 889, authorized the Commission to delegate its powers and duties, other than the duty of submiting reports and making recommendations to the Congress.

Section 338e, act Aug. 1, 1956, ch. 840, § 6, 70 Stat. 889, provided for reimbursement of Commission members for travel, subsistence, and other necessary expenses although it expressly called for service by Commission members without compensation.

Section 338f, acts Aug. 1, 1956, ch. 840, § 7, 70 Stat. 889; Aug. 8, 1958, Pub. L. 85–601, § 1(b), 72 Stat. 524; July 6, 1959, Pub. L. 86–78, § 1(2), 73 Stat. 161, required the Commission to make certain reports and recommendations and called for termination of the Commission after the submission of its final report.

Section 338g, acts Aug. 1, 1956, ch. 840, § 8, 70 Stat. 889; Aug. 8, 1958, Pub. L. 85–601, § 1(c), 72 Stat. 525, authorized the making of appropriations to enable the Commission to carry out its functions.

Section 341, act Mar. 30, 1948, ch. 162, 62 Stat. 100, made provision for the occupancy and use of national-forest lands under permit and dealt with the period of such permits, size of area allotted, prohibitions, and the termination of permits, and is now set out as section 497a of Title 16, Conservation.

Section 351, act Mar. 3, 1889, ch. 424, § 1, 30 Stat. 1098, extended to the Territory the system of public land surveys, and is now covered by section 751a of Title 43.

Section 352, acts Mar. 2, 1907, ch. 2537, § 4, 34 Stat. 1232; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Oct. 9, 1942, ch. 584, § 2, 56 Stat. 779; provided for the making of land surveys in the Nome and Fairbanks districts, and is now set out as section 751b of Title 43.

Section 353, acts Mar. 4, 1915, ch. 181, § 1, 38 Stat. 1214; Mar. 5, 1952, ch. 80, §§ 1—3, 66 Stat. 14; Aug. 5, 1953, ch. 323, 67 Stat. 364; Aug. 2, 1956, ch. 892, 70 Stat. 954; Aug. 27, 1958, Pub. L. 85–771, § 3, 72 Stat. 929, made reservation of certain lands for educational purposes, covered disposition of proceeds or income derived from reserved lands, and set out the exclusion of certain lands, and was repealed by Pub. L. 85–508, § 6(k), July 7, 1958, 72 Stat. 434.

Section 353a, act May 31, 1938, ch. 304, 52 Stat. 593, authorized the Secretary of the Interior to reserve tracts in Alaska for school, hospitals, etc. for the Indians, Eskimos, and Aleuts of Alaska, and is now set out as section 497 of Title 25.

Section 354, act Mar. 4, 1915, ch. 181, § 2, 38 Stat. 1215, set aside a site for an agricultural college and school of mines and is now set out as note under section 852 of Title 43.

Section 354a, acts Jan. 21, 1929, ch. 92, §§ 1—7, 45 Stat. 1091–1093; July 12, 1960, Pub. L. 86–620, §§ 1, 2, 74 Stat. 408, made additional grants for an agricultural college and school of mines and imposed certain conditions and limitations, and is now set out as a note under section 852 of Title 43.

Section 355, act Mar. 3, 1891, ch. 561, § 11, 26 Stat. 1099, permitted lands to be entered for town-site purposes and set out the requirements for the proper execution of the trust created thereby, and is now set out as section 732 of Title 43.

Section 355a, act May 25, 1926, ch. 379, § 1, 44 Stat. 629, authorized town-site trustee to issue a deed setting aside lands on survey of town site for Indian or Eskimo lands, and is now set out as section 733 of Title 43.

Section 355b, act May 25, 1926, ch. 379, § 2, 44 Stat. 630, authorized the extension of streets and alleys across Indian or Eskimo lands, and is now set out as section 734 of Title 43.

Section 355c, act May 25, 1926, ch. 379, § 3, 44 Stat. 630, authorized the Secretary of the Interior to have nonmineral lands surveyed into lots and blocks, and is now set out as section 735 of Title 43.

Section 355d, act May 25, 1926, ch. 379, § 4, 44 Stat. 630, authorized the Secretary to prescribe appropriate regulations for the administration of sections 355a—355c of this title, and is now set out as section 736 of Title 43.

Section 355e, act Feb. 26, 1948, ch. 72, 62 Stat. 35, permitted the holding of town-site lands under unrestricted deeds by Alaska natives under certain conditions, and is now set out of section 737 of Title 43.

Section 356, act June 6, 1900, ch. 786, § 27, 31 Stat. 330, prohibited the disturbing of the occupancy of lands being occupied by Indians or other persons conducting schools or missions but expressly cautioned against a construction of this section which might serve to place in force in the Territory the general land laws of the United States, and is now set out as section 280a of Title 25, Indians.

Section 357, acts May 17, 1906, ch. 2469, 34 Stat. 197; Aug. 2, 1956, ch. 891, § 1(a)–(d), 70 Stat. 954, authorized the making of homestead allotments to native Indians, Aleuts, or Eskimos, and is now set out as section 270–1 of Title 43.

Section 357a, act May 17, 1906, ch. 2469, § 2, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, permitted allotments of land in national forests if the land was certified as chiefly valuable for agricultural or grazing uses, and is now set out as section 270–2 of Title 43.

Section 357b, act May 27, 1906, ch. 2469, § 2, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, prohibited the making of an allotment unless the person made satisfactory proof of substantially continuous use and occupancy of the land for five years, and is now set out as section 270–3 of Title 43.

Section 358, act Mar. 3, 1891, ch. 561, § 15, 26 Stat. 1101, reserved the Annette Islands for the Metlakahtla Indians, and is now set out as section 495 of Title 25.

Section 358a, act May 1, 1936, ch. 254, § 2, 49 Stat. 1250, authorized the designation of land for the use of Indians or Eskimos, and is now set out as section 496 of Title 25.

Section 359, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144, set out the requirements of filing, publishing, and posting of proofs needed for proving claims, as well as the form and use of the affidavits, and is now set out as section 270–4 of Title 43.

Section 360, act July 3, 1926, ch. 745, § 1, 44 Stat. 821, authorized the leasing of land for the purpose of fur farming, and is now set out as section 687c of Title 43.

Section 361, act July 3, 1926, ch. 745, § 2, 44 Stat. 822, authorized the Secretary of the Interior to perform any and all acts necessary to carry into effect the provisions of section 360, and is now set out as section 687c–1 of Title 43.

Section 362, act May 1, 1936, ch. 254, § 1, 49 Stat. 1250, called for the application to the Territory of certain statutes dealing with the conservation of Indian lands and allowed the organization of groups of Indians not recognized as bands or tribes, and is now set out as section 473a of Title 25.

Section 363, act Oct. 17, 1940, ch. 890, § 1, 54 Stat. 1192, which, with limitations, authorized the sale or lease of unreserved public lands in Alaska to incorporated cities

and towns in Alaska for cemetery, park or recreational purposes, was repealed by act June 14, 1926, ch. 578, § 5, as added June 4, 1954, ch. 263, 68 Stat. 175, and is now covered by section 869 et seq. of Title 43, Public Lands.

Section 364, act July 24, 1947, ch. 305, 61 Stat. 414, authorized the legislature to provide for the exercise of zoning power in town sites, and is now set out as section 738 of Title 43.

Section 364a, act Aug. 30, 1949, ch. 521, § 1, 63 Stat. 679, authorized the sale of certain public lands and set out the requirements of public auction, notice, and proof of the buyer's intention, and is now set out as section 687b of Title 43.

Section 364b, act Aug. 30, 1949, ch. 521, § 2, 63 Stat. 679, prohibited the sale of land for less than the appraised value and the cost of making any survey to properly describe the land sold, and is now set out as section 687b–1 of Title 43.

Section 364c, act Aug. 30, 1949, ch. 521, § 3, 63 Stat. 679, called for issuance of a certificate of purchase to buyers of public lands and made provision for patent in fee and issuance and contents thereof and placed the liability for mining damage upon persons prospecting for and removing minerals, and is now set out as section 687b–2 of Title 43.

Section 364d, act Aug. 30, 1949, ch. 521, § 4, 63 Stat. 679, saved existing rights and limited the application of sections 364a–364e of this title, and is now set out as section 687b–3 of Title 43.

Section 364e, act Aug. 30, 1949, ch. 521, § 5, 63 Stat. 679, authorized the Secretary of the Interior to make rules and regulations to carry out the purposes of section 364a—364e of this title, and is now set out as section 687b–4 of Title 43.

Section 364f, Pub. L. 88–66, July 19, 1963, 77 Stat. 80, called for the application of equitable principles upon submission of proof of compliance with use requirements after prescribed period, and is now set out as section 687b–5 of Title 43.

Section 365, act Oct. 9, 1942, ch. 584, § 6, 56 Stat. 779, provided for the continuation of existing land districts and offices and made provision for the making of changes in district boundaries, discontinuance of districts, and designation of land offices, and is now set out as section 123a of Title 43.

Sections 366, 367, act Oct. 9, 1942, ch. 584, §§ 2—4, 56 Stat. 779, related to registers at land offices at Anchorage, Nome, and Fairbanks, additional registers, and their duties, and were omitted as superseded by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 60 Stat. 1100, which abolished the office of register and transferred its functions to the Secretary of the Interior or that officer as he may designate. See note set out under section 1 of Title 43, Public Lands.

Section 367a, act Oct. 9, 1942, ch. 584, § 5, 56 Stat. 779, made public land claimants liable for fees, commissions or purchase money required by law to be paid, and is now set out as section 79d of Title 43.

Section 368, act June 5, 1920, ch. 235, § 1, 41 Stat. 908, related to compensation of clerks in district land offices, and was limited to the appropriation act of which it was a part.

Section 371, acts May 14, 1898, ch. 299, § 1, 30 Stat. 409; Mar. 3, 1903, ch. 1002, 32 Stat. 1028; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Apr. 29, 1950, ch. 137, § 1, 64 Stat. 94; Aug. 3, 1955, ch. 496, § 1, 69 Stat. 444, extended the homestead laws to Alaska, and is now set out as section 270 of Title 43.

Section 371a, act Apr. 29, 1950, ch. 137, § 2, 64 Stat. 95, required the filing of notice of location by all persons maintaining a settlement claim on public land on April 29, 1950 if notice of location had not previously been filed, and is now set out as section 270–5 of Title 43.

Section 371b, act Apr. 29, 1950, ch. 137, § 3, 64 Stat. 95, specified the effect of failing to file the notice of settlement required by section 371a of this title, and is now set out as section 270–6 of Title 43.

Section 371c, acts Apr. 29, 1950, ch. 137, § 4, 64 Stat. 95; July 11, 1956, ch. 571, § 2, 70 Stat. 529, provided for final or homestead proof on unsurveyed land as a basis for free survey and set a time limit therefor, and is now set out as section 270–7 of Title 43.

Section 372, acts June 5, 1920, ch. 265, 41 Stat. 1059; Aug. 3, 1955, ch. 496, § 3, 69 Stat. 444, modified the restrictions upon the location of homestead sites.

Section 373, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, set a limit on the amount of homestead entries, and is now set out as section 270–8 of Title 43.

Section 374, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, permitted a homestead entry in Alaska notwithstanding a former homestead entry in another state or territory, and is now set out as section 270–9 of Title 43.

Section 375, act July 8, 1916, ch. 228, § 2, as added June 28, 1918, ch. 110, 40 Stat. 633, and amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; July 11, 1956, ch. 571, § 1, 70 Stat. 528, made provision for proof of entry on unsurveyed lands, and is now set out as section 270–10 of Title 43.

Section 376, acts Mar. 8, 1922, ch. 96, § 1, 42 Stat. 415; Aug. 23, 1958, Pub. L. 85–725, § 1, 72 Stat. 730, covered claims on land containing coal, oil, and gas, and is now set out as section 270–11 of Title 43.

Section 377, acts Mar. 8, 1922, ch. 96, § 2, 42 Stat. 416; Aug. 23, 1958, Pub. L. 85–725, § 2, 72 Stat. 730, called for the inclusion, in the patent for lands containing coal, oil, and gas, of a reservation to the United States of such minerals together with the right to prospect for, mine, and remove the same, and is now set out as section 270–12 of Title 43.

Section 377a, act Mar. 8, 1922, ch. 96, § 3, as added Aug. 17, 1961, Pub. L. 87–147, 75 Stat. 384, and amended Oct. 3, 1962, Pub. L. 87–742, 76 Stat. 740, allowed the Secretary of the Interior to make disposition of lands known to contain coal, oil, or gas, and is now set out as section 270–13 of Title 43.

Section 378, act July 8, 1916, ch. 228, § 3, formerly § 2, 39 Stat. 352, renumbered June 28, 1918, ch. 110, 40 Stat. 633, excepted from homestead settlement and entry the lands in the Annette and Pribilof Islands, islands leased or occupied for the propagation of foxes, and other islands reserved or withdrawn from settlement or entry, and is now set out as section 270–14 of Title 43.

Section 379, acts Apr. 13, 1926, ch. 121, § 1, 44 Stat. 243; Apr. 29, 1950, ch. 134, § 3, 64 Stat. 93, permitted departure from the system of rectangular forms made by north-south lines in setting out homestead claims when local or topographic conditions required, and is now set out as section 270–15 of Title 43.

Section 380, acts Oct. 28, 1921, ch. 114, § 1 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Apr. 13, 1926, ch. 121, § 2, 44 Stat. 244, made provision for the survey of soldier's additional entry, and is now set out as section 270–16 of Title 43.

Section 380a, act Apr. 13, 1926, ch. 121, § 3, 44 Stat. 244, provided for the disposition of sums deposited, and is now set out as section 270–17 of Title 43.

Section 381, acts June 6, 1900, ch. 786, § 26, 31 Stat. 329; May 31, 1938, ch. 297, 52 Stat. 588; Aug. 8, 1947, ch. 514, § 1, 61 Stat. 916; Aug. 14, 1958, Pub. L. 85–662, 72 Stat. 615, extended the mining laws of the United States to the Territory of Alaska, and is now set out as section 49a of Title 30, Mineral Lands and Mining.

Section 381a, act May 4, 1934, ch. 211, §§ 2, 3, 48 Stat. 663, extended the mining laws relating to placer claims to the Territory of Alaska, and is now set out as section 49b of Title 30.

Section 381b, act May 4, 1934, ch. 211, § 3, 48 Stat. 663, related to effective date of section 381a of this title.

Section 382, act June 6, 1900, ch. 786, § 15, 31 Stat. 327, required recording notices of location of mining claims, and is now set out as section 49c of Title 30.

Section 383, act June 6, 1900, ch. 786, § 16, 31 Stat. 328, authorized regulations for recording notices of location of mining claims, and legalized certain records, and is now set out as section 49d of Title 30.

Section 384, act Mar. 2, 1907, ch. 2559, § 1, 34 Stat. 1343, required annual labor or improvements on mining claims, and is now set out as section 49e of Title 30.

Section 385, act Mar. 2, 1907, ch. 2559, § 2, 34 Stat. 1243, prescribed the fees for filing proofs of work and improvements, and is now set out as section 49f of Title 30.

Section 386, act June 7, 1910, ch. 265, 36 Stat. 459, permitted adverse claims provided for in sections 29 and 30 of title 30 to be filed at any time during the 60 days' period of publication or within eight months thereafter, and adverse suits provided for in section 30 of title 30 to be instituted at any time within 60 days after the filing of said claims in the local land office, and was repealed by Pub. L. 87-260, § 1, Sept. 21, 1961, 75 Stat. 541.

Sections 387—391, acts Aug. 1, 1912, ch. 269, §§ 1—5, 37 Stat. 242, 243; Mar. 3, 1925, ch. 442, 43 Stat. 1118, related to placer-mining claims, and were repealed by act May 4, 1934, ch. 211, § 1, 48 Stat. 663.

Section 392, act May 14, 1898, ch. 299, § 13, 30 Stat. 415, provided for reciprocity with Canada as to mining rights.

Section 395, act June 25, 1910, ch. 422, § 1, 36 Stat. 848, authorized a miners' labor lien on output, and provided for its priority.

Section 396, act June 25, 1910, ch. 422, § 2, 36 Stat. 848, required the filing of the claim of the lien, and prescribed the form of the claim.

Section 397, act June 25, 1910, ch. 422, § 3, 36 Stat. 849, directed the recorder to record claims of lien.

Section 398, act June 25, 1910, ch. 422, § 4, 36 Stat. 849, specified the duration of the lien.

Section 399, act June 25, 1910, ch. 422, § 5, 36 Stat. 849, prescribed the procedure for foreclosure of the liens.

Section 400, act June 25, 1910, ch. 422, § 6, 36 Stat. 849, authorized defects in lien notice or in proceedings to foreclose to be cured by amendment.

Section 401, act June 25, 1910, ch. 422, § 7, 36 Stat. 850, prescribed certain procedures in proceedings to foreclose liens, and permitted intervention by adverse claimants.

Section 402, act June 25, 1910, ch. 422, § 8, 36 Stat. 850, provided for joinder of plaintiffs, consolidation of actions, and waiver of lien.

Section 403, act June 25, 1910, ch. 422, § 9, 36 Stat. 850, required judgment for claimants, and provided for its enforcement.

Section 404, act June 25, 1910, ch. 422, § 10, 36 Stat. 851, permitted appeals from final judgments of justices of the peace in actions under sections 395—405 of this title.

Section 405, act June 25, 1910, ch. 422, § 11, 36 Stat. 851, prescribed the criminal liability for buying, removing, etc., minerals with notice of lien.

Section 411, act May 14, 1898, ch. 299, § 2, 30 Stat. 409, granted railroads rights of way, reserved mineral interests therein, and directed posting of schedules of rates, and is now set out as section 942-1 of Title 43.

Section 412, act May 14, 1898, ch. 299, § 3, 30 Stat. 410, provided for rights of several roads through canyons, and is now set out as section 942-2 of Title 43.

Section 413, acts June 2, 1864, ch. 216, § 3, 13 Stat. 357; May 14, 1898, ch. 299, § 4, 30 Stat. 410, granted the right of condemnation to railroads, and is now set out as section 942-3 of Title 43.

Section 414, act May 14, 1898, ch. 299, § 4, 30 Stat. 410, related to the effect of filing of the preliminary survey, and is now set out as section 942-4 of Title 43.

Section 415, act May 14, 1898, ch. 299, § 5, 30 Stat. 410, required railroads to file maps of the location of their roads, and is now set out as section 942-5 of Title 43.

Section 416, act May 14, 1898, ch. 299, § 6, 30 Stat. 411, provided for right of way for wagon roads, wire rope, aerial, or other tramways, reserved mineral interests, and limited tolls, and is now set out as section 942-6 of Title 43.

Section 417, act May 14, 1898, ch. 299, § 7, 30 Stat. 412, made sections 411—419, 421, 423, and 461—465 of this title inapplicable to military parks, Indian and other reservations, and is now set out as section 942-7 of Title 43.

Section 418, act May 14, 1898, ch. 299, § 8, 30 Stat. 412, reserved the right of repeal or amendment, and is now set out as section 942-8 of Title 43.

Section 419, act May 14, 1898, ch. 299, § 9, 30 Stat. 413, related to the map of location of roads, and is now set out as section 942-9 of Title 43.

Sections 420—420c, act Aug. 1, 1956, ch. 848, §§ 1—4, 70 Stat. 898, related to public lands within highway, telephone, and pipeline withdrawals, authorized amendment of land description of claim or entry on adjoining lands, permitted the Secretary to sell restored lands, granted preference rights, and provided for the utilization or occupancy of easements, and are now set out as sections 971a to 971d of Title 43.

Section 420d, act Aug. 1, 1956, ch. 848, § 5, as added June 11, 1960, Pub. L. 86-512, 74 Stat. 207, defined "restored lands" for purposes of sections 420—420c of this title, and is now set out as section 971e of Title 43.

Section 421, acts May 14, 1898, ch. 299, § 11, 30 Stat. 414; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144, authorized the Secretary to sell timber on public lands, and is now set out as section 615a of Title 16, Conservation.

Section 422, acts Feb. 1, 1905, ch. 288, § 2, 33 Stat. 628; June 5, 1920, ch. 235, § 1, 41 Stat. 917, permitted export of timber pulpwood and wood pulp, and is now set out as section 615b of Title 16.

Section 423, acts May 14, 1898, ch. 299, § 11, 30 Stat. 414; June 15, 1938, ch. 427, 52 Stat. 699, authorized the Secretary to permit cutting and use of timber by settlers, residents, miners, etc, and is now set out as section 607a of Title 16.

Section 431, acts June 6, 1900, ch. 796, 31 Stat. 658; Apr. 28, 1904, ch. 1772, § 4, 33 Stat. 526, extended coal land laws of the United States to Alaska, and was omitted as being covered by former section 452 of this title.

Section 432, act Oct. 20, 1914, ch. 330, § 1, 38 Stat. 741, related to survey of coal lands in Alaska, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 201 et seq. of Title 30, Mineral Lands and Mining.

Section 433, act Oct. 20, 1914, ch. 330, § 2, 38 Stat. 742, related to reservation of coal lands in Alaska, and was repealed by Pub. L. 85-508, § 20, July 7, 1958, 72 Stat. 351. See section 201 et seq. of Title 30, Mineral Lands and Mining.

Sections 434—436, act Oct. 20, 1914, ch. 330, §§ 3—5, 38 Stat. 742, 743, related to division of unreserved lands into leasing blocks or tracts and leases, lease of additional lands, and consolidation of leases, and were repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See sections 181, 201(a), 202, 203, 204, and 205 of Title 30, Mineral Lands and Mining.

Sections 437, 438, act Oct. 20, 1914, ch. 330, § 9, 38 Stat. 744, related to term of lease, and to royalties and rentals payable to United States by lessees, and were repealed by Pub. L. 86-252 § 1, Sept. 9, 1959, 73 Stat. 490. See section 207 of Title 30, Mineral Lands and Mining.

Section 438a, act Oct. 20, 1914, ch. 330, § 19, as added June 6, 1934, ch. 405, 48 Stat. 909, related to suspension of rentals during suspension of operation or production, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 209 of Title 30, Mineral Lands and Mining.

Section 439, acts Oct. 20, 1914, ch. 330, § 9, 38 Stat. 744; July 10, 1957, Pub. L. 85-88, § 1, 71 Stat. 282; July 7, 1958, Pub. L. 85-508, § 28(a), 72 Stat. 351, related to distribution of net profits, bonuses, royalties, rentals, and other payments, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 191 of Title 30, Mineral Lands and Mining.

Sections 440—442, acts Oct. 20, 1914, ch. 330, §§ 6—8, 38 Stat. 743; Feb. 21, 1944, ch. 18, 58 Stat. 18, related to property leased, limitation of amount, forfeiture of excess, provided for punishment when exceeding authorized interest, prescribed criminal liability of officer or agent of corporation or association violating law, and were repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See sections 182(a), (g), (h) and 201 et seq. of Title 30, Mineral Lands and Mining.

Section 443, act Oct. 20, 1914, ch. 330, § 8a, 38 Stat. 743, related to forfeiture of lease for violation of law, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 184(k) of Title 30, Mineral Lands and Mining.

Section 444, acts Oct. 20, 1914, ch. 330, § 3, 38 Stat. 742; Mar. 4, 1921, ch. 152, 41 Stat. 1363, related to prospecting permits and leases to prospectors, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 201(b) of Title 30, Mineral Lands and Mining.

Section 445, act Oct. 20, 1914, ch. 330, § 10, 38 Stat. 744, related to coal for local and domestic needs, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 208 of Title 30, Mineral Lands and Mining.

Section 445a, act July 19, 1932, ch. 513, 47 Stat. 707, permitted purchase of coal from two or more mines adjacent to the Alaska Railroad, and is now set out as section 208a of Title 30.

Sections 446—449, act Oct. 20, 1914, ch. 330, §§ 11—14, 38 Stat. 744, related to reservation by United States in leases, entries, etc., assignment or subletting by lessees, possession of lessee as possession of United States, and to forfeiture and cancellation of leases, and were repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See sections 189 and 190 of Title 30, Mineral Lands and Mining.

Sections 450, 451, act Oct. 20, 1914, ch. 330, §§ 16, 17, 38 Stat. 745, related to statements, representations, and reports, rules and regulations, and were repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See sections 189 and 190 of Title 30, Mineral Lands and Mining.

Section 452, act Oct. 20, 1914, ch. 330, § 15, 38 Stat. 745, related to limitation on disposal of coal lands, and was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. See section 193 of Title 30, Mineral Lands and Mining.

Section 453, act May 28, 1908, ch. 211, § 2, 35 Stat. 424, related to preference right of United States to purchase of coal for Army and Navy, and is now set out as section 193a of Title 30.

Sections 455—455e, Pub. L. 85-303, §§ 1-6, Sept. 7, 1957, 71 Stat. 623-625, related to tidelands, granted United States title to the Territory of Alaska, provided for management and disposal, reserved mineral rights, and required survey of community boundaries.

Sections 456—456h, Pub. L. 85-505, §§ 1—11, July 3, 1958, 72 Stat. 322-325, related to lease of oil and gas deposits in lands beneath nontidal navigable waters, provided for rights to natural resources from waters and navigational servitures, granted preference rights, declared the effect on transferred lands, and empowered the promulgation of rules and regulations.

Section 461, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Mar. 3, 1927, ch. 323, 44 Stat. 1364; May 26, 1934, ch. 357, 48 Stat. 809; Aug. 23, 1958, Pub. L. 85-725, § 3, 72 Stat. 730, related to rights to purchase for trade or manufacture lands in the Territories, prescribed the price and limit of acreage, and limited the amount of land permitted to be purchased, and is now set out as section 687a of Title 43.

Section 461a, act Apr. 29, 1950, ch. 137, § 5, 64 Stat. 95, required the filing of notices of claim for the purchase of land under section 461 of this title, and is now set out as section 687a-1 of Title 43.

Section 462, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Aug. 3, 1955, ch. 496, § 2, 69 Stat. 444, prohibited entry on lands on navigable waters, and is now set out as section 687a-2 of Title 43.

Section 463, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, related to several claimants of same tract, and is now set out as section 687a-3 of Title 43.

Section 464, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, reserved landing places along water front for natives, and is now set out as section 687a-4 of Title 43.

Section 465, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, excepted certain islands from the operation of sections 411—419, 421, 423, and 461—464 of this title, and is now set out as section 687a-5 of Title 43.

Section 466, acts Mar. 3, 1891, ch. 561, § 13, 26 Stat. 1100; Mar. 3, 1925, ch. 462, 43 Stat. 1144, related to surveys for the purchase of land under sections 461—466 of this title, and is now set out as section 687a-6 of Title 43.

Section 471, act Mar. 4, 1927, ch. 513, § 1, 44 Stat. 1452, declared Congressional policy towards grazing districts and privileges, and is now set out as section 316 of Title 43.

Section 471a, act Mar. 4, 1927, ch. 513, § 2, 44 Stat. 1452 defined terms "person", "district", "Secretary", and "lessee", and is now set out as section 316a of Title 43.

Section 471b, act Mar. 4, 1927, ch. 513, § 3, 44 Stat. 1452, gave the Secretary the power to establish grazing districts, and is now set out as section 316b of Title 43.

Section 471c, act Mar. 4, 1927, ch. 513, § 4, 44 Stat. 1452, provided for the alteration of grazing district, and is now set out as section 316c of Title 43.

Section 471d, act Mar. 4, 1927, ch. 513, § 5, 44 Stat. 1453, provided for the giving of notice of the establishment of grazing districts, and is now set out as section 316d of Title 43

Section 471e, act Mar. 4, 1927, ch. 513, § 6, 44 Stat. 1453, authorized the giving of preferences in considering the applications to lease grazing lands, and is now set out as section 316e of Title 43.

Section 471f, act Mar. 4, 1927, ch. 513, § 7, 44 Stat. 1453, provided for the terms and conditions of leases for grazing lands, and is now set out as section 316f of Title 43.

Section 471g, act Mar. 4, 1927, ch. 513, § 8, 44 Stat. 1453, authorized the Secretary to determine for each lease, the grazing fee, and is now set out as section 316g of Title 43.

Section 471h, act Mar. 4, 1927, ch. 513, § 9, 44 Stat. 1453, provided for the disposition of receipts for grazing fees, and is now set out as section 316h of Title 43.

Section 471i, act Mar. 4, 1927, ch. 513, § 10, 44 Stat. 1453, provided for the assignment of leases by the lessee, and is now set out as section 316i of Title 43.

Section 471j, act Mar. 4, 1927, ch. 513, § 11, 44 Stat. 1454, provided for improvements by the lessee of any area included within the provisions of his lease, and is now set out as section 316j of Title 43.

Section 471k, act Mar. 4, 1927, ch. 513, § 12, 44 Stat. 1454, prohibited the grazing of animals on grazing district land without a lease or other permission and set the penalty for violation of the section, and is now set out as section 316k of Title 43.

Section 471*l*, act Mar. 4, 1927, ch. 513, § 13, 44 Stat. 1454, authorized the Secretary of the Interior to establish stock driveways and allow free grazing, and is now set out as section 316*l* of Title 43.

Section 471m, act Mar. 4, 1927, ch. 513, § 14, 44 Stat. 1454, made provision for hearing and appeals from decisions of Interior Department employees regarding grazing privileges, and is now set out as section 316m of Title 43.

Section 471n, act Mar. 4, 1927, ch. 513, § 15, 44 Stat. 1455, authorized the Secretary of the Interior to promulgate rules and regulations necessary to the administration of sections 471—471o of this title, appoint employees, make expenditures, and investigate, experiment, and improve the reindeer industry and cooperate in the development of plant and animal life, and is now set out as section 316n of Title 43.

Section 471o, act Mar. 4, 1927, ch. 513, § 16, 44 Stat. 1455, continued in force and effect laws aplicable to lands or resources in the same manner as they had applied prior to enactment of sections 471—471o of this title with regard to ingress and egress upon lands for any authorized purpose including prospecting for and mining extraction of minerals, and is now set out as section 316o of Title 43.

Sections 472, 472a, act Mar. 27, 1928, ch. 251, §§ 1, 2, 45 Stat. 371, which related to disposition of abandoned military reservations in Alaska, including Signal Corps Stations and rights-of-way, and rules and regulations in connection therewith, were repealed by act Oct. 31, 1951, ch. 654, § 1(126), 65 Stat. 706. See sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

Section 473, act Dec. 31, 1941, ch. 644, § 1, 55 Stat. 879, established the Alaska militia.

Section 474, act Dec. 31, 1941, ch. 644, § 2, 55 Stat. 879, exempted from the militia service all persons exempted by the laws of the United States, judges of the several courts of the Territory, and members and officers of the Alaska Territorial Legislature.

Section 475, act Dec. 31, 1941, ch. 644, § 3, 55 Stat. 879, established the Alaska National Guard.

Section 476, act Dec. 31, 1941, ch. 644, § 4, 55 Stat. 879, gave the Governor of the Territory of Alaska as the ex officio commander of the militia, like command of the Alaska National Guard while not in the Federal service.

Section 477, act Dec. 31, 1941, ch. 644, § 5, 55 Stat. 880, provided for the appointment of the Adjutant General of the Territory of Alaska.

Section 478, act Dec. 31, 1941, ch. 644, § 6, 55 Stat. 880, provided for the ratification and confirmation of existing military forces.

Section 479, act Dec. 31, 1941, ch. 644, § 7, 55 Stat. 880, gave the Governor the power to organize a Territorial Guard during the time that the Alaska National Guard might be under Federal service.

Section 480, acts July 18, 1950, ch. 466, title I, § 101, 64 Stat. 344; Aug. 11, 1955, ch. 783, title I, § 107 (3), (7), (9), 69 Stat. 637, 638, authorized the government of Alaska

to create a public corporate authority to undertake slum clearance and urban redevelopment projects.

Section 480a, acts July 18, 1950, ch. 466, title I, § 102, 64 Stat. 344; Aug. 11, 1955, ch. 783 title I, § 107(3), 69 Stat. 637, authorized the government of Alaska to assist slum clearance and urban redevelopment through cash donations, loans, conveyances of real and personal property, facilities and services.

Section 480b, act July 18, 1950, ch. 466, title I, § 103, 64 Stat. 345, ratified all legislation enacted prior thereto by the Legislature of the Territory of Alaska.

Section 481, acts July 21, 1941, ch. 311, § 1, 55 Stat. 601; July 18, 1950, ch. 466, title II, § 201(a), 64 Stat. 345, authorized the Legislature to create public corporate authorities to undertake slum clearance and projects to provide dwelling accommodations for families of low income and for persons (and their families) engaged in national-defense activities.

Section 482, acts July 21, 1941, ch. 311, § 2, 55 Stat. 602; July 18, 1950, ch. 466, title II, § 201(a), 64 Stat. 345, authorized the Legislature of the Territory of Alaska to provide for the appointment of Commissioners.

Section 483, acts July 21, 1941, ch. 311, § 3, 55 Stat. 602; July 18, 1950, ch. 466, title II, § 201(a), 64 Stat. 345, authorized the Legislature of the Territory of Alaska to issue bonds or other obligations with such security and in such manner as the legislature may provide.

Section 483a, act July 21, 1941, ch. 311, § 4, as added July 18, 1950, ch. 466, title II, § 201(a), 64 Stat. 345, ratified all prior acts enacted by the Legislature of the Territory of Alaska.

Section 483b, act July 21, 1941, ch. 311, § 5, as added July 18, 1950, ch. 466, title II, § 201(a), 64 Stat. 345, granted additional powers to the Legislature of the Territory of Alaska.

Section 484, acts Apr. 23, 1949, ch. 89, § 3, 63 Stat. 58; July 14, 1952, ch. 723, § 7, 66 Stat. 603, authorized the Legislature of the Territory of Alaska to establish the Alaska Housing Authority.

Section 484a, act Apr. 23, 1949, ch. 89, § 4, 63 Stat. 59, authorized the Housing and Home Finance Agency to provide technical advice and information and to cooperate with and assist the Alaska Housing Authority.

Section 484b, act Apr. 23, 1949, ch. 89, § 5, 63 Stat. 69, provided for the retention of permanent housing by the Housing and Home Finance Administrator.

Section 484c, act Apr. 23, 1949, ch. 89, § 6, 63 Stat. 60, authorized the transfer of real or personal property of other Government departments or agencies to Alaska Housing Authority.

Section 484d, act June 27, 1934, ch. 847, § 214, as added Apr. 23, 1949, ch. 89, § 2(a), 63 Stat. 57, and amended July 14, 1952, ch. 723, § 10(a)(3), 66 Stat. 603; June 30, 1953, ch. 170, § 25(c), 67 Stat. 128, 129; June 25, 1959, Pub. L. 86–70, § 10(c), 73 Stat. 142, authorized the Federal Housing Commissioner to prescribe, with respect to dollar amount, a higher maximum for the principal obligation of mortgages.

Section 484e, act Apr. 23, 1949, ch. 89, § 2(b), 63 Stat. 58, related to real-estate loans and purchase of insured mortgages, with respect to properties in Alaska, by the Federal National Mortgage Association, and was repealed by act Aug. 2, 1954, ch. 649, title II, § 205, 68 Stat. 622.

Section 485, acts May 28, 1948, ch. 354, § 1, 62 Stat. 227; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(d)(1), 72 Stat. 807, authorized the Administrator of Civil Aeronautics to construct, protect, operate, improve, and maintain within the Territory of Alaska a public airport at or near Anchorage and a public airport at or near Fairbanks.

Section 485a, act May 28, 1948, ch. 354, § 2, 62 Stat. 278, authorized the Administrator of Civil Aeronautics to acquire by purchase, lease, condemnation or otherwise such lands and appurtenances necessary for the construction, protection, maintenance, improvement, and operation of said airports.

Section 485b, act May 28, 1948, ch. 354, § 3, 62 Stat. 278, authorized the Administrator to acquire rights-of-way or easements for roads, trails, pipe lines, power lines and other similar facilities necessary for the operation of airports, and to construct any public highways and bridge to whatever airport locations may be selected.

Section 485c, acts May 28, 1948, ch. 354, § 4, 62 Stat. 278; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(d)(2), 72 Stat. 807, set out the powers and duties of the Administrator.

Section 485d, acts May 28, 1948, ch. 354, § 5, 62 Stat. 278; Oct. 10, 1951, ch. 457, 65 Stat. 371; July 3, 1958, Pub. L. 85–503, 72 Stat. 321; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(d)(3), 72 Stat. 807, empowered the Administrator of the Federal Aviation Agency to lease space or property within or upon airports.

Section 485e, act May 28, 1948, ch. 354, § 6, 62 Stat. 278, authorized the Administrator to contract with any person for the performance of services at or upon the airports.

Section 485f, acts May 28, 1948, ch. 354, § 7, 62 Stat. 278; Oct. 31, 1951, ch. 654, § 2(25), 65 Stat. 707, authorized the transfer of lands, building, property or equipment by other agencies of Federal Government to the Administrator.

Section 485g, act May 28, 1948, ch. 354, § 8, 62 Stat. 278, provided for penalties for violations of any rule, regulation or order issued by the Administrator.

Section 485h, act May 28, 1948, ch. 354, § 9, 62 Stat. 279, prescribed the definitions used in sections 485—485h of this title, should be the definitions assigned by the Civil Aeronautics Act of 1938, as amended.

Section 486, act Aug. 24, 1949, ch. 504, § 2, 63 Stat. 627, declared the Congressional purpose of sections 486—486j of this title was to foster the settlement and increase the permanent residents of Alaska.

Section 486a, act Aug. 24, 1949, ch. 504, § 3, 63 Stat. 627, authorized the Secretary of the Interior to accept applications for public works.

Section 486b, act Aug. 24, 1949, ch. 504, § 4, 63 Stat. 627, authorized the Secretary to include works from other Federal agencies in the public works program.

Section 486c, acts Aug. 24, 1949, ch. 504, § 5, 63 Stat. 628; Aug. 30, 1957, Pub. L. 85–233, § 1, 71 Stat. 515; Dec. 23, 1963, Pub. L. 88–229, 77 Stat. 471, empowered the Secretary to enter into agreement with public work applicant.

Section 486d, act Aug. 24, 1949, ch. 504, § 6, 63 Stat. 628, set out the authority and powers of applicants for public work.

Section 486e, act Aug. 24, 1949, ch. 504, § 7, 63 Stat. 629, provided for cooperation between other Federal agencies and the Secretary, and the transfer of jurisdiction from other Federal agencies to the Secretary.

Section 486f, act Aug. 24, 1949, ch. 504, § 8, 63 Stat. 629, authorized the Secretary to provide public works through the award of contracts.

Section 486g, act Aug. 24, 1949, ch. 504, § 9, 63 Stat. 629, directed that all moneys received by the Secretary should be covered into the Treasury as miscellaneous receipts.

Section 486h, act Aug. 24, 1949, ch. 504, § 10, 63 Stat. 629, authorized the Secretary to utilize and act through other Federal agencies.

Section 486i, act Aug. 24, 1949, ch. 504, § 11, 63 Stat. 624, provided for appropriations to carry out the purposes of sections 486—486j.

Section 486j, acts Aug. 24, 1949, ch. 504, § 12, 63 Stat. 629; July 15, 1954, ch. 510, 68 Stat. 483, directed that the authority of the Secretary under sections 486—486j of this title shall terminate on June 30, 1959.

Section 487, act Aug. 9, 1955, ch. 682, § 1, 69 Stat. 618, authorized the Secretary to make investigations of projects for the conservation, development, and utilization of the water resources of Alaska, and is now classified to section 1962d–12 of Title 42.

Section 487a, act Aug. 9, 1955, ch. 682, § 2, 69 Stat. 618, provided for the solicitation of views and recommendations by the Governor of Alaska or his representative, to the Secretary and for the transmittal of the Secretary's report to Congress and is now classified to section 1962d–13 of Title 42.

Section 487b, act Aug. 9, 1955, ch. 682, § 3, 69 Stat. 618, authorized appropriation up to $250,000 in any one year, and is now classified to section 1962d–14 of Title 42.

Section 488, act May 10, 1956, ch. 248, § 1, 70 Stat. 149, authorized the Territory of Alaska to borrow for public improvements and to issue bonds of the Territory for such borrowing.

Section 488a, act May 10, 1956, ch. 248, § 2, 70 Stat. 149, placed limitations on the Territory in contracting debts.

Section 488b, act May 10, 1956, ch. 248, § 3, 70 Stat. 150, made provisions for the type of land to be issued, the scheduling of maturity of the bonds, payment of the bonds, redemption of the bond and refunding.

Section 488c, act May 10, 1956, ch. 248, § 4, 70 Stat. 150, authorized the Territory to borrow on the credit of the Territory and to issue certificates of indebtedness.

Section 488d, act May 10, 1956, ch. 248, § 5, 70 Stat. 150, provided for the issuance of bonds and certificates as negotiable instruments.

Section 488e, act May 10, 1956, ch. 248, § 6, 70 Stat. 150, authorized the payment of interest on the principal of bonds and certificates of indebtedness as they fall due.

Section 488f, act May 10, 1956, ch. 248, § 7, 70 Stat. 150, authorized guarantee of payment on municipality and school and public utility district bonds.

Chapter 3.—HAWAII

Admission as State

Hawaii was admitted into the Union on August 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out below.

Hawaii Statehood

Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, as amended, provided:

"[Sec. 1. Declaration: acceptance, ratification, and confirmation of Constitution.] That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(c) of this Act, the State of Hawaii is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Hawaii entitled 'An Act to provide for a constitutional convention, the adoption of a State constitution, and the forwarding of the same to the Congress of the United States, and appropriating money therefor', approved May 20, 1949 (Act 334, Session Laws of Hawaii, 1949), and adopted by a vote of the people of Hawaii in the election held on November 7, 1950, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

"Sec. 2. [Territory.] The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of this Act [March 18, 1959], except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters.

"Sec. 3. [Constitution.] The constitution of the State of Hawaii shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

"Sec. 4. [Compact with United States.] As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State, as provided in section 7, subsection (b) of this Act, subject to amendment or repeal only with the consent of the United States, and in no other manner: *Provided,* That (1) sections 202, 213, 219, 220, 222, 224, and 225 and other provisions relating to administration, and paragraph (2) of section 204, sections 206 and 212, and other provisions relating to the powers and duties of officers other than those charged with the administration of said Act, may be amended in the constitution, or in the manner required for State legislation, but the Hawaiian home-loan fund, the Hawaiian home-operating fund, and the Hawaiian home-development fund shall not be reduced or impaired by any such amendment, whether made in the constitution or in the manner required for State legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for State legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all prbceeds and income from the 'available lands', as defined by said Act, shall be used only in carrying out the provisions of said Act.

"Sec. 5. [Title to property; land grants; reservation of lands; public school support; submerged lands.] (a) Except as provided in subsection (c) of this section, the State of Hawaii and its political subdivisions, as the case may be, shall succeed to the title of the Territory of Hawaii and its subdivisions in those lands and other properties in which the Territory and its subdivisions now hold title.

"(b) Except as provided in subsection (c) and (d) of this section, the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title to all the public lands and other public property, and to all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended, within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union. The grant hereby made shall be in lieu of any and all grants provided for new States by provisions of law other than this Act, and such grants shall not extend to the State of Hawaii.

"(c) Any lands and other properties that, on the date Hawaii is admitted into the Union, are set aside pursuant to law for the use of the United States under any (1) Act of Congress, (2) Executive order, (3) proclamation of the President, or (4) proclamation of the Governor of Hawaii shall remain the property of the United States subject only to the limitations, if any, imposed under (1), (2), (3), or (4), as the case may be.

"(d) Any public lands or other public property that is conveyed to the State of Hawaii by subsection (b) of this section but that, immediately prior to the admission of said State into the Union, is controlled by the United States pursuant to permit, license, or permission, written or verbal, from the Territory of Hawaii or any department thereof may, at any time during the five years following the admission of Hawaii into the Union, be set aside by Act of Congress or by Executive order of the President, made pursuant to law, for the use of the United States, and the lands or property so set aside shall, subject only to valid rights then existing, be the property of the United States.

"(e) Within five years from the date Hawaii is admitted into the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to subsections (c) and (d) of this section shall report to the President the facts regarding its continued need for such land or property, and if the President determines that the land or property is no longer needed by the United States it shall be conveyed to the State of Hawaii.

"(f) The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United

States. The schools and other educational institutions supported, in whole or in part, out of such public trust shall forever remain under the exclusive control of said State; and no part of the proceeds or income from the lands granted under this Act shall be used for the support of any sectarian or denominational school, college, or university.

"(g) As used in this Act, the term 'lands and other properties' includes public lands and other public property, and the term 'public lands and other public property' means, and is limited to, the lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation approved July 7, 1898 (30 Stat. 750), or that have been acquired in exchange for lands or properties so ceded.

"(h) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of Hawaii or its political subdivisions pursuant to subsection (a), (b), or (e) of this section or reserving the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of Hawaii into the Union.

"(i) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) and the Outer Continental Shelf Lands Act of 1953 (Public Law 212, Eighty-third Congress, first session, 67 Stat. 462) shall be applicable to the State of Hawaii, and the said State shall have the same rights as do existing States thereunder. (As amended Pub. L. 86-624, § 41, July 12, 1960, 74 Stat. 422.)

"Sec. 6. [Certification by President; proclamation for elections.] As soon as possible after the enactment of this Act, it shall be the duty of the President of the United States to certify such fact to the Governor of the Territory of Hawaii. Thereupon the Governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue his proclamation for the elections, as hereinafter provided, for officers of all State elective offices provided for by the constitution of the proposed State of Hawaii, and for two Senators and one Representative in Congress. In the first election of Senators from said State the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No identification or designation of either of the two senatorial offices, however, shall refer to or be taken to refer to the term of that office, nor shall any such identification or designation in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

"Sec. 7. [Election of officers; date; propositions; certification of voting results; proclamation by President.] (a) The proclamation of the Governor of Hawaii required by section 6 shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in section 6 shall be chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Hawaii for the election of members of the proposed State legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Hawaii may prescribe. The Governor of Hawaii shall certify the results of said elections, as so ascertained, to the President of the United States.

"(b) At an election designated by proclamation of the Governor of Hawaii, which may be either the primary or the general election held pursuant to subsection (a) of this section, or a Territorial general election, or a special election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, the following propositions:

"'(1) Shall Hawaii immediately be admitted into the Union as a State?

"'(2) The boundaries of the State of Hawaii shall be as prescribed in the Act of Congress approved ----------, and all claims of this State
(Date of approval of this Act)
to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

"'(3) All provisions of the Act of Congress approved ---------- reserving rights or powers
(Date of approval of this Act)
to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people.'

"In the event the foregoing propositions are adopted at said election by a majority of the legal votes cast on said State of Hawaii, ratified by the people at the election held submission, the proposed constitution of the proposed on November 7, 1950, shall be deemed amended as follows: Section 1 of article XIII of said proposed constitution shall be deemed amended so as to contain the language of section 2 of this Act in lieu of any other language; article XI shall be deemed to include the provisions of section 4 of this Act; and section 8 of article XIV shall be deemed amended so as to contain the language of the third proposition above stated in lieu of any other language, and section 10 of article XVI shall be deemed amended by inserting the words 'at which officers for all state elective offices provided for by this constitution and two Senators and one Representative in Congress shall be nominated and elected' in lieu of the words 'at which officers for all state elective offices provided for by this constitution shall be nominated and elected; but the officers so to be elected shall in any event include two Senators and two Representatives to the Congress, and unless and until otherwise required by law, said Representatives shall be elected at large.'

"In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall cease to be effective.

"The Governor of Hawaii is hereby authorized and directed to take such action as may be necessary or appropriate to insure the submission of said propositions to the people. The return of the votes cast on said propositions shall be made by the election officers directly to the Secretary of Hawaii, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

"(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Hawaii, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 6 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Hawaii shall be deemed admitted into the Union as provided in section 1 of this Act.

"Until the said State is so admitted into the Union, the persons holding legislative, executive, and judicial office in, under, or by authority of the government of said Territory, and the Delegate in Congress thereof, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Hawaii into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

"Sec. 8. [House of Representatives membership.] The State of Hawaii upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided,* That such temporary increase in the membership shall not operate to either increase or decrease the permanent

membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13), nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U.S.C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

"Sec. 9. [Judiciary provisions; amendment.] Effective upon the admission of the State of Hawaii into the Union—

"(a) the United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thenceforth be a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States: *Provided, however,* That the terms of office of the district judges for the district of Hawaii then in office shall terminate upon the effective date of this section and the President, pursuant to sections 133 and 134 of title 28, United States Code, as amended by this Act, shall appoint, by and with the advice and consent of the Senate, two district judges for the said district who shall hold office during good behavior;

"(b) the last paragraph of section 133 of title 28, United States Code, is repealed; and

"(c) subsection (a) of section 134 of title 28, United States Code, is amended by striking out the words 'Hawaii and'. The second sentence of the same section is amended by striking out the words 'Hawaii and', 'six and', and 'respectively'.

"Sec. 10. [Judicial provisions; amendment.] Effective upon the admission of the State of Hawaii into the Union the second paragraph of section 451 of title 28, United States Code, is amended by striking out the words 'including the district courts of the United States for the districts of Hawaii and Puerto Rico,' and inserting in lieu thereof the words 'including the United States District for the District of Puerto Rico,'.

"Sec. 11. [Judicial provisions; amendment.] Effective upon the admission of the State of Hawaii into the Union—

"(a) the last pargaraph of section 501 of title 28. United States Code, is repealed;

"(b) the first sentence of subsection (a) of section 504 of title 28, United States Code, is amended by striking out at the end thereof the words ', except in the district of Hawaii, where the term shall be six years';

"(c) the first sentence of subsection (c) of section 541 of title 28, United States Code, is amended by striking out at the end thereof the words ', except in the district of Hawaii where the term shall be six years'; and

"(d) subsection (d) of section 541 of title 28, United States Code, is repealed.

"Sec. 12. [Continuation of suits.] No writ, action, indictment, cause, or proceeding pending in any court of the Territory of Hawaii or in the United States District Court for the District of Hawaii shall abate by reason of the admission of said State into the Union, but the same shall be transferred to and proceeded with in such appropriate State courts as shall be established under the constitution of said State, or shall continue in the United States District Court for the District of Hawaii, as the nature of the case may require. And no writ, action, indictment, cause or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. And the appropriate State courts shall be the successors of the courts of the Territory as to all cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein, and all the files, records, indictments, and proceedings relating to any such writ, action, indictment, cause or proceeding shall be transferred to such appropriate State courts and the same shall be proceeded with therein in due course of law.

"All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no writ, action, indictment or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Hawaii in like manner, to the same exent, and with like right of appellate review, as if said State had been created and said State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of said State shall effect no change in the substantive or criminal law governing such causes of action and criminal offenses which shall have arisen or been committed; and such of said criminal offenses as shall have been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Hawaii.

"Sec. 13. [Appeals.] Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Hawaii or the Supreme Court of the Territory of Hawaii in any case finally decided prior to admission of said State into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided prior to admission of said State into the Union, and any mandate issued subsequent to the admission of said State shall be to the United States District Court for the District of Hawaii or a court of the State, as may be appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Hawaii and of the Supreme Court of the State of Hawaii as successor to the Supreme Court of the Territory of Hawaii, in any case pending at the time of admission of said State into the Union, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of said State into the Union.

"Sec. 14. [Judicial and criminal provisions; amendment.] Effective upon the admission of the State of Hawaii into the Union—

"(a) title 28, United States Code, section 1252, is amended by striking out 'Hawaii and' from the clause relating to courts of record;

"(b) title 28, United States Code, section 1293, is amended by striking out the words 'First and Ninth Circuits' and by inserting in lieu thereof 'First Circuit', and by striking out the words, 'supreme courts of Puerto Rico and Hawaii, respectively' and inserting in lieu thereof 'supreme court of Puerto Rico';

"(c) title 28, United States Code, section 1294, as amended, is further amended by striking out paragraph (4) thereof and by renumbering paragraphs (5) and (6) accordingly;

"(d) the first paragraph of section 373 of title 28, United States Code, as amended, is further amended by striking out the words 'United States District Courts for the districts of Hawaii or Puerto Rico,' and inserting in lieu thereof the words 'United States District Court for the District of Puerto Rico,'; and by striking out the words 'and any justice of the Supreme Court of the Territory of Hawaii': *Provided,* That the amendments made by this subsection shall not affect the rights of any judge or justice who may have retired before the effective date of this subsection: *And provided further,* That service as a judge of the District Court for the Territory of Hawaii or as a judge of the United States District Court for the District of Hawaii or as a justice of the Supreme Court of the Territory of Hawaii or as a judge of the circuit courts of the Territory of Hawaii shall be included in computing under section 371, 372, or 373 of title 28, United States Code, the aggregate years of judicial service of any person who is in office as a district judge for the District of Hawaii on the date of enactment of this Act;

"(e) section 92 of the Act of April 30, 1900 (ch. 339, 31 Stat. 159), as amended, and the Act of May 29, 1928 (ch. 904, 45 Stat. 997), as amended, are repealed;

"(f) section 86 of the Act approved April 30, 1900 (ch. 339, 31 Stat. 158), as amended, is repealed;

"(g) section 3771 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words 'Supreme Courts of Hawaii and Puerto Rico' and inserting in lieu thereof the words 'Supreme Court of Puerto Rico';

"(h) section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words 'Supreme Courts of Hawaii and Puerto Rico' and inserting in lieu thereof the words 'Supreme Court of Puerto Rico';

"(i) section 91 of title 28, United States Code, as heretofore amended, is further amended by inserting after 'Kure Island' and before 'Baker Island' the words 'Palmyra Island,': and

"(j) the Act of June 15, 1950 (64 Stat. 217; 48 U.S.C., sec. 644a), is amended by inserting after 'Kure Island' and before 'Baker Island' the words 'Palmyra Island.'

"Sec. 15. [Laws in effect.] All Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union shall continue in force in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawaii, except as provided in section 4 of this Act with respect to the Hawaiian Homes Commission Act, 1920, as amended; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States: *Provided,* That, except as herein otherwise provided, a Territorial law enacted by the Congress shall be terminated two years after the date of admission of the State of Hawaii into the Union or upon the effective date of any law enacted by the State of Hawaii which amends or repeals it, whichever may occur first. As used in this section, the term 'Territorial laws' includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, and the term 'laws of the United States' includes all laws or parts thereof enacted by the Congress that (1) apply to or within Hawaii at the time of its admission into the Union, (2) are not 'Territorial laws' as defined in this paragraph, and (3) are not in conflict with any other provision of this Act.

"Sec. 16. [Hawaii National Park; military and naval lands; civil and criminal jurisdiction.] (a) Notwithstanding the admission of the State of Hawaii into the Union, the United States shall continue to have sole and exclusive jurisdiction over the area which may then or thereafter be included in Hawaii National Park, saving, however, to the State of Hawaii the same rights as are reserved to the Territory of Hawaii by section 1 of the Act of April 19, 1930 (46 Stat. 227), and saving, further, to persons then or thereafter residing within such area the right to vote at all elections held within the political subdivisions where they respectively reside. Upon the admission of said State all references to the Territory of Hawaii in said Act or in other laws relating to Hawaii National Park shall be deemed to refer to the State of Hawaii. Nothing contained in this Act shall be construed to affect the ownership and control by the United States of any lands or other property within Hawaii National Park which may now belong to, or which may hereafter be acquired by, the United States.

"(b) Notwithstanding the admission of the State of Hawaii into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are controlled or owned by the United States and held for Defense or Coast Guard purposes, whether such lands were acquired by cession and transfer to the United States by the Republic of Hawaii and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Hawaii for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided,* (i) That the State of Hawaii shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Hawaii, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for Defense or Coast Guard purposes: *Provided, however,* That the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been heretofore or hereafter determined to be critical areas as delineated by the President of the United States and/or the Secretary of Defense.

"Sec. 17. [Federal Reserve Act; amendment.] The next to last sentence of the first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) as amended by section 19 of the Act of July 7, 1958, (72 Stat. 339, 350) is amended by inserting after the word 'Alaska' the words 'or Hawaii.'

"Sec. 18. [Maritime matters.] (a) Nothing contained in this Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Hawaii and other ports in the United States, or possessions, or as conferring on the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

"(b) Effective on the admission of the State of Hawaii into the Union—

"(1) the first sentence of section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1156), is amended by inserting before the words 'an island possession or island territory', the words 'the State of Hawaii, or';

"(2) section 605(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1175), is amended by inserting before the words 'an island possession or island territory', the words 'the State of Hawaii, or'; and

"(3) the second paragraph of section 714 of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1204), is amended by inserting before the words 'an island possession or island territory' the words 'the State of Hawaii, or'. (As amended Pub. L. 86–624, § 46, July 12, 1960, 74 Stat. 423.)

"Sec. 19. [United States Nationality.] Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, or restore nationality heretofore lost under any law of the United States or under any treaty to which the United States is or was a party.

"Sec. 20. [Immigration and Nationality Act; amendments.] (a) Section 101(a)(36) of the Immigration and Nationality Act (66 Stat. 170, 8 U.S.C., sec. 1101(a)(36)) is amended by deleting the word 'Hawaii,'.

"(b) Section 212(d)(7) of the Immigration and Nationality Act (66 Stat. 188, 8 U.S.C. 1182(d)(7) is amended by deleting from the first sentence thereof the word 'Hawaii,' and by deleting the proviso to said first sentence.

"(c) The first sentence of section 310(a) of the Immigration and Nationality Act, as amended (66 Stat. 239, 8 U.S.C. 1421(a), 72 Stat. 351) is further amended by deleting the words 'for the Territory of Hawaii, and'.

"(d) Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 305 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1405).

"Sec. 21. [Aircraft purchase loans.] Effective upon the admission of the State of Hawaii into the Union, section 3, subsection (b), of the Act of September 7, 1957 (71 Stat. 629), is amended by substituting the words 'State of Hawaii' for the words 'Territory of Hawaii'.

"Sec. 22. [Severability clause.] If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof in any circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word in other circumstances shall not be affected thereby.

"Sec. 23. [Repeal of inconsistent laws.] All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress, are hereby repealed."

HAWAII OMNIBUS ACT

Pub. L. 86-624, July 12, 1960, 74 Stat. 411, as amended, provided:

"[Sec. 1. Short Title.] That this Act may be cited as the 'Hawaii Omnibus Act'.

"Sec. 2. [Printing outside United States.] Subsection (a) of section 2 of the Act of August 1, 1956 (70 Stat. 890), is amended by striking out the words 'the continental United States' and inserting in lieu thereof the words 'the States of the United States and the District of Columbia'.

"Sec. 3. [Soil Bank Act; amendment.] Section 113 of the Soil Bank Act, as amended, is amended to read as follows: 'This subtitle B shall apply to the several States and, if the Secretary determines it to be in the national interest, to the Commonwealth of Puerto Rico and the Virgin Islands; and as used in this subtitle B, the term "State" includes Puerto Rico and the Virgin Islands.'

"Sec. 4. [Armed Forces; amendment.] (a) Title 10, United States Code, section 101(2), is amended by striking out the words 'Hawaii or'.

"(b) Title 10, United States Code, sections 802(11) and 802(12), are each amended by striking out the words 'the main group of the Hawaiian Islands,'.

"(c) Title 10, United States Code, section 2662(c), is amended by striking out the word ', Hawaii,'.

"(d) Title 10, United States Code is amended by striking out clause (6) of section 4744; by renumbering clauses (7) through (9) as clauses (6) through (8); by amending redesignated clause (8) to read as follows: 'The families of persons described in clauses (1), (2), (4), (5), and (7).'; and by striking out the words 'clause (8) or (9)' in the last sentence of such section and inserting in lieu thereof the words 'clause (7) or (8)'.

"Sec. 5. [Home Loan Bank Board.] (a) Paragraph (3) of section 2 of the Federal Home Loan Bank Act, as amended, is further amended by striking out the words 'the Virgin Islands of the United States, and the Territory of Hawaii' and by inserting in lieu thereof the words 'and the Virgin Islands of the United States'.

"(b) Section 7 of the Home Owners' Loan Act of 1933, as amended, is further amended by striking out the words 'Territory of Hawaii' and inserting in lieu thereof the words 'State of Hawaii'.

"Sec. 6. [National Housing Act; amendment.] The National Housing Act is amended by striking out the word 'Hawaii,' in sections 9, 210(d), 207(a)(7), 601(d), 713(q), and 801(g).

"Sec. 7. [Securities and Exchange Commission.] (a) Paragraph (6) of section 2 of the Securities Act of 1933, as amended, is further amended by striking out the word 'Hawaii,'.

"(b) Paragraph (16) of section 3(a) of the Securities Exchange Act of 1934, as amended, is further amended by striking out the word 'Hawaii,'.

"(c) Paragraph (37) of section 2(a) and paragraph (1) of section 6(a) of the Investment Company Act of 1940, as amended, are each amended by striking out the word 'Hawaii,'.

"(d) Paragraph (18) of section 202(a) of the Investment Advisers Act of 1940, as amended, is further amended by striking out the word 'Hawaii,'.

"Sec. 8. [Soil Conservation and Domestic Allotment Act; amendment.] (a) Section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, is further amended by striking out the words 'in the continental United States, except in Alaska,' and inserting in lieu thereof the words 'in the States of the Union, except Alaska,'.

"(b) Section 17(a) of the Soil Conservation and Domestic Allotment Act, as amended, is further amended to read as follows: 'This Act shall apply to the States, the Commonwealth of Puerto Rico, and the Virgin Islands, and, as used in this Act, the term 'State' includes Puerto Rico and the Virgin Islands.'

"Sec. 9. [Water Storage and Utilization.] Section 1 of the Act of August 28, 1937 (50 Stat. 869), as amended, is further amended by striking out the words 'the United States, including the Territories of Alaska and Hawaii, and Puerto Rico and the Virgin Islands' and inserting in lieu thereof the words 'the States of the United States and in Puerto Rico and the Virgin Islands'.

"Sec. 10. [Wildlife Restoration.] Section 2 of the Act of September 2, 1937 (50 Stat. 917), as amended, is further amended by striking out the words '; and the term "State" shall be construed to mean and include the several States and the Territory of Hawaii'.

"Sec. 11. [Fishery Resources.] The Act of August 4, 1947 (61 Stat. 726), is amended—

"(a) by striking out the words 'the Territories and island possessions of the United States' and inserting in lieu thereof the words 'the United States and its island possessions' in section 1 and 2;

"(b) by striking out the words 'Territory of Hawaii and' in section 1;

"(c) by striking out the word 'Territorial' and inserting in lieu thereof the word 'State' in section 3; and

"(d) by striking out the words 'Hawaiian Islands' and 'Territory of Hawaii' and inserting in lieu thereof, in both cases, the words 'State of Hawaii' in section 4.

"Sec. 12. [Fish Restoration.] Section 2(d) of the Act of August 9, 1950 (64 Stat. 431), as amended, is further amended by striking out the words '; and the term "State" shall be construed to mean and include the several States and the Territory of Hawaii'.

"Sec. 13. [Criminal Code; amendments.] (a) Title 18, United States Code, section 1401, is amended by striking out the words 'the Territory of Alaska, the Territory of Hawaii,'.

"(b) Title 18, United States Code, section 5024, is amended by striking out the words preceding the first comma and inserting in lieu thereof the words 'This chapter shall apply in the States of the United States'.

"(c) Section 6 of Public Law 85-752, as amended, is further amended by striking out the words preceding the first comma and inserting in lieu thereof the words 'Sections 3 and 4 of this Act shall apply in the States of the United States'.

"Sec. 14. [Education.] (a)(1) Subsection (a) of section 103 of the National Defense Education Act of 1958, relating to definition of State, is amended by striking out 'Hawaii,' each time it appears therein.

"(2)(A) Paragraph (2), and subparagraph (C) of paragraph (3), of subsection (a) of section 302 of such Act, relating to allotments for science, mathematics, and foreign language instruction equipment, are each amended by striking out 'continental United States' each time it appears therein and inserting in lieu thereof 'United States'.

"(B) Effective in the case of promulgations of allotment ratios made, under section 302 of such Act, after enactment of this Act and before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, subparagraph B of such paragraph (3) is amended to read:

"'(B) The term "United States" means the continental United States (excluding Alaska and Hawaii'.

"(C) Effective in the case of promulgations of allotment ratios made under such section 302 after such data for a full year are available from the Department of Commerce, subparagraph (B) of such paragraph (3) is amended to read:

"'(B) The term "United States" means the fifty States and the District of Columbia.'

"Promulgations of allotment ratios made under such section 302 after such data for a full year are available from the Department of Commerce, but before such data are available therefrom for a full three-year period, shall

be based on such data for such one full year, or when such data are available for a two-year period, for such two years.

"(3) Section 1008 of such Act, relating to allotments to territories, is amended by striking out 'Hawaii,'.

"(b)(1) Section 4 of the Act of March 10, 1924 (43 Stat. 18), extending the benefits of the Smith-Hughes vocational education law to Hawaii, is repealed.

"(2) The last sentence of section 2 of the Act of February 23, 1917 (39 Stat. 930), relating to allotments for salaries of teachers of agricultural subjects, is amended by striking out '$27,000' and inserting in lieu thereof '$28,500'. The last sentence of section 4 of such Act, as amended, relating to allotments for teacher training, is amended by striking out '$98,500' and inserting in lieu thereof '$105,200'.

"(3) Paragraph (1) of section 2 of the Vocational Education Act of 1946, relating to definition of States and Territories, is amended by striking out 'the Territory of Hawaii,'.

"(4) Subsection (e) of section 210 and subsection (a) of section 307 of such Act, relating to definition of State are each amended by striking out 'Hawaii,'.

"(c) Paragraph (13) of section 15 of the Act of September 23, 1950 (64 Stat. 967), as amended, relating to definition of State, is amended by striking out 'Hawaii,'.

"(d)(1) The material in the parentheses in the first sentence of subsection (d) of section 3 of the Act of September 30, 1950, as amended, relating to determination of local contribution rate, is amended to read: '(other than a local educational agency in Puerto Rico, Wake Island, Guam, or the Virgin Islands, or in a State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in a State in which there is only one local educational agency)'.

"(2) The fourth sentence of such subsection is amended by striking out 'in the continental United States (including Alaska)' and inserting in lieu thereof '(other than Puerto Rico, Wake Island, Guam, or the Virgin Islands)' and by striking out 'continental United States' in clause (ii) of such sentence and inserting in lieu thereof 'United States (which for purposes of this sentence and the next sentence means the fifty States and the District of Columbia)'. The fifth sentence of such subsection is amended by striking out 'continental' before 'United States' each time it appears therein and by striking out '(including Alaska)'.

"(3) The last sentence of such subsection is amended by striking out 'Hawaii,' and by inserting after 'for which a State agency is the local educational agency,' the following: 'or in any State in which there is only one local educational agency,'.

"(4) Paragraph (8) of section 9 of such Act, relating to definition of State, is amended by striking out 'Hawaii,'.

"(e) Notwithstanding the last sentence of subsection (b) of section 5 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4; Public Law 86-3), there is hereby authorized to be appropriated to the State of Hawaii the sum of $6,000,000. Amounts appropriated under this subsection shall be held and considered to be granted to such State subject to those provisions of the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts', approved July 2, 1862 (7 U.S.C. 301—308), applicable to the proceeds from the sale of land or land scrip.

"Sec. 15. [Importation of Milk and Cream.] Subsection (b) of section 9 of the Act of February 15, 1927 (44 Stat. 1103), as amended, is amended to read:

"'(b) 'The term "United States" means the fifty States and the District of Columbia.'

"Sec. 16. [Opium Poppy Control.] Section 12 of the Opium Poppy Control Act of 1942, as amended, is further amended by deleting therefrom the words 'the Territory of Hawaii,'.

"Sec. 17. [Highways.] (a) The definition of the term 'State' in title 23, United States Code, section 101(a), is amended to read as follows:

"'The term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.'

"(b) Sections 103(g) and 105(e) of title 23, United States Code, are repealed.

"(c) Section 103(d) of title 23, United States Code, is amended to read as follows:

"'(d) The Interstate System shall be designated within the United States, including the District of Columbia, and it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense and, to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (e) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.'

"(d) Notwithstanding any other provision of law, for the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with section 103(d) of title 23, United States Code, as amended by section 1 of this Act, the sum of $12,375,000 shall be apportioned to the State of Hawaii out of the sum authorized to be appropriated for the Interstate System for the fiscal year ending June 30, 1962, under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), as amended by section 7(a) of the Federal-Aid Highway Act of 1958 (72 Stat. 89), such apportionment to be made at the same time such funds are apportioned to other States. The total sum to be apportioned under section 104(b)(5) of title 23, United States Code, for the fiscal year ending June 30, 1962, among the States other than Hawaii, shall be reduced by said sum apportioned to the State of Hawaii under this section. The Secretary of Commerce shall apportion funds to the State of Hawaii for the Interstate System for the fiscal year 1963 and subsequent fiscal years pursuant to the provisions of said section 104(b)(5) of title 23, United States Code, and, in preparing the estimates required by that section, he shall take into account the apportionment made to the State of Hawaii under this section.

"(e) Section 127 of title 23, United States Code, is amended by adding at the end thereof the following sentence: 'With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.'

"Sec. 18. [Internal Revenue.] (a) Section 4262(c)(1) of the Internal Revenue Code of 1954 (relating to the definition of 'continental United States' for purposes of the tax on transportation of persons) is amended to read as follows:

"'(1) Continental United States.—The term "continental United States" means the District of Columbia and the States other than Alaska and Hawaii.'

"(b) Section 2202 of the Internal Revenue Code of 1954 (relating to missionaries in foreign service) is amended by striking out 'the State, the District of Columbia, or Hawaii' and inserting in lieu thereof 'the State or the District of Columbia'.

"(c) Section 3121(e)(1) of the Internal Revenue Code of 1954 (relating to a special definition of 'State') is amended by striking out 'Hawaii,'.

"(d) Sections 3306(j) and 4233(b) of the Internal Revenue Code of 1954 (each relating to a special definition of 'State') are amended by striking out 'Hawaii, and'.

"(e) Section 4221(d)(4) of the Internal Revenue Code of 1954 (relating to a special definition of 'State or local government') is amended to read as follows:

"'(4) State or local government.—The term "State or local government" means any State, any political subdivision thereof, or the District of Columbia.'

"(f) Section 4502(5) of the Internal Revenue Code of 1954 (relating to definition of 'United States') is amended by striking out 'the Territory of Hawaii,'.

"(g) Section 4774 of the Internal Revenue Code of 1954 (relating to territorial extent of law) is amended by striking out 'the Territory of Hawaii,'.

"(h) Section 7653(d) of the Internal Revenue Code of 1954 (relating to shipments from the United States) is amended by striking out ', its possessions or the Territory of Hawaii' and inserting in lieu thereof 'or its possessions'.

"(i) Section 7701(a)(9) of the Internal Revenue Code of 1954 (relating to definition of 'United States') is amended by striking out ', the Territory of Hawaii,'.

"(j) Section 7701(a)(10) of the Internal Revenue Code of 1954 (relating to definition of 'State') is amended by striking out 'the Territory of Hawaii and'.

"(k) The amendments contained in subsections (a) through (j) of this section shall be effective as of August 21, 1959.

"Sec. 19. [Courts; Kure Island.] Title 28, United States Code, section 91, and the Act of June 15, 1950 (64 Stat. 217), as amended, are each amended by striking out the words 'Kure Island,'.

"Sec. 20. [Vocational Rehabilitation Act; amendment.] (a) Subsection (g) of section 11 of the Vocational Rehabilitation Act, relating to definition of 'State', is amended by striking out 'Hawaii,'.

"(b)(1) Subsections (h) and (i) of such section, relating to definition of allotment percentages and Federal shares for purposes of allotment and matching for vocational rehabilitation services grants, are each amended by striking out 'continental United States' and inserting in lieu thereof 'United States' and by striking out '(including Alaska)'.

"(2) Paragraph (1) of such subsection (h) is further amended by striking out 'the allotment percentage for Hawaii shall be 50 per centum, and' in clause (B).

"(3) Subsection (h) of such section is further amended by adding at the end thereof the following new paragraphs:

"'(3) Promulgations of allotment percentages and computations of Federal shares made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe for Alaska an allotment percentage of 75 per centum and a Federal share of 60 per centum and, for purposes of such promulgations and computations, Alaska shall not be included as part of the "United States". Promulgations and computations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

"'(4) The term "United States" means (but only for purposes of this subsection and subsection (i)) the fifty States and the District of Columbia.'

"(4) Subsection (i) of such section is further amended by striking out 'the Federal share for Hawaii shall be 60 per centum, and' in clause (B).

"Sec. 21. [Labor.] (a) Section 3(b) of the Act of June 6, 1933 (48 Stat. 114), as amended, is further amended by striking out the words 'Hawaii, Alaska,'.

"(b) Section 13(f) of the Fair Labor Standards Act, as amended, is further amended by striking out the words 'Alaska; Hawaii;'.

"(c) Section 17 of the Fair Labor Standards Act, as amended, is further amended by striking out the words 'the District Court for the Territory of Alaska,'.

"(d) Section 3(a)(9) of the Welfare and Pension Plans Disclosure Act is amended by striking out the word 'Hawaii,'.

"Sec. 22. [National Guard.] Title 32, United States Code, section 101(1), is amended by striking out the words 'Hawaii or'.

"Sec. 23. [Water Pollution Control Act; amendment.] (a)(1) Subsection (h) of section 5 of the Federal Water Pollution Control Act, relating to Federal share for purposes of program operation grants, is amended by striking out 'continental United States' and inserting in lieu thereof 'United States', by striking out '(including Alaska)', and by striking out, in clause (B) of paragraph (1), 'for Hawaii shall be 50 per centum, and'.

"(2) Such subsection is further amended by adding at the end thereof the following new paragraphs:

"'(3) As used in this subsection, the term "United States" means the fifty States and the District of Columbia.

"'(4) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States." Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available for the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or when such data are available for a two-year period, for such two years.'

"(b) Subsection (d) of section 11 of such Act, relating to definition of 'State', is amended by striking out 'Hawaii,'.

"Sec. 24. [Coast and Geodetic Survey.] The first sentence of section 1 of the Act of August 3, 1956 (70 Stat. 988), is amended by striking out the words 'the several States' and inserting in lieu thereof the words 'the States of the continental United States, excluding Alaska.'

"Sec. 25. [Veterans' Administration.] (a) Title 33, United States Code, section 624(a), is amended by striking out the words 'outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States' and inserting in lieu thereof 'outside any State'.

"(b) The first sentence of title 38, United States Code, section 903(b), is amended to read as follows: 'In addition to the foregoing, when such a death occurs in the continental United States or Hawaii, the Administrator shall transport the body to the place of burial in the continental United States or Hawaii.'

"(c) Title 38, United States Code, section 2007(c), is amended by striking out the word 'Hawaii,'.

"Sec. 26. [Davis-Bacon Act; amendment.] Section 1 of the Act of March 3, 1931 (46 Stat. 1494), as amended, is further amended by striking out the words ', the Territory of Alaska, the Territory of Hawaii,' and the words ', or the Territory of Alaska, or the Territory of Hawaii.'

"Sec. 27. [Federal Property and Administrative Services Act; amendment.] The Federal Property and Administrative Services Act of 1949, as amended, is further amended by—

"(a) striking out the words 'continental United States (including Alaska), Hawaii,' in section 3(f) and inserting in lieu thereof the words 'States of the Union, the District of Columbia,';

"(b) striking out the words 'continental United States, its Territories, and possessions' in section 211(j) and inserting in lieu thereof the words 'States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States';

"(c) striking out the words 'continental limits of the United States' in section 404(c) and inserting in lieu thereof the words 'States of the Union and the District of Columbia'; and

"(d) striking out the words 'and the Territory of Hawaii' in section 702(a).

"Sec. 28. [Buy American Act; amendment.] Section 1(b) of title III of the Act of March 3, 1933 (47 Stat. 1520), as amended, is amended by striking out the word 'Hawaii,'.

"Sec. 29. [Public Health Service Act; amendment.] (a) Subsection (f) of section 2 of the Public Health Service Act, relating to definition of State, is amended by striking out 'Hawaii,'.

"(b) The first sentence of section 331 of such Act, relating to receipt and treatment of lepers, is amended by striking out ', Territory, or the District of Columbia'. The fifth sentence of such section is amended by striking out 'the Territory of Hawaii' and inserting in lieu thereof 'Hawaii'.

"(c) Subsection (c) of section 361 of such Act, relating to regulations governing apprehension and detention of

persons to prevent the spread of a communicable disease, is amended by striking out ', the Territory of Hawaii,'.

"(d)(1) Clause (2) of subsection (a) of section 631 of such Act, relating to definition of allotment percentage for purposes of allotments for construction of hospitals and other medical service facilities, is amended by striking out 'the allotment percentage for Hawaii shall be 50 per centum, and'.

"(2) Such subsection is further amended by striking out 'continental United States (including Alaska)' and inserting in lieu thereof 'United States'.

"(3) Subsection (b) of such section, relating to promulgation of allotment percentages, is amended by striking out 'continental United States' and inserting in lieu thereof 'United States'. Such subsection is further amended by inserting '(1)' after '(b)' and by adding at the end thereof the following new paragraphs:

"'(2) The term "United States" means (but only for purposes of this subsection and subsection (a)) the fifty States and the District of Columbia;

"'(3) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe an allotment percentage for Alaska of 50 per centum and, for purposes of such promulgation, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years;'.

"(4) Subsection (d) of such section, relating to definition of State, is further amended by striking out 'Hawaii,'.

"Sec. 30. [Social Security Act; amendment.] (a)(1) Paragraph (8) of subsection (a) of section 1101 of the Social Security Act, relating to definition of Federal percentage for purposes of matching for public assistance grants, is amended by striking out 'continental United States (including Alaska)' and inserting in lieu thereof 'United States'.

"(2) Subparagraph (A) of such paragraph is further amended by striking out '(i)' and by striking out ', and (ii) the Federal percentage shall be 50 per centum for Hawaii'.

"(3) Such paragraph is further amended by adding after subparagraph (B) the following new subparagraphs:

"'(C) The term "United States" means (but only for purposes of subparagraphs (A) and (B) of this paragraph) the fifty States and the District of Columbia.

"'(D) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal percentage for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.'

"(b)(1) Subsections (a), (b), and (c) of section 524 of such Act, relating to the definition of allotment percentages and Federal shares for purposes of allotment and matching for child welfare services grants, are each amended by striking out 'continental United States (including Alaska)' and inserting in lieu thereof 'United States'.

"(2) Such section is further amended by adding after subsection (c) the following new subsections:

"'(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

"'(e) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.'

"(c)(1) The last sentence of subsection (i) of section 202 of the Social Security Act is amended by striking out 'forty-nine' and inserting in lieu thereof 'fifty'.

"(2) Subsections (h) and (i) of section 210 of such Act relating to definitions of State and United States for purposes of old-age, survivors, and disability insurance, are each amended by striking out 'Hawaii,'. Such subsection (h) is further amended by striking out the comma after 'District of Columbia'.

"(d)(1) Paragraph (1) of subsection (a) of section 1101 of such Act, relating to definition of State, is amended by striking out 'Hawaii and'.

"(2) Paragraph (2) of such subsection, as amended, relating to definition of 'United States', is amended by striking out ', Hawaii,'.

"(e) Subparagraph (C) and (G) of paragraph (6) of subsection (d) of section 218 of the Social Security Act, as amended, are each further amended by striking out 'the Territory of' and 'or Territory' each time they appear therein.

"(f) Subsection (p) of such section is amended by striking out 'Territory of'.

"(g) The last sentence of subsection (a) of section 1501 of the Social Security Act is amended by striking out 'Alaska, Hawaii,'.

"Sec. 31. [Small Reclamation Projects.] The Small Reclamation Projects Act of 1956 (70 Stat. 1044), as heretofore and hereafter amended, shall apply to the State of Hawaii.

"Sec. 32. [Congressional Record.] Section 73 of the Act of January 12, 1895 (28 Stat. 617), amended, is further amended by striking out the word 'Hawaii,'.

"Sec. 33. [Federal Register.] Section 8 of the Federal Register Act (49 Stat. 502), as amended, is further amended by striking out the words 'continental United States (including Alaska)' and inserting in lieu thereof the words 'States of the Union and the District of Columbia'.

"Sec. 34. [Home Port of Vessels.] Section 1 of the Act of February 16, 1925 (43 Stat. 947), as amended, is further amended by striking out the words 'Alaska, Hawaii, and'.

"Sec. 35. [Merchant Marine Act, 1936.] (a) Subsection (a) of section 505 of the Merchant Marine Act, 1936, as amended, is further amended by adding at the end thereof the following new sentence: 'For the purposes of this subsection, the term "continental limits of the United States" includes the States of Alaska and Hawaii.'

"(b) Section 606 of such Act, as amended, is further amended by adding at the end thereof the following new sentence: 'For the purposes of this section, the term "continental limits of the United States" includes the States of Alaska and Hawaii.'

"(c) Section 702 of such Act, as amended, is further amended by adding at the end thereof the following new sentence: 'For the purposes of this section, the term "continental United States" includes the States of Alaska and Hawaii.'

"Sec. 36. [Communications Act; amendment.] Section 222(a)(10) of the Communications Act of 1934, is amended by striking out the words 'the several States and the District of Columbia' and inserting in lieu thereof the words 'the District of Columbia and the States of the Union, except Hawaii'.

"Sec. 37. [Aircraft Loan Guarantees.] Section 3 of the Act of September 7, 1957 (71 Stat. 629), as amended, is further amended by striking out the words 'Territory of Hawaii' and inserting in lieu thereof the words 'State of Hawaii'.

"Sec. 38. [Real property transactions.] Section 43(c) of the Act of August 10, 1956 (70A Stat. 636), as amended is further amended by striking out the words 'United States, Hawaii,' and inserting in lieu thereof the words 'States of the Union, the District of Columbia,'.

"Sec. 39. [Selective service.] Section 16(b) of the Universal Military Training and Service Act, as amended, is further amended by striking out the word 'Hawaii,'.

"Sec. 40. [Reports on Federal Land Use.] The President shall prescribe procedures to assure that the reports

to be submitted to him by Federal agencies pursuant to section 5(e) of the Act of March 18, 1959 (73 Stat. 6), providing for the admission of the State of Hawaii into the Union, shall be prepared in accordance with uniform policies and coordinated within the executive branch.

"Sec. 41 [Hawaiian Homes Commission Lands.] Section 5(b) of the Act of March 18, 1959 (73 Stat. 5), is amended by inserting, immediately following the words 'public property' the words ', and to all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended,'.

"Sec. 42. [Lease by United States of Public Property of Hawaii.] Until August 21, 1964, there shall be covered into the treasury of the State of Hawaii the rentals or consideration received by the United States with respect to public property taken for the uses and purposes of the United States under section 91 of the Hawaii Organic Act and thereafter by the United States leased, rented, or granted upon revocable permits to private parties.

"Sec. 43. [Transfer of Records.] (a) There are hereby transferred to the State of Hawaii all records and other papers that were made or received by any Federal or territorial agency, or any predecessor thereof, in connection with the performance of functions assumed in whole or in substantial part by the State of Hawaii. There are hereby also transferred to the State of Hawaii all records and other papers in the custody of the Public Archives of Hawaii that were made or received by any Federal agency.

"(b) There are also hereby transferred to the State of Hawaii all books, publications, and legal reference materials which are owned by the United States and which were, prior to the admission of Hawaii to the Union, placed in the custody of courts, libraries, or territorial agencies in Hawaii in order to facilitate the performance of functions conferred on such courts or agencies by Federal law.

"Sec. 44. [Use of G.S.A. Services or Facilities.] The Administrator of General Services is authorized to make available to the State of Hawaii such services or facilities as are determined by the Administrator to be necessary for an interim period, pending provision of such services or facilities by the State of Hawaii. Such interim period shall not extend beyond August 21, 1964. Payment shall be made to the General Services Administration by the State of Hawaii for the cost of such services or facilities to the Federal Government, as determined by the Administrator.

"Sec. 45. [Purchase of Typewriters.] Title I of the Independent Offices Appropriation Act, 1960, is amended by striking out the words 'for the purchase within the continental limits of the United States of any typewriting machines' and inserting in lieu thereof 'for the purchase within the States of the Union and the District of Columbia of any typewriting machines'.

"Sec. 46. [Federal Maritime Board.] Section 18(a) of the Act of March 18, 1959 (73 Stat. 12), providing for the admission of the State of Hawaii into the Union, is amended by striking out the words 'or is conferring' and inserting in lieu thereof the words 'or as conferring'.

"Sec. 47. [Effective Dates.] (a) The amendments made by section 14(a)(2)(A), by section 23(a), by paragraphs (1), (2), and (3) of section 29(d), by subsection (b), and paragraphs (1) and (3) of subsection (a), of section 30, and, except as provided in subsection (g) of this section, by section 20(b) shall be applicable in the case of promulgations or computations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after August 21, 1959.

"(b) The amendments made by paragraph (2) of section 30(a) shall be effective with the beginning of the calendar quarter in which this Act is enacted. The Secretary of Health, Education, and Welfare shall, as soon as possible after enactment of this Act, promulgate a Federal percentage for Hawaii determined in accordance with the provisions of subparagraph (B) of section 1101 (a)(8) of the Social Security Act, such promulgation to be effective for the period beginning with the beginning of the calendar quarter in which this Act is enacted and ending with the close of June 30, 1961.

"(c) The amendment made by paragraphs (1) and (2) of subsection (b) and paragraphs (1), (2), and (3) of subsection (d) of section 14 shall be applicable in the case of fiscal years beginning after June 30, 1960.

"(d) The amendments made by paragraphs (1) and (3) of section 14(a) shall be applicable, in the case of allotments under section 302(b) or 502 of the National Defense Education Act of 1958, for fiscal years beginning after June 30, 1960, and, in the case of allotments under section 302(a) of such Act, for fiscal years beginning after allotment ratios, to which the amendment made by paragraph (2) of section 14(a) is applicable, are promulgated under such section 302(a).

"(e) The amendment made by section 30(c)(1) shall be applicable in the case of deaths occurring on or after August 21, 1959.

"(f) The amendments made by subsection (c), paragraphs (3) and (4) of subsection (b), and paragraph (4) of subsection (d) of section 14, by section 20(a), by section 23(b), by subsections (a), (b), and (c), and paragraph (4) of subsection (d), of section 29, and by subsection (d), and paragraph (2) of subsection (c), of section 30 shall become effective on August 21, 1959.

"(g)(1) The allotment percentage determined for Alaska under section 11(h) of the Vocational Rehabilitation Act, as amended by this Act, for the first, second, third, and fourth years for which such percentage is based on the per capita income data for Alaska shall be increased by 76 per centum, 64 per centum, 52 per centum, and 28 per centum, respectively, of the difference between such allotment percentage for the year involved and 75 per centum.

"(2) The Federal share for Alaska determined under section 11(i) of the Vocational Rehabilitation Act, as amended by this Act, for the first year for which such Federal share is based on per capita income data for Alaska shall be increased by 70 per centum of the difference between such Federal share for such year and 60 per centum.

"(3) If such first year for which such Federal share is based on per capita income data for Alaska is any fiscal year ending prior to July 1, 1962, the adjusted Federal share for Alaska for such year for purposes of section 2(b) of the Vocational Rehabilitation Act shall notwithstanding the provisions of paragraph (3)(A) of such section 2(b), be the Federal share determined pursuant to paragraph (2) of this subsection.

"(4) Section 47(c) of the Alaska Omnibus Act (Public Law 86-70) is repealed.

"Sec. 48. [Administration of Palmyra, Midway, and Wake Islands.] Until Congress shall provide for the government of Palmyra Island, Midway Island, and Wake Island, all executive and legislative authority necessary for the civil administration of Palmyra Island, Midway Island and Wake Island, and all judicial authority other than that contained in the Act of June 15, 1950 (64 Stat. 217), as amended, shall continue to be vested in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize. In the case of Palmyra Island, such person or persons may confer upon the United States District Court for the District of Hawaii such jurisdiction (in addition to that contained in such Act of June 15, 1950), and such judicial functions and duties as he or they may deem appropriate for the civil administration of such island.

"Sec. 49. [Other Subjects.] The amendment by this Act of certain statutes by deleting therefrom specific references to Hawaii or such phrases as 'Territory of Hawaii' shall not be construed to affect the applicability or inapplicability in or to Hawaii of other statutes not so amended.

"Sec. 50. [Separability.] If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

Conveyance of Certain Surplus Federal Lands in Hawaii

Pub. L. 88-233, Dec. 23, 1963, 77 Stat. 472

"Sec. 1. [Procedure for conveyance to Hawaii of surplus Federal lands held as ceded, Statehood, permit and Sand Island lands; terms and conditions; monetary consideration; fair market value for improvements; disposal

under other applicable laws; proportional payment of proceeds.] That (a)(i) whenever after August 21, 1964, any of the public lands and other public property as defined in section 5(g) of Public Law 86–3 (73 Stat. 4, 6) [set out as a note preceding section 491 of this title], or any lands acquired by the Territory of Hawaii and its subdivisions, which are the property of the United States pursuant to section 5(c) or become the property of the United States pursuant to section 5(d) of Public Law 86–3, except the lands administered pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended [sections 1—4 of Title 16], and (ii) whenever any of the lands of the United States on Sand Island, including the reef lands in connection therewith, in the city and county of Honolulu, are determined to be surplus property by the Administrator of General Services (hereinafter referred to as the "Administrator") with the concurrence of the head of the department or agency exercising administration or control over such lands and property, they shall be conveyed to the State of Hawaii by the Administrator subject to the provisions of this Act.

"(b) Such lands and property shall be conveyed without monetary consideration, but subject to such other terms and conditions as the Administrator may prescribe: *Provided,* That, as a condition precedent to the conveyance of such lands, the Administrator shall require payment by the State of Hawaii of the estimated fair market value, as determined by the Administrator, of any buildings, structures, and other improvements erected and made on such lands after they were set aside. In the event that the State of Hawaii does not agree to any payment prescribed by the Administrator, he may remove, relocate, and otherwise dispose of any such buildings, structures, and other improvements under other applicable laws, or if the Administrator determines that they cannot be removed without substantial damage to them or the lands containing them, he may dispose of them and the lands involved under other applicable laws, but, in such cases he shall pay to the State of Hawaii that portion of any proceeds from such disposal which he estimates to be equal to the value of the lands involved. Nothing in this section shall prevent the disposal by the Administrator under other applicable laws of the lands subject to conveyance to the State of Hawaii under this section if the State of Hawaii so chooses.

"Sec. 2. [Public trust; terms and conditions.] Any lands, property, improvements, and proceeds conveyed or paid to the State of Hawaii under section 1 of this Act shall be considered a part of public trust established by section 5(f) of Public Law 86–3, and shall be subject to the terms and conditions of that trust."

PROC. NO. 3309. ADMISSION OF THE STATE OF HAWAII INTO THE UNION

Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, provided:

WHEREAS the Congress of the United States by the act approved on March 18, 1959 (73 Stat. 4), accepted, ratified, and confirmed the constitution adopted by a vote of the people of Hawaii in an election held on November 7, 1950, and provided for the admission of the State of Hawaii into the Union on an equal footing with the other States upon compliance with certain procedural requirements specified in that act; and

WHEREAS it appears from the information before me that a majority of the legal votes cast at an election on June 27, 1959, were in favor of each of the propositions required to be submitted to the people of Hawaii by section 7(b) of the act of March 18, 1959; and

WHEREAS it further appears from information before me that a general election was held on July 28, 1959, and that the returns of the general election were made and certified as provided in the act of March 18, 1959; and

WHEREAS the Governor of Hawaii has certified to me the results of the submission to the people of Hawaii of the three propositions set forth in section 7(b) of the act of March 18, 1959, and the results of the general election; and

WHEREAS I find and announce that the people of Hawaii have duly adopted the propositions required to be submitted to them by the act of March 18, 1959, and have duly elected the officers required to be elected by that act:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby declare and proclaim that the procedural requirements imposed by the Congress on the State of Hawaii to entitle that State to admission into the Union have been complied with in all respects and that admission of the State of Hawaii into the Union on an equal footing with the other States of the Union is now accomplished.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington at four p.m. E.D.T. on this twenty-first day of August in the year of our [SEAL] Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

EX. ORD. NO. 11048. ADMINISTRATION OF WAKE ISLAND AND MIDWAY ISLAND

Ex. Ord. No. 11048, Sept. 5, 1962, 27 F.R. 8851, provided:

By virtue of the authority vested in me by section 48 of the Hawaii Omnibus Act (approved July 12, 1960; 74 Stat. 424; P.L. 86–624) and section 301 of title 3 of the United States Code and as President of the United States, it is hereby ordered as follows:

PART I—WAKE ISLAND

SECTION 101. The Secretary of the Interior shall be responsible for the civil administration of Wake Island and all executive and legislative authority necessary for that administration, and all judicial authority respecting Wake Island other than the authority contained in the act of June 15, 1950 (64 Stat. 217), as amended (48 U.S.C. 644a), shall be vested in the Secretary of the Interior.

SEC. 102. The executive, legislative, and judicial authority provided for in section 101 of this order (1) may be exercised through such agency or agencies of the Department of the Interior, or through such officers or employees under the jurisdiction of the Secretary of the Interior, as the Secretary may direct or authorize, (2) may be exercised through such agency or agencies, other than or not in the Department of the Interior, or through such officers or employees of the United States not under the administrative supervision of the Secretary, for such time and under such conditions as may be agreed upon between the Secretary and such agency, agencies, officers or employees of the United States, and (3) shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

SEC. 103. Executive Order No. 6935 of December 29, 1934, to the extent that it pertains to Wake Island, is hereby superseded.

PART II—MIDWAY ISLAND

SECTION 201. The Secretary of the Navy shall be responsible for the civil administration of Midway Island and all executive and legislative authority necessary for that administration, and all judicial authority respecting Midway Island other than the authority contained in the act of June 15, 1950 (64 Stat. 217), as amended (48 U.S.C. 644a) shall be vested in the Secretary of the Navy.

SEC. 202. The executive, legislative, and judicial authority provided for in section 201 of this order shall be exercised through such agency or agencies of the Navy Department, or through such officers or employees under the jurisdiction of the Secretary of the Navy, as the Secretary may direct or authorize, and shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

SEC. 203. Such public lands on the Midway Islands, Hawaiian group, between the parallels of 28°5′ and 28°25′ North latitude, and between the meridians of 177°10′ and 177°80′ West longitude, as were placed under the jurisdiction and control of the Navy Department by the provisions of Executive Order No. 199–A of January 20, 1903, are hereby continued under the jurisdiction and control of that Department. Executive Order No. 199–A is hereby superseded.

PART III—MISCELLANEOUS PROVISIONS

SECTION 301. The provisions of each of the foregoing Parts of this order shall continue in force until the Congress shall provide for the civil administration of the affected Island or until such earlier time as the President may specify.

SEC. 302. As used herein, the terms "Wake Island" and "Midway Island" include the reefs appurtenant to, and the territorial waters of, Wake Island and Midway Island, respectively.

SEC. 303. To the extent that any prior Executive order or proclamation is inconsistent with the provisions of this order, this order shall control.

SEC. 304. This order shall not be deemed to affect Executive Order No. 9709 of March 29, 1946, or Executive Order No. 9797 of November 6, 1946.

SEC. 305. Nothing in this order shall be deemed to reduce, limit, or otherwise modify the authority or responsibility of the Attorney General to represent the legal interests of the United States in civil or criminal cases arising under the provisons of the act of June 15, 1950.

JOHN F. KENNEDY

DELEGATION OF FUNCTIONS

Functions of the President under section 5(e) of the Hawaii Statehood Act of March 18, 1959, delegated to the Director of the Bureau of the Budget [now Office of Management and Budget], see section 1(28) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

§§ 491 to 724. Omitted or repealed.

CODIFICATION

Sections 491—724 of this title, applicable to the Territory of Hawaii, are omitted from this title since the scope of this title limits it to general and permanent laws applicable to Territories and Insular Possessions, and Hawaii was admitted into the Union as a State on August 21, 1959. See the notes following the heading of this chapter.

Section 491, act Apr. 30, 1900, ch. 339, § 2, 31 Stat. 141, gave the name Territory of Hawaii to the Hawaiian Islands.

Section 492, act Apr. 30, 1900, ch. 339, § 3, 31 Stat. 141, established a Territorial government with its capital at Honolulu.

Section 493, act Apr. 30, 1900, ch. 339, § 1, 31 Stat. 141, defined the phrase "the laws of Hawaii" as used in this chapter.

Section 494, act Apr. 30, 1900, ch. 339, § 4, 31 Stat. 141, granted United States citizenship to citizens of the former Republic of Hawaii and Territorial citizenship to United States citizens resident in the Territory under certain conditions.

Section 495, acts Apr. 30, 1900, ch. 339, § 5, Stat. 141; May 27, 1910, ch. 258, § 1, 36 Stat. 443; Apr. 12, 1930, ch. 136, § 1(a), 46 Stat. 160; June 6, 1932, ch. 209, § 116(b), 47 Stat. 205, made applicable to the Territory the United States Constitution and all other laws of the United States including laws carrying general appropriations.

Section 496, act Apr. 30, 1900, ch. 339, § 6, 31 Stat. 142, continued in force laws of Hawaii not inconsistent with the Constitution or laws of the United States.

Section 497, act Apr. 30, 1900, ch. 339, § 74, 31 Stat. 155, continued in force laws of Hawaii relating to agriculture and forestry subject to modification by Congress or the Legislature.

Section 498, act Apr. 30, 1900, ch. 339, § 102, 31 Stat. 161, related to abolishment of laws related to postal savings banks.

Section 499, Joint Res. July 7, 1898, No. 55, § 1, 30 Stat. 751, provided for assumption of public debt of Hawaii existing on July 7, 1898, not to exceed $4,000,000.

Section 500, act Apr. 30, 1900, ch. 339, § 9, 31 Stat. 143, amended the laws of Hawaii to read "Governor of the Territory" or "Territory" as the context required whenever reference was made to "President of the Republic" or "Republic" in the laws.

Section 501, act Apr. 30, 1900, ch. 339, § 10, 31 Stat. 143, continued in effect and transferred to the Territory of Hawaii prior rights in favor and against the former Republic of Hawaii and preserved all criminal proceedings.

Section 502, act Apr. 30, 1900, ch. 339, § 10, 31 Stat. 143, prohibited suits for specific performance of personal labor contracts.

Section 503, act Apr. 30, 1900, ch. 339, § 10, 31 Stat. 143, provided that contracts made between Apr. 12, 1898, and Apr. 30, 1900, providing for service for a definite term, should be null and void.

Section 504, act Apr. 30, 1900, ch. 339, § 10, 31 Stat. 143, related to applicability of immigration contract labor law, and was repealed by act June 27, 1952, ch. 477, title IV, § 403(a)(6), 66 Stat. 279. See subchapter II of chapter 12 of Title 8, Aliens and Nationality.

Section 505, act Apr. 30. 1900, ch. 339, § 11, 31 Stat. 144, prescribed the style of process in courts.

Section 506, act Apr. 30, 1900, ch. 339, §§ 95, 96, 31 Stat. 160, made certain fisheries free to United States citizens subject to vested rights.

Section 507, act Apr. 30, 1900, ch. 339, § 96, 31 Stat. 160, provided for the condemnation of private fishing rights.

Section 508, act Apr. 30, 1900, ch. 339, § 97, 31 Stat. 160; July 1, 1944, ch. 373, title IX, § 913, formerly title VI, § 611, 58 Stat. 714, provided that jurisdiction of the health laws remain under the control of the Territory of Hawaii.

Section 509, act Apr. 30, 1900, ch. 339, § 98, 31 Stat. 161, allowed the American registry of Hawaiian-registered vessels.

Section 510, acts Apr. 30, 1900, ch. 339, § 89, 31 Stat. 159; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 496, 561; June 29, 1954, ch. 418, 68 Stat. 323, placed control of wharves and landings under the Territory of Hawaii.

Section 511, acts Apr. 30, 1900, ch. 339, § 91, 31 Stat. 159; May 27, 1910, ch. 258, § 7, 36 Stat. 447; June 19, 1930, ch. 546, 46 Stat. 789; Aug. 21, 1958, Pub. L. 85-719, § 1, 72 Stat. 709, gave to the Territory of Hawaii control of public property ceded to United States by Republic of Hawaii and allowed the transfer of title to political subdivisions of the Territory.

Section 512, act May 26, 1906, ch. 2561, 34 Stat. 204, made provision for sale, lease, or disposal of personal or movable property ceded to the United States.

Section 513, act Jan. 14, 1903, ch. 186, §§ 1, 2, 32 Stat. 770, called for recoinage of Hawaiian silver coins into subsidiary silver coins of the United States.

Section 514, act Jan. 14, 1903, ch. 186, § 3, 32 Stat. 771, allowed any collector of customs or internal revenue to exchange United States coins in his custody for Hawaiian coins under regulations of the Secretary of the Treasury.

Section 515, act Jan. 14, 1903, ch. 186, § 4, 32 Stat. 771, allowed the recoinage of mutilated or abraded Hawaiian coins into subsidiary coinage of the United States by any mint of the United States.

Section 516, act Jan. 14, 1903, ch. 186, § 6, 32 Stat. 771, made unlawful circulation as money of any silver certificate issued by the government of the Hawaiian Islands prior to Jan. 14, 1903.

Section 517, act Jan. 14, 1903, ch. 186, § 7, 32 Stat. 771, limited redemption of Hawaiian silver certificates or silver coin to redemption in the manner and upon the conditions set for the recoinage of Hawaiian silver.

Section 518, act Apr. 30, 1900, ch. 3390, § 105, as added July 9, 1921, ch. 42, § 315, 42 Stat. 120, prohibited employment as a mechanic or laborer on any public work of persons not citizens of the United States or eligible for such citizenship.

Section 518a, act Jan. 2, 1942, ch. 646, 55 Stat. 881, related to employment of nationals of the United States on public works in Hawaii during the national emergency, and was repealed by act July 25, 1947, ch. 327, § 1, 61 Stat. 448.

Section 519, acts Apr. 30, 1900, ch. 339, § 55, 31 Stat. 150; May 27, 1910, ch. 258, § 4, 36 Stat. 444; July 9, 1921, ch. 42, § 302, 42 Stat. 116; June 6, 1926, ch. 512, §§ 1, 2, 44 Stat. 710, 711, required two-year residence for the grant of a divorce.

Section 520, act May 23, 1918, ch. 84, § 1, 40 Stat. 560, prohibited manufacture, sale, transport, etc., of intoxicating liquors, and was repealed by act Mar. 26, 1934, ch. 88, § 1, 48 Stat. 467.

Section 531, acts Apr. 30, 1900, ch. 339, § 66, 31 Stat. 153; July 9, 1921, ch. 42, § 303, 42 Stat. 116, vested the executive power in a governor and set out his age and residence requirements, appointment, term, and powers in general.

Section 532, act Apr. 30, 1900, ch. 339, § 67 31 Stat. 153, made the governor responsible for the execution of all laws and granted him other executive powers.

Section 533, act Apr. 30, 1900, ch. 339, § 68, 31 Stat. 153, vested in the governor the powers and duties of specified former officials.

Section 534, acts Apr. 30, 1900, ch. 339, § 69, 31 Stat. 154; July 2, 1932, ch. 389, 47 Stat. 565; Aug. 21, 1958, Pub. L. 85–714, 72 Stat. 707, called for the appointment of a secretary of Hawaii and set out the powers and duties of his office.

Section 535, act Apr. 30, 1900, ch. 339, § 70, 31 Stat. 154, called for the secretary to perform the duties of the governor in the event of the governor's death, removal, resignation, or disability.

Section 536, acts Apr. 30, 1900, ch. 339, § 92, 31 Stat. 159; May 27, 1910, ch. 258, § 8, 36 Stat. 448; July 9, 1921, ch. 42, § 314, 42 Stat. 120; Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, prescribed the salary of the governor and the secretary of the Territory of Hawaii, and specified incidental expenses of the governor, and was repealed by Pub. L. 86–3, § 14(e), Mar. 18, 1959, 73 Stat. 10.

Section 537, act Apr. 30, 1900, ch. 339, § 71, 31 Stat. 154, prescribed the powers and duties of the attorney general of Hawaii.

Section 538, act Apr. 30, 1900, ch. 339, § 72, 31 Stat. 154, prescribed the powers and duties of the treasurer of Hawaii.

Section 539, acts Apr. 30, 1900, ch. 339, § 92, 31 Stat. 159; May 27, 1910, ch. 258, § 8, 36 Stat. 448; July 9, 1921, ch. 42, § 314, 42 Stat. 120, authorized the governor to employ a private secretary at an annual salary of $3,000, and was repealed by Pub. L. 86–3, § 14(e), Mar. 18, 1959, 73 Stat. 10.

Section 540, act Apr. 30, 1900, ch. 339, § 75, 31 Stat. 155, prescribed the powers and duties of the superintendent of public works.

Section 541, acts Apr. 30, 1900, ch. 339, § 76, 31 Stat. 155; Apr. 8, 1904, ch. 948, 33 Stat. 164; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737, prescribed the powers and duties of the superintendent of public instruction.

Section 542, acts Apr. 30, 1900, ch. 339, § 77, 31 Stat. 156; Aug. 1, 1956, ch. 862, § 1, 70 Stat. 920, created the posts of auditor and deputy auditor and prescribed their powers and duties.

Section 542a, act Apr. 30, 1900, ch. 339, § 77a, as added Aug. 1, 1956, ch. 862, § 2, 70 Stat. 920, created the position of post auditor and set out his duties, term, and powers.

Section 543, act Apr. 30, 1900, ch. 339, § 78, 31 Stat. 156, prescribed the powers and duties of the surveyor.

Section 544, act Apr. 30, 1900, ch. 339, § 79, 31 Stat. 156, prescribed the powers and duties of the high sheriff and deputies.

Section 545, act Apr. 30, 1900, ch. 339, § 106, as added July 9, 1921, ch. 42, § 315, 42 Stat. 121, and amended Aug. 14, 1958, Pub. L. 85–650, § 1, 72 Stat. 606, prescribed the powers and duties of the board of harbor commissioners and called for board supervision of moneys appropriated for harbor improvements.

Section 546, acts Apr. 30, 1900, ch. 339, § 80, 31 Stat. 156; Mar. 3, 1905, ch. 1465, § 2, 33 Stat. 1035; July 9, 1921, ch. 42, § 312, 42 Stat. 119; Aug. 1, 1956, ch. 862, § 1, 70 Stat. 920; Aug. 28, 1958, Pub. L. 85–793, §§ 1, 2, 72 Stat. 957, dealt with nomination and appointment of officers by the governor and provided for their terms and salaries.

Section 561, act Apr. 30, 1900, ch. 339, § 12, 31 Stat. 144, called for a bicameral legislature for the Territory consisting of a senate and house of represenatives.

Section 562, acts Apr. 30, 1900, ch. 339, § 55, 31 Stat. 150; May 27, 1910, ch. 258, § 4, 36 Stat. 444; July 9, 1921, ch. 42, § 302, 42 Stat. 116; June 9, 1926, ch. 512, §§ 1, 2, 44 Stat. 710, 711; Aug. 1, 1956, ch. 851, § 7, 70 Stat. 907; Aug. 20, 1958, Pub. L. 85–691, § 3, 72 Stat. 685, described the scope of legislative power.

Section 562a, act July 15, 1935, ch. 378, § 1, 49 Stat. 479, authorized the issuance of revenue bonds by the legislature and empowered the legislature to authorize the issuance of bonds by political or municipal corporations or subdivisions.

Section 562b, act July 15, 1935, ch. 378, § 2, 49 Stat. 480, empowered the legislature to authorize the city and county of Honolulu to issue flood control bonds.

Section 562c, act July 15, 1935, ch. 378, § 3, 49 Stat. 480, approved, ratified, and confirmed issuance of revenue bonds which had been authorized by the legislature prior to July 15, 1935.

Section 562c–1, act Apr. 3, 1944, ch. 154, 58 Stat. 186, ratified and confirmed the legislative action which had extended the time within which revenue bonds could be issued without presidential approval and without reference to the Hawaiian Organic Act.

Section 562c–2, act July 30, 1947, ch. 396, 61 Stat. 676, ratified and confirmed the legislative action which had extended the time within which revenue bonds could be issued without presidential approval and without refence to the Hawaiian Organic Act.

Section 562d, act Aug. 31, 1935, ch. 436, § 1, 49 Stat. 516, empowered the legislature to authorize issuance of revenue bonds by political or municipal corporations or subdivisions of the Territory and confirmed and ratified acts of the legislature prior to Aug. 3, 1935, which authorized issuance of revenue bonds.

Section 562e, acts Aug. 3, 1935, ch. 436, § 2, 49 Stat. 517; May 28, 1937, ch. 274, 50 Stat. 211; July 10, 1937, ch. 486, 50 Stat. 509, authorized the Territory to issue public improvement bonds.

Section 562e–1, act June 29, 1954, ch. 417, 68 Stat. 322, ratified and confirmed the Revenue Bond Act of 1935, as amended, through the 1953 regular session of the legislature.

Section 562f, act July 10, 1937, ch. 485, 50 Stat. 508, authorized the issuance of public improvement bonds by the Territory.

Section 562g, acts July 10, 1937, ch. 484, 50 Stat. 508; July 18, 1950, title II, § 202(a), 64 Stat. 345, authorized the legislature to establish authorities for slum clearance and housing projects, made provision for issuance of bonds therefor, ratified and confirmed prior legislation on the subject, and provided that powers granted should not be in derogation of other powers granted by other laws.

Section 562h, act July 10, 1937, ch. 483, § 1, 50 Stat. 507, empowered the legislature to authorize the city and county of Honolulu to issue general obligation bonds to permit the construction of a sewer system.

Section 562i, act July 10, 1937, ch. 483, § 2, 50 Stat. 507, dealt with the nature of the Honolulu sewer system bonds and provided for their maturity.

Section 562j, act July 10, 1937, ch. 483, § 3, 50 Stat. 507, ratified and confirmed the action taken by the legislature in its 1937 session pertaining to the issuance of sewer bonds.

Section 562k, act July 18, 1947, ch. 265, 61 Stat. 381, permitted the legislature to authorize the issue of additional general obligation bonds by the city and county of Honolulu for construction of a sewer system and ratified the actions taken in the 1947 session of the legislature pertaining to the issuance of sewer system bonds.

Section 562*l*, act July 15, 1947, ch. 250, 61 Stat. 326, authorized and empowered the Territory to issue public improvement bonds during 1947–1951 and provided for the maturity of such bonds and their issuance without presidential approval.

Section 562m, act Oct. 26, 1949, ch. 754, §§ 1—3, 63 Stat. 926, authorized and empowered the Territory to issue public improvement bonds during 1949–1955, and provided for their maturity and issuance without persidential approval.

Section 562n, acts Aug. 24, 1954, ch. 889, §§ 1—3, 68 Stat. 782; July 14, 1956, ch. 606, § 1, 70 Stat. 552; Aug. 20, 1958, Pub. L. 85–691, § 1, 72 Stat. 685, empowered the legislature to authorize the issuance of general obligation bonds for veterans' mortgages and provided for their limitation, maturity, and ratification.

Section 562*o*, acts Aug. 24, 1954, ch. 892, §§ 1, 3, 4, 68 Stat. 785; July 14, 1956, ch. 606, § 2, 70 Stat. 552; Aug. 20, 1958, Pub. L. 85–691, § 2, 72 Stat. 685, ratified and confirmed the issuance of public improvement bonds issued during 1954–1959 and limited the maturity date of such bonds.

Section 562p, act Aug. 24, 1954, ch. 896, §§ 1—3, 68 Stat. 787, empowered the legislature to authorize the city and county of Honolulu to issue public improvement bonds for the construction of sewerage systems in Honolulu.

Section 562q, act Aug. 24, 1954, ch. 898, §§ 1—3, 68 Stat. 788, empowered the legislature to authorize the city and county of Honolulu to issue public improvement bonds for the construction of flood-control and drainage systems in Honolulu.

Section 562r, act July 11, 1956, ch. 567, §§ 1—3, 70 Stat. 526, ratified and confirmed the issuance of general obligation bonds by the city and county of Honolulu and authorized the issuance of additional bonds, setting a limit on the size of such issue.

Section 562s, act July 14, 1956, ch. 602, § 1, 70 Stat. 545, authorized the Territory to issue revenue bonds for highway construction payable from funds derived from highway vehicle fuel taxes.

Section 562t, act July 14, 1956, ch. 602, § 2, 70 Stat. 545, set out certain requirements for bonds issued under section 562s.

Section 562u, act July 14, 1956, ch. 602, § 3, 70 Stat. 545, allowed the application of federal-aid highway funds to aid in the retirement of highway bonds.

Section 562v, act July 14, 1956, ch. 602, § 4, 70 Stat. 545, defined "highway fuel taxes" as used in sections 562s–562v.

Section 562w, Pub. L. 85–534, § 2, July 18, 1958, 72 Stat. 379, authorized the Territory to issue aviation revenue bonds, set out the requirements and limitations thereof, allowed for retirement thereof with federal funds, and defined the term "aviation fuel taxes".

Section 563, acts Apr. 30, 1900, ch. 339, § 56, 31 Stat. 151; Mar. 3, 1905, ch. 1465, § 1, 33 Stat. 1035, empowered the legislature to create town and city municipalities and provide for the government thereof.

Section 564, act Apr. 30, 1900, ch. 339, § 13, 31 Stat. 144, prohibited persons from sitting as senators and representatives in the legislature except in conformity with the statutory provisions therefor.

Section 565, acts Apr. 30, 1900, ch. 339, § 30, 31 Stat. 146; Aug. 1, 1956, ch. 851, § 1, 70 Stat. 903, provided for the number of senators and for the length of their term.

Section 566, acts Apr. 30, 1900, ch. 339, § 34, 31 Stat. 147; Sept. 15, 1922, ch. 315, 42 Stat. 844, set out the age, citizenship, and residence requirements of senators.

Section 567, act Apr. 30, 1900, ch. 339, § 31, 31 Stat. 146, called for the filling of vacancies in the senate caused by death, resignation, or otherwise through general or special elections.

Section 568, acts Apr. 30, 1900, ch. 339, § 32, 31 Stat. 147; Aug. 1, 1956, ch. 851, § 2, 70 Stat. 903, divided the Territory into senatorial districts.

Section 569, acts Apr. 30, 1900, ch. 339, § 32, 31 Stat. 147; Aug. 1, 1956, ch. 851, § 3, 70 Stat. 903, apportioned the senators between the various senatorial districts.

Section 570, acts Apr. 30, 1900, ch. 339, § 35, 31 Stat. 147; Aug. 1, 1956, ch. 851, § 4, 70 Stat. 903, set out the number of representatives and called for their election by the qualified voters of the respective representative districts.

Section 571, acts Apr. 30, 1900, ch. 339, § 40, 31 Stat. 148; Sept. 15, 1922, ch. 315, 42 Stat. 844, stated the age, citizenship, and residence requirements of representatives.

Section 572, act Apr. 30, 1900, ch. 339, § 36, 31 Stat. 147, placed the term of office of representatives as the period between their election at a general or special election and the next general election held thereafter.

Section 573, act Apr. 30, 1900, ch. 339, § 37, 31 Stat. 147, directed that vacancies in the house of representatives caused by death, resignations, or otherwise be filled by special elections.

Section 574, acts Apr. 30, 1900, ch. 339, § 38, 31 Stat. 147; Aug. 1, 1956, ch. 851, § 5, 70 Stat. 906, divided the Territory into representative districts.

Section 575, acts Apr. 30, 1900, ch. 339, § 30, 31 Stat. 148; Aug. 1, 1956, ch. 851, § 6, 70 Stat. 906, apportioned the representatives between the representative districts.

Section 576, acts Apr. 30, 1900, ch. 339, §§ 41—43, 31 Stat. 148; Aug. 20, 1958, Pub. L. 85–690, §§ 1, 2, 72 Stat. 684, set the date for the regular and budget sessions, commencement, duration, and adjournment, and the budget session agenda.

Section 577, act Apr. 30, 1900, ch. 339, § 44, 31 Stat. 148, set out the enacting clause of all laws and required that all legislative sessions be conducted in the English language.

Section 578, act Apr. 30, 1900, ch. 339, § 45, 31 Stat. 148, required that each law embrace but one subject and that its subject be expressed in its title.

Section 579, act Apr. 30, 1900, ch. 339, § 46, 31 Stat. 148, covered the passage of bills on three readings on separate days and final passage by a majority vote of all the members to which each house is entitled taken by ayes and noes and entered upon the journal.

Section 580, act Apr. 30, 1900, ch. 339, § 47, 31 Stat. 149, provided for certification of bills by the presiding officer or clerk of the house just passed and immediate submission to the other house for consideration.

Section 581, Apr. 30, 1900, ch. 339, § 49, 31 Stat. 149, made provision for the veto or approval of bills and allowed veto of specific items in appropriation bills while requiring the veto of all other bills only in their entirety.

Section 582, act Apr. 30, 1900, ch. 339, § 48, 31 Stat. 149, required the signature of the governor to make valid all bills passed by the legislature except as otherwise provided.

Section 583, act Apr. 30, 1900, ch. 339, § 50, 31 Stat. 149, set out the procedure to be followed by the legislature in the event of a veto by the governor.

Section 584, act Apr. 30, 1900, ch. 339, § 51, 31 Stat. 149, set out the effect to be given the governor's failure to sign, veto, or return a bill passed by the legislature and sent to him.

Section 585, acts Apr. 30, 1900, ch. 339, § 52, 31 Stat. 149; May 27, 1910, ch. 258, § 3, 36 Stat. 444, required that appropriation be made by the legislature except as otherwise provided.

Section 586, acts Apr. 30, 1900, ch. 339, § 53, 31 Stat. 149; Aug. 20, 1958, Pub. L. 85–690, § 3, 72 Stat. 684, required the governor to submit to the legislative estimates of appropriations for the succeeding biennial period or for the succeeding fiscal year in the event of an additional regular session of the legislature.

Section 587, act Apr. 30, 1900, ch. 339, § 54, 31 Stat. 150, made provision for the calling of an extra session of the legislature and payment by the treasurer of current expenses in the event of the failure of the legislature to pass appropriation bills covering necessary current expenses.

Section 588, acts Apr. 30, 1900, ch. 339, § 16, 31 Stat. 145; Oct. 26, 1949, ch. 752, 63 Stat. 926, prohibited the appointment or election of a member of the legislature to any office of the Territory during the term for which he was elected.

Section 589, act Apr. 30, 1900, ch. 339, § 17, 31 Stat. 145, made ineligible to hold the office of member of the legislature any person holding office in or under or by authority of the government of the United States or the Territory of Hawaii.

Section 590, act Apr. 30, 1900, ch. 339, § 18, 31 Stat. 145, made ineligible to vote for or hold office in the legislature all idiot or insane persons, persons expelled from the legislature for bribery, and persons convicted of criminal offenses punishable by imprisonment for a term exceeding one year unless the person was convicted and subsequently had his civil rights restored.

Section 591, act Apr. 30, 1900, ch. 339, § 19, 31 Stat. 145, prescribed the oath to be taken by legislators and territorial officers.

Section 592, act Apr. 30, 1900, ch. 339, § 20, 31 Stat. 145, called for the senate and the house of representatives to choose their own officers, determine rules, and keep a journal.

Section 593, act Apr. 30, 1900, ch. 339, § 21, 31 Stat. 145, required that, at the desire of one-fifth of the members present, the ayes and noes of members be entered on the journal.

Section 594, act Apr. 30, 1900, ch. 339, §§ 22—24, 31 Stat. 145, set out the attendance required for a quorum of each house of the legislature, the votes required for final passage of a law, adjournment, absentees, and a count of the members present by the chairman.

Section 595, act Apr. 30, 1900, ch. 339, § 28, 31 Stat. 146, granted members of the legislature a privilege for any word uttered in the exercise of their legislative functions in either house.

Section 596, act Apr. 30, 1900, ch. 339, § 27, 31 Stat. 146, authorized each house of the legislature to punish its members by censure for disorderly behavior or neglect of

duty and to suspend or expel its members by a two-thirds vote.

Section 597, act Apr. 30, 1900, ch. 339, § 25, 31 Stat. 146, authorized each house to punish non-members for contempt but granted a person so charged the right to be informed of the charges, present evidence, and be heard in his own defense.

Section 598, act Apr. 30, 1900, ch. 339, § 29, 31 Stat. 146, granted members of the legislature a privilege from arrest, except in cases of treason, felony, or breach of the peace, during their attendance at sessions in their respective houses.

Section 599, acts Apr. 30, 1910, ch. 339, § 26, 31 Stat. 146; May 27, 1910, ch. 258, § 2, 36 Stat. 444; July 9, 1921, ch. 42, § 301, 42 Stat. 115; June 27, 1930, ch. 647, 46 Stat. 824; Aug. 20, 1958, Pub. L. 85–690, § 4, 72 Stat. 684, set out the compensation and additional compensation to be paid members of the legislature.

Section 611, act Apr. 30, 1900, ch. 339, § 14, 31 Stat. 144, called for general elections to be held on the Tuesday next after the first Monday in November, biennially in even-numbered years.

Section 612, act Apr. 30, 1900, ch. 339, § 15, 31 Stat. 145, made each house the judge of the elections, returns, and qualifications of its own members.

Section 613, act Apr. 30, 1900, ch. 339, §§ 57, 58, 31 Stat. 151, granted each elector a privilege from military duty on election day in any way which would deprive him of his vote except in time of war or public danger and also granted a privilege from arrest while going to and returning from attendance at the election except in certain cases.

Section 614, act Apr. 30, 1900, ch. 339, § 59, 31 Stat. 151, allowed each voter for representative to vote for as many representatives as would be elected from the representative district in which the voter was entitled to vote and gave the posts of representatives to those candidates receiving the highest number of votes.

Section 615, act Apr. 30, 1900, ch. 339, § 61, 31 Stat. 152, allowed each voter to cast one vote for senator to be elected from the district in which the voter could vote and called for the required numbers of candidates receiving the highest number of votes to become the senators for their districts.

Section 616, act Apr. 30, 1900, ch. 339, § 62, 31 Stat. 152, made the qualifications for voters for senator and for all other elections the same as the qualifications for voters casting votes for representative.

Section 617, acts Apr. 30, 1900, ch. 339, § 60, 31 Stat. 151; June 26, 1930, ch. 620, 46 Stat. 818, set out the qualifications required for an elector to vote for representative.

Section 618, act June 13, 1918, ch. 97, §§ 1, 2, 4, 40 Stat. 604, authorized extension of franchise to women, and was repealed by act Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029. See Const. Amend. 19.

Section 619, act Apr. 30, 1900, ch. 339, § 63, 31 Stat. 152, prevented from voting all persons who were in Hawaii by reason of being in the Army or Navy or being attached to troops of the United States.

Section 619a, act Apr. 30, 1900, ch. 339, § 64, 31 Stat. 152, continued in force the rules and regulations for administering oaths and holding elections.

Section 620, act Apr. 30, 1900, ch. 339, § 65, 31 Stat. 153, authorized the legislature to establish and alter boundaries of election districts and voting precincts and apportion senators and representatives to be elected from such districts.

Section 631, act Apr. 30, 1900, ch. 339, § 81, 31 Stat. 157, made provision for the vesting of judicial power in courts and continued in force the courts' jurisdiction and procedure previously in force.

Section 632, acts Apr. 30, 1900, ch. 339, § 82, 31 Stat. 157; June 15, 1950, ch. 250, 64 Stat. 216, set out the size and organization of the supreme court, the appointment and qualifications of its members, and provisions for the filling of vacancies therein.

Section 633, acts Apr. 30, 1900, ch. 339, § 80, 31 Stat. 156; Mar. 3, 1905, ch. 1465, § 2, 33 Stat. 1035; July 9, 1921, ch. 42, § 312, 42 Stat. 119; May 9, 1956, ch. 237, § 1, 70 Stat. 130, called for presidential appointment of the members of the supreme court and circuit courts and set the tenure and qualifications of judges.

Section 634, acts Apr. 30, 1900, ch. 339, § 92, 31 Stat. 159; May 27, 1910, ch. 258, § 8, 36 Stat. 448; July 9, 1921, ch. 42, § 314, 42 Stat. 120, related to salaries of justices of supreme court and circuit courts, and was repealed by Pub. L. 86–3, § 14(e), Mar. 18, 1959, 73 Stat. 10.

Section 634a, acts May 29, 1928, ch. 904, §§ 1, 2, 45 Stat. 997; Apr. 30, 1956, ch. 226, § 1, 70 Stat. 123, related to salaries of justices of supreme court and circuit courts, and was repealed by Pub. L. 86–3, § 14(e), Mar. 18, 1959, 73 Stat. 10.

Section 634b, acts May 31, 1938, ch. 301, § 1, 52 Stat. 591; Apr. 16, 1946, ch. 139, § 1, 60 Stat. 90, related to retirement of justices and judges, and was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992.

Section 634c, acts May 31, 1938, ch. 301, § 2, 52 Stat. 591; Apr. 16, 1946, ch. 139, § 2, 60 Stat. 90, related to computation of years of service, and was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992.

Section 635, acts Apr. 30, 1900, ch. 339, § 83, 31 Stat. 157; Apr. 1, 1952, ch. 127, § 1, 66 Stat. 32, continued in force all laws relating to judicial departments and procedure, but made certain changes with reference to membership qualifications for membership on juries.

Section 636, act Apr. 30, 1900, ch. 339, § 84, 31 Stat. 157; May 27, 1910, ch. 258, § 6, 36 Stat. 447, set out standards for disqualification of jurors who were related by affinity or consanguinity with a person interested in the case being tried and for disqualification of judges in certain cases.

Section 641, acts Apr. 30, 1900, ch. 339, § 86 (a), (d), 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; July 31, 1946, ch. 704, § 1, 60 Stat. 716, related to district court, sessions, powers, terms, and was repealed by act June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992. See chapter 5 of Title 28, Judiciary and Judicial Procedure.

Section 642, acts Apr. 30, 1900, ch. 339, § 86 (c), 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 167; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890, related to jurisdiction of district court and authority of officers, and was repealed by act June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992. See chapters 5, 21, 31, 33, and 85 of Title 28, Judiciary and Judicial Procedure.

Section 642a, acts Aug. 13, 1940, ch. 662, 54 Stat. 784; Apr. 29, 1948, ch. 241, § 1, 62 Stat. 204, related to jurisdiction of cases arising on Midway, Wake, Johnston, etc., Islands, and was repealed by act June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992. See section 644a of this title and section 91 of Title 28, Judiciary and Judicial Procedure.

Section 643, acts Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890, related to appointment and term of office of judges, district attorney, and marshal, and was repealed by act June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992. See sections 133, 134, 501, 504, and 541 of Title 28, Judiciary and Judicial Procedure.

Section 644, acts Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890, related to appointment and salaries of clerks, deputy clerks and reporters, and was repealed by act June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992. See sections 604, 751, and 753 of Title 28, Judiciary and Judicial Procedure.

Section 644a, acts June 15, 1950, ch. 253, 64 Stat. 217; Mar. 18, 1959, Pub. L. 86–3, § 14(j), 73 Stat. 11; July 12, 1960, Pub. L. 86–624, § 19, 74 Stat. 416, extended the jurisdiction of the United States District Court for the District of Hawaii to cases arising on or within Midway Islands, Wake Islands, Johnstone Island, Sand Island, Kingman Reef, Palmyra Island, Baker Island, Howland Island, Jarvis Island, Canton Island, and Enderbury Island.

Section 645, acts Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 11, 1911, ch. 231, § 291, 36 Stat. 167; Mar. 4, 1920, ch. 161, § 1, 41 Stat.

1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6 § 1, 44 Stat. 919; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; July 31, 1946, ch. 704, § 1, 60 Stat. 716; June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986, 992, related to removal of causes and appeal, and was repealed by Pub. L. 86–3, § 14(f), Mar. 18, 1959, 73 Stat. 10. See section 91 of Title 28, Judiciary and Judicial Procedure and notes thereunder.

Section 646, act Apr. 30, 1900, ch. 339, § 86a, as added June 19, 1939, ch. 211, 53 Stat. 841, relating to rules in civil actions, and was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992. See section 2072 of Title 28, Judiciary and Judicial Procedure.

Section 651, acts Apr. 30, 1900, ch. 339, § 85, 31 Stat. 158; June 28, 1906, ch. 3582, 34 Stat. 550, provided the election of a Delegate to the House of Representatives of the United States to serve during each Congress.

Section 661, act July 7, 1898, No. 55, § 1, 30 Stat. 750, provided that the Congress of the United States shall enact special laws for the management and disposition of public lands.

Section 662, act Apr. 30, 1900, ch. 339, § 99, 31 Stat. 161, declared to be the property of the Hawaiian Government the portion of the public domain known prior to April 30, 1900, as Crown land.

Section 663, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; July 9, 1921, ch. 42, § 304, 42 Stat. 116, defined "public lands", "commissioner", "land board" and "person".

Section 664, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 304, 42 Stat. 117, declared that the laws of Hawaii relating to public lands, the settlement of boundaries and the issuance of patents on land commission awards, shall continue in force until Congress shall otherwise provide.

Section 664a, act Sept. 26, 1941, ch. 426, § 1, 55 Stat. 734, ratified Hawaiian realty transactions consummated on or before November 25, 1941.

Section 664b, act Sept. 26, 1941, ch. 426, § 2, 55 Stat. 734, provided that realty transaction so ratified shall be deemed and held to be perfect and valid from the day of the date thereof.

Section 665, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 304, 42 Stat. 117; Aug. 28, 1958, Pub. L. 85–803, § 1, 72 Stat. 971, prescribed the Terms and conditions of leases on public lands.

Section 666, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; July 9, 1921, ch. 42, § 304, 42 Stat. 117, directed that all funds arising from the sale or lease of public lands be appropriated by the laws of the government of the territory of Hawaii.

Section 667, acts Apr. 30, 1900, ch. 339, [73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 86 Stat. 444; July 9, 1921, ch. 42, § 304, 42 Stat. 117, set out the requirements for those who would be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement or special homestead agreement.

Section 668, acts Apr. 30, 1900, ch. 339, [73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444 July 9, 1921, ch. 42, § 304, 42 Stat. 117, 118, prescribed limitations on the alienation of public lands for which certificates of occupancy have been issued.

Section 669, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1919, ch. 258, § 5, 36 Stat. 444 July 9, 1921, ch. 42, § 305, 42 Stat. 118, set out provisions for forfeiture of lands for non compliance with prior provisions.

Section 670, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 305, 42 Stat. 118; July 27 1939, ch. 383, § 1, 53 Stat. 1126; July 9, 1952, ch. 617, 66 Stat. 515; Apr. 6, 1956, ch. 180, § 1, 70 Stat. 102; Aug. 1, 1956, ch. 854, 70 Stat. 918, determined the persons entitled to take under certificates of occupation, lease or agreement.

Section 671, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 306, 42 Stat. 118, gave the commissioner, with the approval of the governor the right to give preferences in the purchasing of lands.

Section 672, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 307, 42 Stat. 118, gave the commissioner, with the approval of the governor, the power to issue patents to churches or religious organizations.

Section 673, acts Apr. 30, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 308, 42 Stat. 118; Aug. 7, 1946, ch. 771, 60 Stat. 871; July 9, 1952, ch. 616, § I, 66 Stat. 514; Apr. 6, 1956, ch. 185, § 1, 70 Stat. 104; Aug. 21, 1958, Pub. L. 85–718, 72 Stat. 709; Aug. 28, 1958, Pub. L. 85–803, § 2, 72 Stat. 971, created the board of public lands and set restrictions upon the sale and lease of agricultural lands and the exchange of lands.

Section 674, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56, May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 309, 42 Stat. 119, opened agricultural lands for settlement.

Section 675, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, §§ 310, 311, 42 Stat. 119, provided for the survey and opening of homestead entry agricultural lands.

Section 676, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 310, 42 Stat. 119, permitted any person under a general lease from the Territory, to continue in possession of such land after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement.

Section 677, acts Apr. 30, 1900, ch. 399, § 73, 31 Stat. 154; Apr. 2, 1908, ch. 124, 35 Stat. 56; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 311, 42 Stat. 119; Aug. 21, 1941, ch. 394, § 1, 55 Stat. 658; July 18, 1958, Pub. L. 85–534, § 1, 72 Stat. 379; Aug. 14, 1958, Pub. L. 85–650, § 2, 72 Stat. 606, improved the commissioner with the control, management, and disposition of public lands and included within this the making of leases by the Hawaiian Aeronautics commission.

Section 671–1, act Apr. 30, 1900, ch. 339, § 73(r), as add Aug. 1, 1956, ch. 820, § 1, 70 Stat. 785, provided for the disposition of remnants of public lands.

Section 677a, acts Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; June 12, 1940, ch. 336, § 1, 54 Stat. 345, provided for reamortization of indebtedness under homestead agreements.

Section 677b, acts Apr. 30, 1900, ch. 339, § 73 pt. as added June 12, 1940, ch. 336, § 1, 54 Stat. 346, provided for refunds on account of reamortization of homestead agreements.

Section 678, act Apr. 30, 1900, ch. 339, § 107, as added July 9, 1921, ch. 42, § 315, 42 Stat. 121, cited The Act of April 30, 1900, ch. 339, 31 Stat. 141, the "Hawaiian Organic Act".

Section 691, act July 9, 1921, ch. 42, title I, § 1, 42 Stat. 108, cited sections 691–704 and 705–716 of this title, as the "Hawaiian Homes Commission Act, 1920".

Section 692, acts July 9, 1921, ch. 42, title II, § 201, 42 Stat. 108; June 18, 1954, ch. 321, § 2, 68 Stat. 263, defined, "Commission", "public lands", "fund", "Territory", "Hawaiian home lands", "tract", "native Hawaiian" and "irrigated pastoral land" as used in the "Hawaiian Homes Commission Act, 1920".

Section 693, acts July 9, 1921, ch. 42, title II, § 202, 42 Stat. 109; July 26, 1935, ch. 420, § 1, 49 Stat. 504; May 31, 1944, ch. 216, § 1, 58 Stat. 260; July 9, 1952, ch. 618, §§ 1, 3, 66 Stat. 515, 516, established the "Hawaiian Homes Commission".

Section 694, acts July 9, 1921, ch. 42, title II, § 222, 42 Stat. 115; Nov. 26, 1941, ch. 544, §7, 55 Stat. 787; June 14, 1948, ch. 646, § 8, 62 Stat. 394, empowered the commission to make such regulations and with the approval of the Governor, such expenditures as are necessary to the efficient execution of his office.

Section 695, act July 9, 1921, ch. 42, title II, § 222, 42 Stat. 115, required the commission to make a biennial report to the legislature of the Territory.

Section 696, act July 9, 1921, ch. 42, title II, § 222, 42 Stat. 115, directed that the executive officer and secretary give bond for the faithful performance of his duties.

Section 697, acts July 9, 1921, ch. 42, title II, § 203, 42 Stat. 109; May 16, 1934, ch. 290, § 1, 48 Stat. 777; Aug. 29. 1935, ch. 810, § 1, 49 Stat. 966; July 10, 1937, ch. 482, 50 Stat. 497; Nov. 26, 1941, ch. 544, § 1, 55 Stat. 782; May 31, 1944, ch. 216, § 2, 58 Stat. 260; June 3, 1948, ch. 384, 62 Stat. 295; June 3, 1948, ch. 397, 62 Stat. 303; July 9, 1952 ch. 614, §§ 1, 2, 66 Stat. 511, designated certain lands in the Territory as "available land".

Section 698, acts July 9, 1921, ch. 42, title II, § 204, 42 Stat. 110; Mar. 7, 1928, ch. 142, § 1, 45 Stat. 246; July 10, 1937, ch. 482, 50 Stat. 503; Feb. 20, 1954, ch. 10, § 1, 68 Stat. 116; June 18, 1954, ch. 319, § 1, 68 Stat. 262, provided that after July 9, 1921, all available lands would assume the status of Hawaiian home lands and be under the control of the Commission.

Section 699, act July 9, 1921, ch. 42, title II, § 205, 42 Stat. 110, provided for the sale or lease of available lands.

Section 700, act July 9, 1921, ch. 42, title II, § 206, 42 Stat. 110, declared that available lands were not subject to disposition by the Governor, Commissioner of Public Lands, or the Board of Public Lands.

Section 701, acts July 9, 1921, ch. 42, title II, § 207, 42 Stat. 110; Feb. 3, 1923, ch. 56, § 1, 42 Stat. 1122; May 16, 1934, ch. 290, § 2, 48 Stat. 779; July 10, 1937, ch. 482, 50 Stat. 504; May 31, 1944, ch. 216, §§ 3, 4, 58 Stat. 264; June 14, 1948, ch. 464, §§ 1, 2, 62 Stat. 390; June 18, 1954, ch. 321, § 1, 68 Stat. 263; Aug. 23, 1958, Pub. L. 85–733, 72 Stat. 822, authorized the Commission to lease lands to native Hawaiians.

Section 702, acts July 9, 1921, ch. 42, title II, § 208, 42 Stat. 111; July 10, 1937, ch. 482, 50 Stat. 504; Nov. 26, 1941, ch. 544, § 2, 55 Stat. 783; Aug. 21, 1958, Pub. L. 85–710, § 1, 72 Stat. 706, set up certain conditions to be included in the leases of lands by the Commission.

Section 703, acts July 9, 1921, ch. 42, title II, § 209, 42 Stat. 111; July 10, 1937, ch. 482, 50 Stat. 504; Nov. 26, 1941, ch. 544, § 3, 55 Stat. 783; July 9, 1952, ch. 614, § 4, 66 Stat. 514, established the rules governing the successors to lessees.

Section 704, act July 9, 1921, ch. 42, title II, § 210, 42 Stat. 111, gave the Commission the power to cancel leases.

Section 704a, acts May 16, 1934, ch. 200, § 3, 48 Stat. 779; July 9, 1952, ch. 614, § 3, 66 Stat. 513, gave a preference to residents in the leasing of lands.

Section 705, act July 9, 1921, ch. 42, title II, § 211, 42 Stat. 112, provided for community pastures adjacent to each district in which agricultural lands were leased.

Section 706, act July 9, 1921, ch. 42, title II, § 212, 42 Stat. 112; gave the Commission the power to return lands not leased to the control of the Commissioner of Public Lands.

Section 707, acts July 9, 1921, ch. 42, title II, § 213, 42 Stat. 112; Feb. 3, 1923, ch. 56, § 2, 42 Stat. 1222; Mar. 7, 1928, ch. 142, § 2, 45 Stat. 246; Nov. 26, 1941, ch. 544, § 4, 55 Stat. 784; June 14, 1948, ch. 464, § 3, 62 Stat. 390; July 9, 1952, ch. 615, §§ 1, 2, 66 Stat. 514; Aug. 21, 1958, Pub. L. 85–708, 72 Stat. 705, established in the Treasury of the Territory two revolving funds to be known as the Hawaiian home-loan fund and the Hawaiian home-operating fund, and two special funds to be known as the Hawaiian home-development fund and the Hawaiian home administration account.

Section 707a, act July 9, 1921, ch. 42, title II, § 225, as added Nov. 26, 1941, ch. 544, § 8, 55 Stat. 787, and amended June 14, 1948, ch. 464, § 9, 62 Stat. 394, gave the Commission the power to invest and reinvest any of the moneys in the loan fund.

Section 708, act July 9, 1921, ch. 42, title II, § 214, 42 Stat. 112, authorized the Commission to make loans from the fund to the lessee of any tract or the successor to his interest therein.

Section 709, July 9, 1921, ch. 42, title II, § 215, 42 Stat. 112; Feb. 3, 1923, ch. 56, § 3, 42 Stat. 1222; July 10, 1937, ch. 482, 50 Stat. 505; Nov. 26, 1941, ch. 544, § 5, 55 Stat. 785; June 14, 1948, ch. 464, §§ 4, 5, 62 Stat. 392; July 9, 1952, ch. 615, §§ 3, 4, 66 Stat. 514, set up conditions to be followed in contracts of loan.

Section 710, acts July 9, 1921, ch. 42, title II, § 216, 42 Stat. 113; July 10, 1937, ch. 482, 50 Stat. 506; June 14, 1948, ch. 464, § 6, 62 Stat. 393, gave the Commission the power to require the borrower to insure all livestock and dwellings and other permanent improvements upon his tract purchased or constructed out of any moneys loaned from the fund.

Section 711, act July 9, 1921, ch. 42, title II, § 217, 42 Stat. 113, gave the Commission the power to bring an ejectment action against the lessee or borrower for noncompliance with Commission orders.

Section 712, act July 9, 1921, ch. 42, title II, § 218, 42 Stat. 114, provided that lessees of land were not to receive loans under Territorial Farm Land.

Section 713, act July 9, 1921, ch. 42, title II, § 219, 42 Stat. 114, authorized the Commission to employ agricultural experts.

Section 714, acts July 9, 1921, ch. 42, title II, § 220, 42 Stat. 114; July 10, 1937, ch. 482, 50 Stat. 507; Nov. 26, 1941, ch. 544, § 6, 55 Stat. 786; June 14, 1948, ch. 464, § 7, 62 Stat. 393; Aug. 1, 1956, ch. 855, § 1, 70 Stat. 915, authorized the Commission to undertake development projects.

Section 715, acts July 9, 1921, ch. 42, title II, § 221, 42 Stat. 114; Aug. 1, 1956, ch. 855, §§ 2, 3, 70 Stat. 915, defined "water license" and "surplus water", subjected water licenses issued after July 9, 1921, to the Commission and authorized the Commission to use free of all charge, Government-owned water.

Section 715a, act July 9, 1921, ch. 42 title II, § 224, as added July 26, 1935, ch. 420, § 2, 49 Stat. 505, authorized the Secretary of Interior to designate a sanitation and reclamation expert.

Section 716, act July 9, 1921, ch. 42 title II, § 223, 42 Stat. 115, reserved the right in Congress, to alter, amend, or repeal the provisions of sections 691—704 and 705—716 of this title.

CODIFICATION

Sections 717, 718, act July 9, 1921, ch. 42, §§ 401, 402, 42 Stat. 121, related to acts repealed and savings provisions.

Section 721, acts July 18, 1950, ch. 466, title I, § 101, 64 Stat. 344; Aug. 11, 1955, ch. 783, title I, § 107, (3), (7), (9), 69 Stat. 637, 638, authorized the Hawaiian government to undertake slum clearance and urban redevelopment and renewal projects.

Section 721a, acts July 18, 1950, ch. 466, title I, § 102, 64 Stat. 344; Aug. 11, 1955, ch. 783, title I, § 107(3), 69 Stat. 637, authorized the government of Hawaii to assist slum clearance and urban redevelopment projects through cash donations, loans conveyances of real and personal property, facilities and services.

Section 721b, act July 18, 1950, ch. 466, title I, § 103, 64 Stat. 345 ratified all legislation enacted by the Legislature of the Territory of Hawaii dealing with the subject matter of sections 721—722 of this title.

Section 722, acts July 10, 1937, ch. 484, 50 Stat. 508; July 18, 1950, title II, § 202(a), 64 Stat. 345, gave the Legislature of the Territory of Hawaii the power to create public corporate authorities to engage in slum clearance, or housing undertaking.

Section 723, acts June 27, 1934, ch. 847, § 214, as added Apr. 23, 1949, ch. 89, § 2(a), 63 Stat. 57, and amended July 14, 1952, ch. 723, § 10(a)(3), 66 Stat. 603, June 30, 1953, ch. 170, § 25(a)(c), 67 Stat. 128, 129, gove the Commission the power to prescribe conditions and limitations of mortgage insurance or housing projects or property.

Section 724, acts Apr. 23, 1949, ch. 89, § 2(b), 63 Stat. 58; June 30, 1953, ch. 170, § 25 (b), 67 Stat. 128, related to purchase of insured mortgage loans by the Federal National Mortgage Association, with respect to property in Hawaii, and was repealed by act Aug. 2, 1954, ch. 649, title II, § 205, 68 Stat. 622.

Chapter 4.—PUERTO RICO

Sec.
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731b. Organization of a government pursuant to a constitution.

Sec.
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811 to 820. Repealed.
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861. Repealed.
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871. Fees and mileage of jurors and witnesses.
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891. Resident Commissioner; election.
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SLUM CLEARANCE AND URBAN REDEVELOPMENT PROJECTS

910. Slum clearance and urban redevelopment and renewal projects; powers of government.
910a. Same; authorization of loans, conveyances, etc., by government and municipalities.
910b. Same; ratification of prior acts.

LOW RENT HOUSING PROJECTS AND ELIMINATION OF SUB-STANDARD HOUSING

911. Legislative authorization to create authorities.
912. Same; appointment of commissioners; powers of authorities.
913. Same; authorization of loans, conveyances, etc., by municipalities.
914. Same; issuance of bonds and obligations.
915. Same; bonds as public debt.
916. Same; ratification of previous legislation.

§ 731. Territory included under name Puerto Rico.

The provisions of this chapter shall apply to the island of Puerto Rico and to the adjacent islands belonging to the United States and waters of those islands; and the name Puerto Rico, as used in this chapter, shall be held to include not only the island of that name, but all the adjacent islands as aforesaid. (Mar. 2, 1917, ch. 145, § 1, 39 Stat. 951; May 17, 1932, ch. 190, 47 Stat. 158.)

References in Text

This chapter, referred to in text, was in the original "this Act", meaning act Mar. 2, 1917, ch. 145, 39 Stat. 951, which is known as the Puerto Rican Federal Relations Act and which is classified to section 46 of Title 2, The Congress, as well as this chapter.

Change of Name

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

Short Title

Act July 3, 1950, ch. 446, § 4, 64 Stat. 319, provided in part that the act of Mar. 2, 1917, ch. 145, 39 Stat. 951, could be cited as the "Puerto Rican Federal Relations Act". Such act of Mar. 2, 1917, is also popularly known as the "Jones Act."

Prior Law

Act Apr. 12, 1900, ch. 191, 31 Stat. 77, which is popularly known as the "Foraker Act", contained somewhat similar provisions.

Section 1 of act Apr. 12, 1900, was similar to this section, except that it described the adjacent islands and waters of those islands as those lying east of the seventy-fourth meridian of longitude west of Greenwich, which were ceded to the United States by the Government of Spain by the treaty of Dec. 10, 1898, 30 Stat. 1754.

Administration of Government

The administration of the Government of Puerto Rico was transferred from the Bureau of Insular Affairs to the Office of Territories (formerly the Division of Territories and Island Possessions), in the Department of the Interior by 1934 Executive Order No. 6726, May 29, 1934, eff. Mar. 2, 1935. For present government of the Com-

monwealth of Puerto Rico, see section 731d of this title and the new constitution set out as a note thereunder.

UNITED STATES—PUERTO RICO COMMISSION ON THE STATUS OF PUERTO RICO

Pub. L. 88-271, Feb. 20, 1964, 78 Stat. 17, as amended by Pub. L. 89-84, July 24, 1965, 79 Stat. 261, established a United States-Puerto Rico Commission on the Status of Puerto Rico to study all factors, including but not limited to applicable laws, treaties, constitutions, and agreements having a bearing on the relationship between the United States and Puerto Rico. The Commission was required to render its report to the President of the United States, the Congress of the United States, the Governor of Puerto Rico, and the Legislative Assembly of Puerto Rico not later than September 30, 1966.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 731e of this title.

§ 731a. Change of name; Puerto Rico.

CODIFICATION

Section, act May 17, 1932, ch. 190, 47 Stat. 158, changed the name of Porto Rico to Puerto Rico.

§ 731b. Organization of a government pursuant to a constitution.

Fully recognizing the principle of government by consent, sections 731b to 731e of this title are now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption. (July 3, 1950, ch. 446, § 1, 64 Stat. 319.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

REPEALS

Section 6 of act July 3, 1950 provided that: "All laws or parts of laws inconsistent with this Act [sections 731b—731e of this title] are hereby repealed."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731c, 731d of this title.

§ 731c. Submission of sections 731b to 731e of this title to people of Puerto Rico for referendum; convening of constitutional convention; requisites of constitution.

Sections 731b to 731e of this title shall be submitted to the qualified voters of Puerto Rico for acceptance or rejection through an island-wide referendum to be held in accordance with the laws of Puerto Rico. Upon the approval of said sections, by a majority of the voters participating in such referendum, the Legislature of Puerto Rico is authorized to call a constitutional convention to draft a constitution for the said island of Puerto Rico. The said constitution shall provide a republican form of government and shall include a bill of rights. (July 3, 1950, ch. 446, § 2, 64 Stat. 319.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CONSTITUTIONAL CONVENTION

A constitutional convention to draft a constitution for the island of Puerto Rico convened in San Juan on Sept. 17, 1951, and concluded its deliberations on Feb. 6, 1952.

REFERENDUM

Act July 3, 1950, ch. 446, §§ 1—6, 64 Stat. 319, which is clasesified to sections 731b, 731b note and 731c—731e of this title, was submitted to the qualified voters of Puerto Rico through an island-wide referendum held on June 4, 1951.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731b, 731d of this title.

§ 731d. Ratification of constitution by Congress.

Upon adoption of the constitution by the people of Puerto Rico, the President of the United States is authorized to transmit such constitution to the Congress of the United States if he finds that such constitution conforms with the applicable provisions of sections 731b to 731e of this title and of the Constitution of the United States.

Upon approval by the Congress the constitution shall become effective in accordance with its terms. (July 3, 1950, ch. 446, § 3, 64 Stat. 319.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

Approved by the Constitutional Convention of Puerto Rico on Feb. 6, 1952; ratified by the people of Puerto Rico on Mar. 3, 1952; amended and approved by Congress by Joint Res. July 3, 1952, ch. 567, 66 Stat. 327; proclaimed by the Governor of Puerto Rico to be in force and effect on July 25, 1952.

We, the people of Puerto Rico, in order to organize ourselves politically on a fully democratic basis, to promote the general welfare, and to secure for ourselves and our posterity the complete enjoyment of human rights, placing our trust in Almighty God, do ordain and establish this Constitution for the commonwealth which, in the exercise of our natural rights, we now create within our union with the United States of America.

In so doing, we declare:

The democratic system is fundamental to the life of the Puerto Rican community;

We understand that the democratic system of government is one in which the will of the people is the source of public power, the political order is subordinate to the rights of man, and the free participation of the citizen in collective decisions is assured;

We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges; our loyalty to the principles of the Federal Constitution; the coexistence in Puerto Rico of the two great cultures of the American Hemisphere; our fervor for education; our faith in justice; our devotion to the courageous, industrious, and peaceful way of life; our fidelity to individual human values above and beyond social position, racial differences, and economic interests; and our hope for a better world based on these principles.

ARTICLE I

THE COMMONWEALTH

SECTION 1.—The Commonwealth of Puerto Rico is hereby constituted. Its political power emanates from the people and shall be exercised in accordance with their will, within the terms of the compact agreed upon between the people of Puerto Rico and the United States of America.

SECTION 2.—The government of the Commonwealth of Puerto Rico shall be republican in form and its legislative, judicial and executive branches as established by this Constitution shall be equally subordinate to the sovereignty of the people of Puerto Rico.

SECTION 3.—The political authority of the Commonwealth of Puerto Rico shall extend to the Island of Puerto Rico and to the adjacent islands within its jurisdiction.

SECTION 4.—The seat of the government shall be the city of San Juan.

ARTICLE II

BILL OF RIGHTS

SECTION 1.—The dignity of the human being is inviolable. All men are equal before the law. No discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality.

SECTION 2.—The laws shall guarantee the expression of the will of the people by means of equal, direct and secret universal suffrage and shall protect the citizen against any coercion in the exercise of the electoral franchise.

SECTION 3.—No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. There shall be complete separation of church and state.

SECTION 4.—No law shall be made abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

SECTION 5.—Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly nonsectarian public education. Instruction in the elementary and secondary schools shall be free and shall be compulsory in the elementary schools to the extent permitted by the facilities of the state. No public property or public funds shall be used for the support of schools or educational institutions other than those of the state. Nothing contained in this provision shall prevent the state from furnishing to any child non-educational services established by law for the protection or welfare of children. Compulsory attendance at elementary public schools to the extent permitted by the facilities of the state as herein provided shall not be construed as applicable to those who receive elementary education in schools established under non-governmental auspices.

SECTION 6.—Persons may join with each other and organize freely for any lawful purpose, except in military or quasi-military organizations.

SECTION 7.—The right to life, liberty and the enjoyment of property is recognized as a fundamental right of man. The death penalty shall not exist. No person shall be deprived of his liberty or property without due process of law. No person in Puerto Rico shall be denied the equal protection of the laws. No laws impairing the obligation of contracts shall be enacted. A minimum amount of property and possessions shall be exempt from attachment as provided by law.

SECTION 8.—Every person has the right to the protection of law against abusive attacks on his honor, reputation and private or family life.

SECTION 9.—Private property shall not be taken or damaged for public use except upon payment of just compensation and in the manner provided by law. No law shall be enacted authorizing condemnation of printing presses, machinery or material devoted to publications of any kind. The buildings in which these objects are located may be condemned only after a judicial finding of public convenience and necessity pursuant to procedure that shall be provided by law, and may be taken before such a judicial finding only when there is placed at the disposition of the publication an adequate site in which it can be installed and continue to operate for a reasonable time.

SECTION 10.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Wire-tapping is prohibited.

No warrant for arrest or search and seizure shall issue except by judicial authority and only upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons to be arrested or the things to be seized.

Evidence obtained in violation of this section shall be inadmissible in the courts.

SECTION 11.—In all criminal prosecutions, the accused shall enjoy the right to have a speedy and public trial, to be informed of the nature and cause of the accusation and to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, to have assistance of counsel, and to be presumed innocent.

In all prosecutions for a felony the accused shall have the right of trial by an impartial jury composed of twelve residents of the district, who may render their verdict by a majority vote which in no case may be less than nine.

No person shall be compelled in any criminal case to be a witness against himself and the failure of the accused to testify may be neither taken into consideration nor commented upon against him.

No person shall be twice put in jeopardy of punishment for the same offense.

Before conviction every accused shall be entitled to be admitted to bail.

Incarceration prior to trial shall not exceed six months nor shall bail or fines be excessive. No person shall be imprisoned for debt.

SECTION 12.—Neither slavery nor involuntary servitude shall exist except in the latter case as a punishment for crime after the accused has been duly convicted. Cruel and unusual punishments shall not be inflicted. Suspension of civil rights including the right to vote shall cease upon service of the term of imprisonment imposed.

No *ex post facto* law or bill of attainder shall be passed.

SECTION 13.—The writ of *habeas corpus* shall be granted without delay and free of costs. The privilege of the writ of *habeas corpus* shall not be suspended, unless the public safety requires it in case of rebellion, insurrection or invasion. Only the Legislative Assembly shall have the power to suspend the privilege of the writ of *habeas corpus* and the laws regulating its issuance.

The military authority shall always be subordinate to civil authority.

SECTION 14.—No titles of nobility or other hereditary honors shall be granted. No officer or employee of the Commonwealth shall accept gifts, donations, decorations or offices from any foreign country or officer without prior authorization by the Legislative Assembly.

SECTION 15.—The employment of children less than fourteen years of age in any occupation which is prejudicial to their health or morals or which places them in jeopardy of life or limb is prohibited.

No child less than sixteen years of age shall be kept in custody in a jail or penitentiary.

SECTION 16.—The right of every employee to choose his occupation freely and to resign therefrom is recognized, as is his right to equal pay for equal work, to a reasonable minimum salary, to protection against risks to his health or person in his work or employment, and to an ordinary workday which shall not exceed eight hours. An employee may work in excess of this daily limit only if he is paid extra compensation as provided by law, at a rate never less than one and one-half times the regular rate at which he is employed.

SECTION 17.—Persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government operating as private businesses or enterprises, shall have the right to organize and to bargain collectively with their employers through representatives of their own free choosing in order to promote their welfare.

SECTION 18.—In order to assure their right to organize and to bargain collectively, persons employed by private businesses, enterprises and individual employers and by agencies or instrumentalities of the government operating as private businesses or enterprises, in their direct relations with their own employers shall have the right to strike, to picket and to engage in other legal concerted activities.

Nothing herein contained shall impair the authority of the Legislative Assembly to enact laws to deal with grave emergencies that clearly imperil the public health or safety or essential public services.

SECTION 19.—The foregoing enumeration of rights shall not be construed restrictively nor does it contemplate the exclusion of other rights not specifically mentioned which belong to the people in a democracy. The power of the Legislative Assembly to enact laws for the protection of the life, health and general welfare of the people shall likewise not be construed restrictively.

ARTICLE III

THE LEGISLATURE

SECTION 1.—The legislative power shall be vested in a Legislative Assembly, which shall consist of two houses, the Senate and the House of Representatives, whose members shall be elected by direct vote at each general election.

SECTION 2.—The Senate shall be composed of twenty-seven Senators and the House of Representatives of fifty-one Representatives, except as these numbers may be increased in accordance with the provisions of Section 7 of this Article.

SECTION 3.—For the purpose of election of members of the Legislative Assembly, Puerto Rico shall be divided into eight senatorial districts and forty representative districts. Each senatorial district shall elect two Senators and each representative district one Representative.

There shall also be eleven Senators and eleven Representatives elected at large. No elector may vote for more than one candidate for Senator at Large or for more than one candidate for Representative at Large.

SECTION 4.—In the first and subsequent elections under this Constitution the division of senatorial and representative districts as provided in Article VIII shall be in effect. After each decennial census beginning with the year 1960, said division shall be revised by a Board composed of the Chief Justice of the Supreme Court as Chairman and of two additional members appointed by the Governor with the advice and consent of the Senate. The two additional members shall not belong to the same political party. Any revision shall maintain the number of senatorial and representative districts here created, which shall be composed of contiguous and compact territory and shall be organized, insofar as practicable, upon the basis of population and means of communication. Each senatorial district shall always include five representative districts.

The decisions of the Board shall be made by majority vote and shall take effect in the general elections next following each revision. The Board shall cease to exist after the completion of each revision.

SECTION 5.—No person shall be a member of the Legislative Assembly unless he is able to read and write the Spanish or English language and unless he is a citizen of the United States and of Puerto Rico and has resided in Puerto Rico at least two years immediately prior to the date of his election or appointment. No person shall be a member of the Senate who is not over thirty years of age, and no person shall be a member of the House of Representatives who is not over twenty-five years of age.

SECTION 6.—No person shall be eligible to election or appointment as Senator or Representative for a district unless he has resided therein at least one year immediately prior to his election or appointment. When there is more than one representative district in a municipality, residence in the municipality shall satisfy this requirement.

SECTION 7.—If in a general election more than two-thirds of the members of either house are elected from one political party or from a single ticket, as both are defined by law, the number of members shall be increased in the following cases:

(*a*) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained less than two-thirds of the total number of votes cast for the office of Governor, the number of members of the Senate or of the House of Representatives or of both bodies, whichever may be the case, shall be increased by declaring elected a sufficient number of candidates of the minority party or parties to bring the total number of members of the minority party or parties to nine in the Senate and to seventeen in the House of Representatives. When there is more than one minority party, said additional members shall be declared elected from among the candidates of each minority party in the proportion that the number of votes cast for the candidate of each of said parties for the office of Governor bears to the total number of votes cast for the candidates of all the minority parties for the office of Governor.

When one or more minority parties shall have obtained representation in a proportion equal to or greater than the proportion of votes received by their respective candidates for Governor, such party or parties shall not be entitled to additional members until the representation established for each of the other minority parties under these provisions shall have been completed.

(*b*) If the party or ticket which elected more than two-thirds of the members of either or both houses shall have obtained more than two-thirds of the total number of votes cast for the office of Governor, and one or more minority parties shall not have elected the number of members in the Senate or in the House of Representatives or in both houses, whichever may be the case, which corresponds to the proportion of votes cast by each of them for the office of Governor, such additional number of their candidates shall be declared elected as is necessary in order to complete said proportion as nearly as possible, but the number of Senators of all the minority parties shall never, under this provision, be more than nine or that of Representatives more than seventeen.

In order to select additional members of the Legislative Assembly from a minority party in accordance with these provisions, its candidates at large who have not been elected shall be the first to be declared elected in the order of the votes that they have obtained and thereafter its district candidates who, not having been elected, have obtained in their respective districts the highest proportion of the total number of votes cast as compared to the proportion of votes cast in favor of other candidates of the same party not elected to an equal office in the other districts.

The additional Senators and Representatives whose election is declared under this section shall be considered for all purposes as Senators at Large or Representatives at Large.

The measures necessary to implement these guarantees, the method of adjudicating fractions that may result from the application of the rules contained in this section, and the minimum number of votes that a minority party must cast in favor of its candidate for Governor in order to have the right to the representation provided herein shall be determined by the Legislative Assembly.

SECTION 8.—The term of office of Senators and Representative shall begin on the second day of January immediately following the date of the general election in which they shall have been elected. If, prior to the fifteen months immediately preceding the date of the next general election, a vacancy occurs in the office of Senator or Representative for a district, the Governor shall call a special election in said district within thirty days following the date on which the vacancy occurs. This election shall be held not later than ninety days after the call, and the person elected shall hold office for the rest of the unexpired term of his predecessor. When said vacancy occurs during a legislative session, or when the Legislative Assembly or the Senate has been called for a date prior to the certification of the results of the special election, the presiding officer of the appropriate house shall fill said vacancy by appointing the person recommended by the central committee of the political party of which his predecessor in office was a member. Such person shall hold the office until certification of the election of the candidate who was elected. When the vacancy occurs within fifteen months prior to a general election, or when it occurs in the office of a Senator at Large or a Representative at Large, the presiding officer of the appropriate house shall fill it, upon the recommendation of the political party of which the previous holder of the office was a member, by appointing a person selected in the same manner as that in which his predecessor was selected. A vacancy in the office of a Senator at Large or a Representative at Large elected as an independent candidate shall be filled by an election in all districts.

SECTION 9.—Each house shall be the sole judge of the election, returns and qualifications of its members; shall choose its own officers; shall adopt rules for its own proceedings appropriate to legislative bodies; and, with the concurrence of three-fourths of the total number of members of which it is composed, may expel any member for the causes established in Section 21 of this Article, authorizing impeachments. The Senate shall elect a President and the House of Representatives a Speaker from among their respective members.

SECTION 10.—The Legislative Assembly shall be deemed a continuous body during the term for which its members are elected and shall meet in regular session each year commencing on the second Monday in January. The duration of regular sessions and the periods of time for introduction and consideration of bills shall be prescribed by law. When the Governor calls the Legislative Assembly into special session it may consider only those matters specified in the call or in any special message sent to it by him during the session. No special session shall continue longer than twenty calendar days.

SECTION 11.—The sessions of each house shall be open.

SECTION 12.—A majority of the total number of members of which each house is composed shall constitute a quorum, but a smaller number may adjourn from day to day and shall have authority to compel the attendance of absent members.

SECTION 13.—The two houses shall meet in the Capitol of Puerto Rico and neither of them may adjourn for more than three consecutive days without the consent of the other.

SECTION 14.—No member of the Legislative Assembly shall be arrested while the house of which he is a member is in session, or during the fifteen days before or after such session, except for treason, felony or breach of the peace. The members of the Legislative Assembly shall not be questioned in any other place for any speech, debate or vote in either house or in any committee.

SECTION 15.—No Senator or Representative may, during the term for which he was elected or chosen, be appointed to any civil office in the Government of Puerto Rico, its municipalities or instrumentalities, which shall have been created or the salary of which shall have been increased during said term. No person may hold office in the Government of Puerto Rico, its municipalities or instrumentalities and be a Senator or Representative at the same time. These provisions shall not prevent a member of the Legislative Assembly from being designated to perform functions *ad honorem*.

SECTION 16.—The Legislative Assembly shall have the power to create, consolidate or reorganize executive departments and to define their functions.

SECTION 17.—No bill shall become a law unless it has been printed, read, referred to a committee and returned therefrom with a written report, but either house may discharge a committee from the study and report of any bill and proceed to the consideration thereof. Each house shall keep a journal of its proceedings and of the votes cast for and against bills. The legislative proceedings shall be published in a daily record in the form determined by law. Every bill, except general appropriation bills, shall be confined to one subject, which shall be clearly expressed in its title, and any part of an act whose subject has not been expressed in the title shall be void. The general appropriation act shall contain only appropriations and rules for their disbursement. No bill shall be amended in a manner that changes its original purpose or incorporates matters extraneous to it. In amending any article or section of a law, said article or section shall be promulgated in its entirety as amended. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

SECTION 18.—The subjects which may be dealt with by means of joint resolution shall be determined by law, but every joint resolution shall follow the same legislative process as that of a bill.

SECTION 19.—Every bill which is approved by a majority of the total number of members of which each house is composed shall be submitted to the Governor and shall become law if he signs it or if he does not return it, with his objections, to the house in which it originated within ten days (Sundays excepted) counting from the date on which he shall have received it.

When the Governor returns a bill, the house that receives it shall enter his objections on its journal and both houses may reconsider it. If approved by two-thirds of the total number of members of which each house is composed, said bill shall become law.

If the Legislative Assembly adjourns *sine die* before the Governor has acted on a bill that has been presented to him less than ten days before, he is relieved of the obligation of returning it with his objections and the bill shall become law only if the Governor signs it within thirty days after receiving it.

Every final passage or reconsideration of a bill shall be by a roll-call vote.

SECTION 20.—In approving any appropriation bill that contains more than one item, the Governor may eliminate one or more of such items or reduce their amounts, at the same time reducing the total amounts involved.

SECTION 21.—The House of Representatives shall have exclusive power to initiate impeachment proceedings and, with the concurrence of two-thirds of the total number of members of which it is composed, to bring an indictment. The Senate shall have exclusive power to try and to decide impeachment cases, and in meeting for such purposes the Senators shall act in the name of the people and under oath or affirmation. No judgment of conviction in an impeachment trial shall be pronounced without the concurrence of three-fourths of the total number of members of which the Senate is composed, and the judgment shall be limited to removal from office. The person impeached, however, may be liable and subject to indictment, trial, judgment and punishment according to law. The causes of impeachment shall be treason, bribery, other felonies, and misdemeanors involving moral turpitude. The Chief Justice of the Supreme Court shall preside at the impeachment trial of the Governor.

The two houses may conduct impeachment proceedings in their regular or special sessions. The presiding officers of the two houses, upon written request of two-thirds of the total number of members of which the House of Representatives is composed, must convene them to deal with such proceedings.

SECTION 22.—The Governor shall appoint a Controller with the advice and consent of a majority of the total number of members of which each house is composed. The Controller shall meet the requirements prescribed by law and shall hold office for a term of ten years and until his successor has been appointed and qualifies. The Controller shall audit all the revenues, accounts and expenditures of the Commonwealth, of its agencies and instrumentalities and of its municipalities, in order to determine whether they have been made in accordance with law. He shall render annual reports and any special reports that may be required of him by the Legislative Assembly or by the Governor.

In the performance of his duties the Controller shall be authorized to administer oaths, take evidence and compel, under pain of contempt, the attendance of witnesses and the production of books, letters, documents, papers, records and all other articles deemed essential to a full understanding of the matter under investigation.

The Controller may be removed for the causes and pursuant to the procedure established in the preceding section.

ARTICLE IV

THE EXECUTIVE

SECTION 1.—The executive power shall be vested in a Governor, who shall be elected by direct vote in each general election.

SECTION 2.—The Governor shall hold office for the term of four years from the second day of January of the year following his election and until his successor has been elected and qualifies. He shall reside in Puerto Rico and maintain his office in its capital city.

SECTION 3.—No person shall be Governor unless, on the date of the election, he is at least thirty-five years of age, and is and has been during the preceding five years a citizen of the United States and a citizen and *bona fide* resident of Puerto Rico.

SECTION 4.—The Governor shall execute the laws and cause them to be executed.

He shall call the Legislative Assembly or the Senate into special session when in his judgment the public interest so requires.

He shall appoint, in the manner prescribed by this Constitution or by law, all officers whose appointment he is authorized to make. He shall have the power to make appointments while the Legislative Assembly is not in session. Any such appointments that require the

advice and consent of the Senate or of both houses shall expire at the end of the next regular session.

He shall be the commander-in-chief of the militia.

He shall have the power to call out the militia and summon the *posse comitatus* in order to prevent or suppress rebellion, invasion or any serious disturbance of the public peace.

He shall have the power to proclaim martial law when the public safety requires it in case of rebellion or invasion or imminent danger thereof. The Legislative Assembly shall meet forthwith on their own initiative to ratify or revoke the proclamation.

He shall have the power to suspend the execution of sentences in criminal cases and to grant pardons, commutations of punishment, and total or partial remissions of fines and forfeitures for crimes committed in violation of the laws of Puerto Rico. This power shall not extend to cases of impeachment.

He shall approve or disapprove in accordance with this Constitution the joint resolutions and bills passed by the Legislative Assembly.

He shall present to the Legislative Assembly, at the beginning of each regular session, a message concerning the affairs of the Commonwealth and a report concerning the state of the Treasury of Puerto Rico and the proposed expenditures for the ensuing fiscal year. Said report shall contain the information necessary for the formulation of a program of legislation.

He shall exercise the other powers and functions and discharge the other duties assigned to him by this Constitution or by law.

SECTION 5.—For the purpose of exercising executive power, the Governor shall be assisted by Secretaries whom he shall appoint with the advice and consent of the Senate. The appointment of the Secretary of State shall in addition require the advice and consent of the House of Representatives, and the person appointed shall fulfill the requirements established in Section 3 of this Article. The Secretaries shall collectively constitute the Governor's advisory council, which shall be designated as the Council of Secretaries.

SECTION 6.—Without prejudice to the power of the Legislative Assembly to create, reorganize and consolidate executive departments and to define their functions, the following departments are hereby established: State, Justice, Education, Health, Treasury, Labor, Agriculture and Commerce, and Public Works. Each of these executive departments shall be headed by a Secretary.

SECTION 7.—When a vacancy occurs in the office of Governor, caused by death, resignation, removal, total and permanent incapacity, or any other absolute disability, said office shall devolve upon the Secretary of State, who shall hold it for the rest of the term and until a new Governor has been elected and qualifies. In the event that vacancies exist at the same time in both the office of Governor and that of Secretary of State, the law shall provide which of the Secretaries shall serve as Governor.

SECTION 8.—When for any reason the Governor is temporarily unable to perform his functions, the Secretary of State shall substitute for him during the period he is unable to serve. If for any reason the Secretary of State is not available, the Secretary determined by law shall temporarily hold the office of Governor.

SECTION 9.—If the Governor-elect shall not have qualified, or if he has qualified and a permanent vacancy occurs in the office of Governor before he shall have appointed a Secretary of State, or before said Secretary, having been appointed, shall have qualified, the Legislative Assembly just elected, upon convening for its first regular session, shall elect, by a majority of the total number of members of which each house is composed, a Governor who shall hold office until his successor is elected in the next general election and qualifies.

SECTION 10.—The Governor may be removed for the causes and pursuant to the procedure established in Section 21 of Article III of this Constitution.

ARTICLE V

THE JUDICIARY

SECTION 1.—The judicial power of Puerto Rico shall be vested in a Supreme Court, and in such other courts as may be established by law.

SECTION 2.—The courts of Puerto Rico shall constitute a unified judicial system for purposes of jurisdiction, operation and administration. The Legislative Assembly may create and abolish courts, except for the Supreme Court, in a manner not inconsistent with this Constitution, and shall determine the venue and organization of the courts.

SECTION 3.—The Supreme Court shall be the court of last resort in Puerto Rico and shall be composed of a Chief Justice and four Associate Justices. The number of Justices may be changed only by law upon request of the Supreme Court.

SECTION 4.—The Supreme Court shall sit, in accordance with rules adopted by it, as a full court or in divisions. All the decisions of the Supreme Court shall be concurred in by a majority of its members. No law shall be held unconstitutional except by a majority of the total number of Justices of which the Court is composed in accordance with this Constitution or with law.

SECTION 5.—The Supreme Court, any of its divisions, or any of its Justices may hear in the first instance petitions for *habeas corpus* and any other causes and proceedings as determined by law.

SECTION 6.—The Supreme Court shall adopt for the courts rules of evidence and of civil and criminal procedure which shall not abridge, enlarge or modify the substantive rights of the parties. The rules thus adopted shall be submitted to the Legislative Assembly at the beginning of its next regular session and shall not go into effect until sixty days after the close of said session, unless disapproved by the Legislative Assembly, which shall have the power both at said session and subsequently to amend, repeal or supplement any of said rules by a specific law to that effect.

SECTION 7.—The Supreme Court shall adopt rules for the administration of the courts. These rules shall be subject to the laws concerning procurement, personnel, audit and appropriation of funds, and other laws which apply generally to all branches of the government. The Chief Justice shall direct the administration of the courts and shall appoint an administrative director who shall hold office at the will of the Chief Justice.

SECTION 8.—Judges shall be appointed by the Governor with the advice and consent of the Senate. Justices of the Supreme Court shall not assume office until after confirmation by the Senate and shall hold their offices during good behavior. The terms of office of the other judges shall be fixed by law and shall not be less than that fixed for the term of office of a judge of the same or equivalent category existing when this Constitution takes effect. The other officials and employees of the courts shall be appointed in the manner provided by law.

SECTION 9.—No person shall be appointed a Justice of the Supreme Court unless he is a citizen of the United States and of Puerto Rico, shall have been admitted to the practice of law in Puerto Rico at least ten years prior to his appointment, and shall have resided in Puerto Rico at least five years immediately prior thereto.

SECTION 10.—The Legislative Assembly shall establish a retirement system for judges. Retirement shall be compulsory at the age of seventy years.

SECTION 11.—Justices of the Supreme Court may be removed for the causes and pursuant to the procedure established in Section 21 of Article III of this Constitution. Judges of the other courts may be removed by the Supreme Court for the causes and pursuant to the procedure provided by law.

SECTION 12.—No judge shall make a direct or indirect financial contribution to any political organization or party, or hold any executive office therein, or participate in a political campaign of any kind, or be a candidate for an elective public office unless he has resigned his judicial office at least six months prior to his nomination.

SECTION 13.—In the event that a court or any of its divisions or sections is changed or abolished by law, the person holding a post of judge therein shall continue to hold it during the rest of the term for which he was appointed and shall perform the judicial functions assigned to him by the Chief Justice of the Supreme Court.

ARTICLE VI

GENERAL PROVISIONS

SECTION 1.—The Legislative Assembly shall have the power to create, abolish, consolidate and reorganize municipalities; to change their territorial limits; to determine their organization and functions; and to authorize them to develop programs for the general welfare and to create any agencies necessary for that purpose.

No law abolishing or consolidating municipalities shall take effect until ratified in a referendum by a majority of the qualified electors voting in said referendum in each of the municipalities to be abolished or consolidated. The referendum shall be conducted in the manner determined by law, which shall include the applicable procedures of the election laws in effect when the referendum law is approved.

SECTION 2.—The power of the Commonwealth of Puerto Rico to impose and collect taxes and to authorize their imposition and collection by municipalities shall be exercised as determined by the Legislative Assembly and shall never be surrendered or suspended. The power of the Commonwealth of Puerto Rico to contract and to authorize the contracting of debts shall be exercised as determined by the Legislative Assembly.

SECTION 3.—The rule of taxation in Puerto Rico shall be uniform.

SECTION 4.—General elections shall be held every four years on the day of November determined by the Legislative Assembly. In said elections there shall be elected a Governor, the members of the Legislative Assembly, and the other officials whose election on that date is provided for by law.

Every person over twenty-one years of age shall be entitled to vote if he fulfills the other conditions determined by law. No person shall be deprived of the right to vote because he does not know how to read or write or does not own property.

All matters concerning the electoral process, registration of voters, political parties and candidates shall be determined by law.

Every popularly elected official shall be elected by direct vote and any candidate who receives more votes than any other candidate for the same office shall be declared elected.

SECTION 5.—The laws shall be promulgated in accordance with the procedure prescribed by law and shall specify the terms under which they shall take effect.

SECTION 6.—If at the end of any fiscal year the appropriations necessary for the ordinary operating expenses of the government and for the payment of interest on and amortization of the public debt for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation acts for the objects and purposes therein specified, so far as the same may be applicable, shall continue in effect item by item, and the Governor shall authorize the payments necessary for such purposes until corresponding appropriations are made.

SECTION 7.—The appropriations made for any fiscal year shall not exceed the total revenues, including available surplus, estimated for said fiscal year unless the imposition of taxes sufficient to cover said appropriations is provided by law.

SECTION 8.—In case the available revenues including surplus for any fiscal year are insufficient to meet the appropriations made for that year, interest on the public debt and amortization thereof shall first be paid, and other disbursements shall thereafter be made in accordance with the order of priorities established by law.

SECTION 9.—Public property and funds shall only be disposed of for public purposes, for the support and operation of state institutions, and pursuant to law.

SECTION 10.—No law shall give extra compensation to any public officer, employee, agent or contractor after services shall have been rendered or contract made. No law shall extend the term of any public officer or diminish his salary or emoluments after his election or appointment. No person shall draw a salary for more than one office or position in the government of Puerto Rico.

SECTION 11.—The salaries of the Governor, the Secretaries, the members of the Legislative Assembly, the Controller and Judges shall be fixed by a special law and, except for the salaries of the members of the Legislative Assembly, shall not be decreased during the terms for which they are elected or appointed. The salaries of the Governor and the Controller shall not be increased during said terms. No increase in the salaries of the members of the Legislative Assembly shall take effect until after the expiration of the term of the Legislative Assembly during which it is enacted. Any reduction of the salaries of the members of the Legislative Assembly shall be effective only during the term of the Legislative Assembly which approves it.

SECTION 12.—The Governor shall occupy and use, free of rent, the buildings and properties belonging to the Commonwealth which have been or shall hereafter be used and occupied by him as chief executive.

SECTION 13.—The procedure for granting franchises, rights, privileges and concessions of a public or quasi-public nature shall be determined by law, but every concession of this kind to a person or private entity must be approved by the Governor or by the executive official whom he designates. Every franchise, right, privilege or concession of a public or quasi-public nature shall be subject to amendment, alteration or repeal as determined by law.

SECTION 14.—No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture.

Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title.

Corporations not organized in Puerto Rico, but doing business in Puerto Rico, shall be bound by the provisions of this section so far as they are applicable.

These provisions shall not prevent the ownership, possession or management of lands in excess of five hundred acres by the Commonwealth, its agencies or instrumentalities.

SECTION 15.—The Legislative Assembly shall determine all matters concerning the flag, the seal and the anthem of the Commonwealth. Once determined, no law changing them shall take effect until one year after the general election next following the date of enactment of said law.

SECTION 16.—All public officials and employees of the Commonwealth, its agencies, instrumentalities and political subdivisions, before entering upon their respective duties, shall take an oath to support the Constitution of the United States and the Constitution and laws of the Commonwealth of Puerto Rico.

SECTION 17.—In case of invasion, rebellion, epidemic or any other event giving rise to a state of emergency, the Governor may call the Legislative Assembly to meet in a place other than the Capitol of Puerto Rico, subject to the approval or disapproval of the Legislative Assembly. Under the same conditions, the Governor may, during the period of emergency, order the government, its agencies and instrumentalities to be moved temporarily to a place other than the seat of the government.

SECTION 18.—All criminal actions in the courts of the Commonwealth shall be conducted in the name and by the authority of "The People of Puerto Rico" until otherwise provided by law.

SECTION 19.—It shall be the public policy of the Commonwealth to conserve, develop and use its natural resources in the most effective manner possible for the general welfare of the community; to conserve and maintain buildings and places declared by the Legislative Assembly to be of historic or artistic value; to regulate its penal institutions in a manner that effectively achieves their purposes and to provide, within the limits of available resources, for adequate treatment of delinquents in order to make possible their moral and social rehabilitation.

ARTICLE VII

AMENDMENTS TO THE CONSTITUTION

SECTION 1.—The Legislative Assembly may propose amendments to this Constitution by a concurrent resolution approved by not less than two-thirds of the total number of members of which each house is composed. All proposed amendments shall be submitted to the qualified electors in a special referendum, but if the concurrent resolution is approved by not less than three-fourths of the total number of members of which each house is composed, the Legislative Assembly may provide that the referendum shall be held at the same time as the next general election. Each proposed amendment shall be voted on separately and not more than three proposed amendments may be submitted at the same referendum. Every proposed amendment shall specify the terms under which it shall take effect, and it shall become a part of this Constitution if it is ratified by a majority of the electors voting thereon. Once approved, a proposed amendment must be published at least three months prior to the date of the referendum.

SECTION 2.—The Legislative Assembly, by a concurrent resolution approved by two-thirds of the total number of members of which each house is composed, may submit to the qualified electors at a referendum, held at the same time as a general election, the question of whether a constitutional convention shall be called to revise this Constitution. If a majority of the electors voting on this question vote in favor of the revision, it shall be made by a Constitutional Convention elected in the manner provided by law. Every revision of this Constitution shall be submitted to the qualified electors at a special referendum for ratification or rejection by a majority of the votes cast at the referendum.

SECTION 3.—No amendment to this Constitution shall alter the republican form of government established by it or abolish its bill of rights. Any amendment or revision of this Constitution shall be consistent with the resolution enacted by the Congress of the United States approving this Constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact.

ARTICLE VIII

SENATORIAL AND REPRESENTATIVE DISTRICTS

SECTION 1.—The senatorial and representative districts shall be the following:

I.—SENATORIAL DISTRICT OF SAN JUAN, which shall be composed of the following Representative Districts: 1.—The Capital of Puerto Rico, excluding the present electoral precincts of Santurce and Río Piedras; 2.—Electoral zones numbers 1 and 2 of the present precinct of Santurce; 3.—Electoral zone number 3 of the present precinct of Santurce; 4.—Electoral zone number 4 of the present precinct of Santurce; and 5.—Wards Hato Rey, Puerto Nuevo and Caparra Heights of the Capital of Puerto Rico.

II.—SENATORIAL DISTRICT OF BAYAMÓN, which shall be composed of the following Representative Districts: 6.—The municipality of Bayamón; 7.—The municipalities of Carolina and Trujillo Alto; 8.—The present electoral precinct of Río Piedras, excluding wards Hato Rey, Puerto Nuevo and Caparra Heights of the Capital of Puerto Rico; 9.—The municipalities of Cataño, Guaynabo and Toa Baja; and 10.—The municipalities of Toa Alta, Corozal and Naranjito.

III.—SENATORIAL DISTRICT OF ARECIBO, which shall be composed of the following Representative Districts: 11.—The municipalities of Vega Baja, Vega Alta and Dorado; 12.—The municipalities of Manatí and Barceloneta; 13.—The municipalities of Ciales and Morovis; 14.—The municipality of Arecibo; and 15.—The municipality of Utuado.

IV.—SENATORIAL DISTRICT OF AGUADILLA, which shall be composed of the following Representative Districts: 16.—The municipalities of Camuy, Hatillo and Quebradillas; 17.—The municipalities of Aguadilla and Isabela; 18.—The municipalities of San Sebastián and Moca; 19.—The municipalities of Lares, Las Marías and Maricao; and 20.—The municipalities of Añasco, Aguada and Rincón

V.—SENATORIAL DISTRICT OF MAYAGÜEZ, which shall be composed of the following Representative Districts: 21.—The municipality of Mayagüez; 22.—The municipalities of Cabo Rojo, Hormigueros and Lajas; 23.—The municipalities of San Germán and Sábana Grande; 24.—The municipalities of Yauco and Guánica; and 25.—The municipalities of Guayanilla and Peñuelas.

VI.—SENATORIAL DISTRICT OF PONCE, which shall be composed of the following Representative Districts: 26.—The first, second, third, fourth, fifth and sixth wards and the City Beach of the municipality of Ponce; 27.—The municipality of Ponce, except for the first, second, third, fourth, fifth and sixth wards and the City Beach; 28.—The municipalities of Adjuntas and Jayuya; 29.—The municipalities of Juana Díaz, Santa Isabel and Villalba; and 30.—The municipalities of Coamo and Orocovis.

VII.—SENATORIAL DISTRICT OF GUAYAMA, which shall be composed of the following Representative Districts: 31.—The municipalities of Aibonito, Barranquitas and Comerío; 32.—The municipalities of Cayey and Cidra; 33.—The municipalities of Caguas and Aguas Buenas; 34.—The municipalities of Guayama and Salinas; and 35.—The municipalities of Patillas, Maunabo and Arroyo.

VIII.—SENATORIAL DISTRICT OF HUMACAO, which shall be composed of the following Representative Districts: 36.—The municipalities of Humacao and Yabucoa; 37.—The municipalities of Juncos, Gurabo and San Lorenzo; 38.—The municipalities of Naguabo, Ceiba and Las Piedras; 39.—The municipalities of Fajardo and Vieques and the Island of Culebra; and 40.—The municipalities of Río Grande, Loíza and Luquillo.

SECTION 2.—Electoral zones numbers 1, 2, 3 and 4 included in three representative districts within the senatorial district of San Juan are those presently existing for purposes of electoral organization in the second precinct of San Juan.

ARTICLE IX

TRANSITORY PROVISIONS

SECTION 1.—When this Constitution goes into effect all laws not inconsistent therewith shall continue in full force until amended or repealed, or until they expire by their own terms.

Unless otherwise provided by this Constitution, civil and criminal liabilities, rights, franchises, concessions, privileges, claims, actions, causes of action, contracts, and civil, criminal and administrative proceedings shall continue unaffected, notwithstanding the taking effect of this Constitution.

SECTION 2.—All officers who are in office by election or appointment on the date this Constitution takes effect shall continue to hold their offices and to perform the functions thereof in a manner not inconsistent with this Constitution, unless the functions of their offices are abolished or until their successors are selected and qualify in accordance with this Constitution and laws enacted pursuant thereto.

SECTION 3.—Notwithstanding the age limit fixed by this Constitution for compulsory retirement, all the judges of the courts of Puerto Rico who are holding office on the date this Constitution takes effect shall continue to hold their judicial offices until the expiration of the terms for which they were appointed, and in the case of Justices of the Supreme Court during good behavior.

SECTION 4.—The Commonwealth of Puerto Rico shall be the successor of the People of Puerto Rico for all purposes, including without limitation the collection and payment of debts and liabilities in accordance with their terms.

SECTION 5.—When this Constitution goes into effect, the term "citizen of the Commonwealth of Puerto Rico" shall replace the term "citizen of Puerto Rico" as previously used.

SECTION 6.—Political parties shall continue to enjoy all rights recognized by the election law, provided that on the effective date of this Constitution they fulfill the minimum requirements for the registration of new parties contained in said law. Five years after this Constitution shall have taken effect the Legislative Assembly may change these requirements, but any law increasing them shall not go into effect until after the general election next following its enactment.

SECTION 7.—The Legislative Assembly may enact the laws necessary to supplement and make effective these transitory provisions in order to assure the functioning of the government until the officers provided for by this Constitution are elected or appointed and qualify, and until this Constitution takes effect in all respects.

SECTION 8.—If the Legislative Assembly creates a Department of Commerce, the Department of Agriculture and Commerce shall thereafter be called the Department of Agriculture.

SECTION 9.—The first election under the provisions of this Constitution shall be held on the date provided by law, but not later than six months after the effective date of this Constitution. The second general election under this Constitution shall be held in the month of November 1956 on a day provided by law.

SECTION 10.—This Constitution shall take effect when the Governor so proclaims, but not later than sixty days after its ratification by the Congress of the United States.

Done in Convention, at San Juan, Puerto Rico, on the sixth day of February, in the year of Our Lord one thousand nine hundred and fifty-two.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731b, 731c of this title.

§ 731e. Sections continued in force and effect.

The act of March 2, 1917, is continued in force and effect. (July 3, 1950, ch. 446, § 4, 64 Stat. 319.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

REFERENCES IN TEXT

The act of March 2, 1917, referred to in text, comprises this chapter.

SHORT TITLE

Section 4 of act July 3, 1950 provided in part that the act of March 2, 1917, cited in the text of this section, shall be popularly known as the "Puerto Rican Federal Relations Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731b, 731c, 731d of this title.

§ 732. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, acts Mar. 2, 1917, ch. 145, § 4, 39 Stat. 953; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 6, 31 Stat. 79, designated San Juan as the capital of Puerto Rico. Subject matter is now covered by Art. I, § 4, of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

The repealing act provided that the repeal of former section 732 of this title and other sections in this chapter should become effective when the Constitution of Puerto Rico became effective. Under section 731d of this title, that Constitution, upon approval by the Congress of the United States, "shall become effective in accordance with its terms". Congress, by Joint Res. July 3, 1952, ch. 567, 66 Stat. 327, approved, with certain conditions, that Constitution; the approving act further provided that the Constitution, as so approved, "shall become effective when the Constitutional Convention of Puerto Rico shall have declared in a formal resolution its acceptance in the name of Puerto Rico of the conditions of approval herein contained, and when the Governor of Puerto Rico, being duly notified by the proper officials of the Constitutional Convention of Puerto Rico that such resolution of acceptance has been formally adopted, shall issue a proclamation to that effect". The Constitution was proclaimed by the Governor of Puerto Rico on July 25, 1952 and became effective on that date.

§ 733. Citizens; former Spanish subjects and children; body politic; name.

All inhabitants continuing to reside in Puerto Rico who were Spanish subjects on the 11th day of April 1899, and then resided in Puerto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Puerto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the 11th day of April 1900, in accordance with the provisions of the treaty of peace between the United States and Spain entered into on the 11th day of April 1899; and they, together with such citizens of the United States as may reside in Puerto Rico, shall constitute a body politic under the name of the People of Puerto Rico, with governmental powers as hereinafter conferred, and with power to sue and be sued as such. (Apr. 12, 1900, ch. 191, § 7, 31 Stat. 79; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Citizen of the Commonwealth of Puerto Rico as replacing citizen of Puerto Rico, see Art. IX, § 5, of Commonwealth Constitution, set out as a note under section 731d of this title.

Persons born in Puerto Rico declared citizens of the United States, see section 1402 of Title 8, Aliens and Nationality.

§ 733a. Citizens; residence in island of citizens of United States.

All citizens of the United States who have resided or who shall after March 4, 1927, reside in the island for one year shall be citizens of Puerto Rico. (Mar. 2, 1917, ch. 145, § 5a, as added Mar. 4, 1927, ch. 503, § 2, 44 Stat. 1418, and amended May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Citizen of the Commonwealth of Puerto Rico as replacing citizen of Puerto Rico, see Art. IX, § 5, of Commonwealth Constitution, set out as a note under section 731d of this title.

§ 733a-1. Repealed. June 27, 1952, ch. 477, title IV, § 403 (a) (14), 66 Stat. 279.

Section, act Mar. 2, 1917, ch. 145, § 5b, as added June 25, 1948, ch. 649, 62 Stat. 1015, related to nonapplication of former section 804 (c) of Title 8, Aliens and Nationality, and is not now covered.

§ 733b. American citizenship of persons born in Puerto Rico; naturalization of women.

CODIFICATION

Prior to the enactment of the Nationality Act of 1940, this section, act Mar. 2, 1917, ch. 145, § 5b, as added June 27, 1934, ch. 845, 48 Stat. 1245, provided as follows: "All persons born in Puerto Rico on or after April 11, 1899 (whether before or after June 27, 1934) and not citizens, subjects, or nationals of any foreign power, are hereby declared to be citizens of the United States: *Provided,* That

this section shall not be construed as depriving any person, native of Puerto Rico, of his or her American citizenship heretofore otherwise lawfully acquired by such person; or to extend such citizenship to persons who shall have renounced or lost it under the treaties and/or laws of the United States or who are now residing permanently abroad and are citizens or subjects of a foreign country: *And provided further,* That any woman, native of Puerto Rico and permanently residing therein, who, prior to March 2, 1917, had lost her American nationality by reason of her marriage to an alien eligible to citizenship, or by reason of the loss of the United States citizenship by her husband, may be naturalized under the provisions of section 369 of title 8."

The second proviso thereof was repealed by section 504 of the Nationality Act of 1940 (Act Oct. 14, 1940, ch. 876, 54 Stat. 1137). Present provisions relating to citizenship of persons born in Puerto Rico, formerly contained in section 203 of Nationality Act of 1940 [former section 602 of Title 8, Aliens and Nationality], which was repealed by act June 27, 1952, ch. 477, title IV, § 403(a)(42) 66 Stat. 280, are contained in section 1402 of Title 8, Aliens and Nationality.

§ 734. United States laws extended to Puerto Rico; internal revenue receipts covered into treasury.

The statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States, except the internal revenue laws other than those contained in the Philippine Trade Act of 1946 or the Philippine Trade Agreement Revision Act of 1955: *Provided, however,* That after May 1, 1946, all taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States, or consumed in the island shall be covered into the Treasury of Puerto Rico. (Mar. 2, 1917, ch. 145, § 9, 39 Stat. 954; May 17, 1932, ch. 190, 47 Stat. 158; Apr. 30, 1946, ch. 244, title V, § 513, 60 Stat. 158; Aug. 1, 1955, ch. 438, title III, § 308, 69 Stat. 427.)

References in Text

The Philippine Trade Agreement Revision Act of 1955, referred to in the text, is classified to sections 1371–1379 of Title 22, Foreign Relations and Intercourse, and this section.

The Philippine Trade Act of 1946, referred to in the text, is classified to sections 1251—1255, 1261—1266, 1271—1274, 1281, 1291, 1301—1305, 1311—1313, 1321, 1322, 1331, 1332, 1334, 1341—1348, 1351—1360, and 1393 of Title 22, Foreign Relations and Intercourse former sections 2470(a)(2) and 2800(a)(4)(B) of Title 26, Internal Revenue Code, 1939, and this section. Sections 2470(a)(2) and 2800(a)(4)(B) of Title 26 were repealed by section 7851 of Title 26, IRC, 1954 and are now covered by sections 4511 and 5001(a)(4) of that title.

Amendments

1955—Act Aug. 1, 1955, inserted "or the Philippine Trade Agreement Revision Act of 1955".

1946—Act Apr. 30, 1946, inserted "other than those contained in the Philippine Trade Act of 1946", preceding proviso.

Change of Name

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

Effective Date of 1955 Amendment

Amendment of this section by act Aug. 1, 1955, effective on January 1, 1956, see note under section 1373 of Title 22, Foreign Relations and Intercourse.

Effective Date of 1946 Amendment

Amendment of section by act Apr. 30, 1946, effective on the day after the date of its enactment, April 30, 1946, see note under section 1251 of Title 22, Foreign Relations and Intercourse.

Prior Law

Act Apr. 12, 1900, ch. 191, § 14, 31 Stat. 80, was substantially identical with this section, but contained in lieu of the proviso the words "which, in view of the provisions of section three, shall not have force and effect in Porto Rico." As to section 3 of act Apr. 12, 1900, ch. 191, see section 738 of this title and notes thereunder.

Cross References

Articles, goods, wares, or merchandise going into Puerto Rico from United States, exempt from payment of any tax imposed by internal revenue laws of United States, see section 7653(b) of Title 26, Internal Revenue Code, 1954.

Deposit of internal revenue collections, see section 7652(a)(3) of Title 26, Internal Revenue Code, 1954.

Income tax on residents of Puerto Rico, see section 933 of Title 26, Internal Revenue Code, 1954.

Internal revenue tax on articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale, see section 7652(a)(1) of Title 26, Internal Revenue Code, 1954.

Interstate Commerce Act as amended and the Safety Appliance Acts as amended as inapplicable to Puerto Rico, see section 751 of this title.

References to possessions in Internal Revenue Code as referring to Commonwealth of Puerto Rico, see section 7701(c) of Title 26, Internal Revenue Code, 1954.

Taxes collected, as trust funds, see section 725s of Title 31, Money and Finance.

Ex. Ord. No. 9909. Exempting District Court of the United States for Puerto Rico and the Department of Justice From Making Reports Required by This Section

Ex. Ord. No. 9909, Dec. 9, 1947, 12 F.R. 8291, provided: "By virtue of the authority vested in me by section 49b (2) of the Organic Act of Puerto Rico, as amended by section 6 of the Act of August 5, 1947, Public Law 362, 80th Congress [former section 793b of this title], it is hereby ordered that the District Court of the United States for Puerto Rico and the Department of Justice shall be exempt from making the reports to the Coordinator of Federal Agencies in Puerto Rico which are provided for in such section."

Ex. Ord. No. 10005. Establishment of President's Advisory Commission on Relation of Federal Laws to Puerto Rico

Ex. Ord. No. 10005, Oct. 5, 1948, 13 F.R. 5854, provided:

WHEREAS section 9 of the Organic Act of Puerto Rico, 39 Stat. 954 [this section], provides that "the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States"; and

WHEREAS section 49b (3) of the said Act, which was added by section 6 of the act of August 5, 1947, 61 Stat. 772 [former section 793b of this title], provides that "the President of the United States may, from time to time, after hearing, promulgate Executive orders expressly excepting Puerto Rico from the application of any Federal law, not expressly declared by Congress to be applicable to Puerto Rico, which as contemplated by section 9 of this act [this section] is inapplicable by reason of local conditions":

NOW, THEREFORE, by virtue of the authority vested in me by the said Organic Act of Puerto Rico, and as President of the United States, it is ordered as follows:

1. There is hereby created a commission to be known as the President's Advisory Commission on the Relation of Federal Laws to Puerto Rico, which shall be composed of nine members to be designated by the President and to serve without compensation.

2. The Commission shall from time to time make recommendations to the President concerning the exercise of his power under section 49b(3) of the Organic Act of Puerto Rico [former section 793b of this title] to exempt Puerto Rico from the application of Federal laws. To that end, the Commission is authorized to examine into, and to hold hearings on, the inapplicability of Federal laws to Puerto Rico by reason of local conditions.

3. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Commission in its work and to furnish the Commission such information as the Commission may require in the performance of its duties.

4. The Commission shall continue to exist until the President terminates its existence by Executive order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 1356, 1373.

§ 734a. Extension of industrial alcohol and internal revenue laws to Puerto Rico.

Sections 71 to 89 of Title 27 and all provisions of the internal revenue laws relating to the enforcement thereof, are extended to and made applicable to Puerto Rico from and after August 27, 1935. The Insular Government shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico of the said sections and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this section. (June 26, 1936, ch. 830, title III, § 329 (c), 49 Stat. 1947.)

REFERENCES IN TEXT

The provisions of sections 71 to 89 of Title 27, Intoxicating Liquors, to which reference is made in this section, were repealed and substantially reenacted as part of the Internal Revenue Code, 1954.

CODIFICATION

Provisions similar to this section relating to the Virgin Islands are set out as section 1402 of this title.

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CROSS REFERENCE

Industrial alcohol plants, application of internal revenue laws to Puerto Rico, see section 5314 of Title 26, Internal Revenue Code, 1954.

§ 735. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, acts Mar. 2, 1917, ch. 145, § 57, 39 Stat. 968; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, §§ 8 in part, 15, 31 Stat. 79, 80, continued certain Puerto Rican Laws in force and authorized the legislative authority to modify or repeal laws. Subject matter is now covered by Art. IX, § 1 of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 736. Puerto Rican law modified.

So much of the law which was in force at the time of cession, April 11th, 1899, forbidding the marriage of priests, ministers, or followers of any faith because of vows they may have taken, being paragraph 4, article 83, chapter 3, civil code, and which was continued by the order of the secretary of justice of Puerto Rico, dated March 17, 1899, and promulgated by Major General Guy V. Henry, United States Volunteers, is repealed and annulled, and all persons lawfully married in Puerto Rico shall have all the rights and remedies conferred by law upon parties to either civil or religious marriages. Paragraph 1, article 105, section 4, divorce, civil code, and paragraph 2, section 19, of the order of the minister of justice of Puerto Rico, dated March 17, 1899, and promulgated by Major General Guy V. Henry, United States Volunteers, are so amended as to read: "Adultery on the part of either the husband or the wife." (Apr. 12, 1900, ch. 191, § 8, 31 Stat. 79; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

§ 737. Privileges and immunities.

The rights, privileges, and immunities of citizens of the United States shall be respected in Puerto Rico to the same extent as though Puerto Rico were a State of the Union and subject to the provisions of paragraph 1 of section 2 of article IV of the Constitution of the United States. (Mar. 2, 1917, ch. 145, § 2, 39 Stat. 951; Feb. 3, 1921, ch. 34, § 1, 41 Stat. 1096; May 17, 1932, ch. 190, 47 Stat. 158; Mar. 2, 1934, ch. 37, § 1, 48 Stat. 361; Aug. 5, 1947, ch. 490, § 7, 61 Stat. 772; July 3, 1950, ch. 446, § 5 (1), 64 Stat. 320.)

AMENDMENTS

1950—Act July 3, 1950, repealed all of section relating to bill of rights and restrictions except last paragraph.

1947—Act Aug. 5, 1947, added privileges and immunities provisions.

1934—Act Mar. 2, 1934, repealed so much of former provisions of twentieth paragraph of this section making it unlawful to import, manufacture, sell or give away, or to expose for sale or gift any intoxicating liquors. The penalty formerly contained in such paragraph, related only to violation of such provisions.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

EFFECTIVE DATE OF 1950 AMENDMENT

Amendment of this section effective July 25, 1952, the date the Constitution of Puerto Rico became effective, see note under former section 732 of this title.

§ 738. Free interchange of merchandise with United States.

All merchandise and articles coming into the United States from Puerto Rico and coming into Puerto Rico from the United States shall be entered at the several ports of entry free of duty and in no event shall any tariff duties be collected on said merchandise or articles. (Apr. 12, 1900, ch. 191, § 3, 31 Stat. 77; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Act Apr. 12, 1900, § 3, as originally enacted, imposed tariff duties, amounting to 15 per centum of the duties on like articles imported from foreign countries, on all articles of merchandise coming into the United States from Porto Rico and vice versa. Merchandise and articles except coffee, not dutiable under United States' tariff laws, and merchandise or articles entered in Porto Rico free of duty under orders theretofore made by the Secretary of War, were to be admitted from the United States free of duty, all laws or parts of laws to the contrary, notwithstanding. However, all of the aforesaid tariff duties were to cease, and the provisions in the text were to become operative, whenever the local legislative assembly should put into operation a system of local taxation, and the President should make proclamation thereof. In no event were those duties to be

collected after March 1, 1902. In accordance with the aforesaid provision President McKinley issued his proclamation July 25, 1901, 32 Stat. 1983.

Section 3 also contained provisions relating to a tax on merchandise of Porto Rican manufacture equal to the internal-revenue tax imposed in the United States, and on merchandise of United States manufacture coming into Porto Rico, a tax equal to the internal-revenue tax imposed in Porto Rico upon like articles of Porto Rican manufacture which are now set forth in sections 7652(a)(1) and 7653(a)(1) of Title 26, Internal Revenue Code, 1954.

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Puerto Rico empowered to impose tariff duties on coffee imported into Puerto Rico from foreign countries through United States, see sections 1319 and 1319a of Title 19, Customs Duties.

Taxation of shipments to and from the United States, see sections 7652 and 7653 of Title 26, Internal Revenue Code, 1954.

§ 739. Duties on foreign imports; books and pamphlets in English language.

The same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Puerto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries. All books and pamphlets printed in the English language shall be admitted into Puerto Rico free of duty when imported from the United States. (Apr. 12, 1900, ch. 191, § 2, 31 Stat. 77; Aug. 5, 1909, ch. 6, § 1, 36 Stat. 71, 74; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

AMENDMENTS

1909—Act Aug. 5, 1909, placed coffee in the bean or ground, imported into Puerto Rico, formerly subject to a duty of 5 cents, on the duty free list.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

§ 740. Duties and taxes to constitute fund for benefit of Puerto Rico; ports of entry.

The duties and taxes collected in Puerto Rico in pursuance of the provisions of this chapter, less the cost of collecting the same, and the gross amount of all collections of duties and taxes in the United States upon articles of merchandise coming from Puerto Rico, shall be paid into the treasury of Puerto Rico to be expended as required by law for the government and benefit thereof, and the Secretary of the Treasury shall designate the several ports and subports of entry in Puerto Rico and shall make such rules and regulations and appoint such agents as may be necessary to collect the duties and taxes authorized to be levied, collected, and paid in Puerto Rico by the provisions of this chapter, and he shall fix the compensation and provide for the payment thereof of all such officers, agents, and assistants as he may find it necessary to employ to carry out the provisions of law. (Apr. 12, 1900, ch. 191, § 4, 31 Stat. 78; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning act Apr. 12, 1900, which is classified to sections 1 and 11 of Title 11, Bankruptcy, and sections 733, 738—740, and 744 of this title.

CODIFICATION

Additional provisions of act Apr. 12, 1900, § 4, directing the payment of duties and taxes into a separate fund in the Treasury of the United States until the organization of a local civil government, have been omitted as obsolete.

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

EXPENDITURES FOR GOVERNMENTAL AND PUBLIC PURPOSES

The amount of customs revenue received by the United States on importations from Puerto Rico since its evacuation by the Spanish forces together with all that should thereafter be collected under the existing law were placed at the disposal of the President to be used for governmental and public purposes in Puerto Rico, by act March 24, 1900, ch. 91, 31 Stat. 51.

CROSS REFERENCE

All taxes collected on articles produced in Puerto Rico and transported to the United States to be covered into the treasury of Puerto Rico, see section 7652(a)(3) of Title 26, Internal Revenue Code, 1954.

§ 741. Export duties, taxes, etc.; bonds to anticipate revenues.

No export duties shall be levied or collected on exports from Puerto Rico, but taxes and assessments on property, income taxes, internal revenue, and license fees, and royalties for franchises, privileges, and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by the Legislature of Puerto Rico; and when necessary to anticipate taxes and revenues, bonds and other obligations may be issued by Puerto Rico or any municipal government therein as may be provided by law, and to protect the public credit. (Mar. 2, 1917, ch. 145, § 3, 39 Stat. 953; Feb. 3, 1921, ch. 34, § 2, 41 Stat. 1096; Mar. 4, 1927, ch. 503, § 1, 44 Stat. 1418; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 26, 1937, ch. 831, 50 Stat. 843.)

CODIFICATION

Section is comprised of first part of section 3 of act Mar. 2, 1917, down to the proviso clause. The remainder of section 3 is classified to sections 741a and 745 of this title.

AMENDMENTS

1937—Act Aug. 26, 1937, reenacted section without change.

1927—Act Mar. 4, 1927, included the imposition of income taxes.

1921—Act Feb. 3, 1921, reenacted section without change.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Substantially identical provisions were contained in act Apr. 12, 1900, ch. 191, § 38, 31 Stat. 86.

§ 741a. Internal-revenue taxes; levy and collection; discrimination.

The internal-revenue taxes levied by the Legislature of Puerto Rico in pursuance of the authority granted by this chapter on articles, goods, wares, or merchandise may be levied and collected as such legislature may direct, on the articles subject to said tax, as soon as the same are manufactured, sold, used, or brought into the island: *Provided*, That no discrimination be made between the articles imported from the United States or foreign countries and similar articles produced or manufactured in Puerto Rico. The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the Puerto Rican government in the collection of these taxes. (Mar. 2, 1917, ch. 145, § 3, 39 Stat. 953; Mar. 4, 1927, ch. 503, § 1, 44 Stat. 1418; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 26, 1937, ch. 831, 50 Stat. 843.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Mar. 2, 1917, ch. 145, 39 Stat. 951, which is known as the Jones Act, and is generally classified to this chapter. For distribution of that act, see Reference in Text note under section 731 of this title.

CODIFICATION

Section is comprised of last part of section 3 of act Mar. 2, 1917, as added by act Mar. 4, 1927. The first two parts are classified to sections 741 and 745, respectively, of this title.

AMENDMENTS

1937—Act Aug. 26, 1937, reenacted this section without change.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCE

All articles of merchandise of United States manufacture coming into Puerto Rico to be entered at port of entry upon payment of tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon like articles of Puerto Rican manufacture, see section 7653(a)(1) of Title 26, Internal Revenue Code, 1954.

§ 742. Acknowledgment of deeds.

Deeds and other instruments affecting land situate in the District of Columbia, or any other territory or possession of the United States, may be acknowledged in Puerto Rico before any notary public appointed therein by proper authority, or any officer therein who has ex officio the powers of a notary public. The certificate by such notary shall be accompanied by the certificate of the executive secretary of Puerto Rico to the effect that the notary taking such acknowledgment is in fact such notarial officer. (Mar. 22, 1902, ch. 273, 32 Stat. 88; Mar. 2, 1917, ch. 145, § 54, 39 Stat. 968; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

A provision similar to this section was made by act Mar. 22, 1902, ch. 273, 32 Stat. 88, except that that act required the certificate of the attorney general of Puerto Rico, rather than of the executive secretary of Puerto Rico as required by this section.

§ 743. Repealed. July 1, 1944, ch. 373, title XI, §1113, 58 Stat. 714.

Section, acts Apr. 12, 1900, ch. 191, § 10, 31 Stat. 80; Aug. 14, 1912, ch. 288, 37 Stat. 309; May 17, 1932, ch. 190, 47 Stat. 158, provided for quarantine stations in Puerto Rico, and is now covered by section 267 of Title 42, The Public Health and Welfare.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed this section, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by act Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 744. Coasting-trade laws.

The coasting trade between Puerto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States. (Apr. 12, 1900, ch. 191, § 9, 31 Stat. 79; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Additional provisions of section 9 of act Apr. 12, 1900, authorizing the making of regulations for the nationalization of all vessels owned by inhabitants of Puerto Rico on April 11, 1889, and which continued to be so owned up to the date of that nationalization and for the admission of the same to all the benefits of the coasting trade of the United States, have been executed and are obsolete.

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Establishment of great districts embracing seacoasts and navigable rivers of United States and Puerto Rico, see section 293 of Title 46, Shipping.

§ 745. Public indebtedness; computation; bonds.

No public indebtedness of Puerto Rico and the municipalities of San Juan, Ponce, Arecibo, Rio Piedras and Mayaguez shall be allowed in excess of 10 per centum of the aggregate tax valuation of its property, and no public indebtedness of any other subdivision or municipality of Puerto Rico shall after August 26, 1937, be allowed in excess of 5 per centum of the aggregate tax valuation of the property in any such subdivision or municipality, and all bonds issued by the Government of Puerto Rico, or by its authority, shall be exempt from taxation by the Government of the United States, or by the Government of Puerto Rico or of any political or municipal subdivision thereof, or by any State, Territory, or possession, or by any county, municipality, or other municipal subdivision of any State, Territory, or possession of the United States, or by the District of Columbia. In computing the indebtedness of the people of Puerto Rico, municipal bonds for the payment of interest and principal of which the good faith of the people of Puerto

Rico has prior to August 26, 1937, been pledged and bonds issued by the people of Puerto Rico secured by bonds to an equivalent amount of bonds of municipal corporations or school boards of Puerto Rico shall not be counted, but all bonds after August 26, 1937, issued by any municipality or subdivision within the 5 per centum authorized for which the good faith of the people of Puerto Rico is pledged shall be counted. (Mar. 2, 1917, ch. 145, § 3, 39 Stat. 953; Feb. 3, 1921, ch. 34, § 2, 41 Stat. 1096; Mar. 4, 1927, ch. 503, § 1, 44 Stat. 1418; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 26, 1937, ch. 831, 50 Stat. 844; Aug. 17, 1950, ch. 731, 64 Stat. 458.)

Elimination of Public Debt Limitations

Provisions in this section limiting public indebtedness eliminated upon adoption of amendment to Constitution of Commonwealth of Puerto Rico, see Pub. L. 87–121, Aug. 3, 1961, 74 Stat. 245, set out as a note under this section.

CODIFICATION

Section is comprised of second part of section 3 of act Mar. 2, 1917, commencing with proviso clause. The first and last parts of section 3 are classified to sections 741 and 741a, respectively, of this title.

AMENDMENTS

1950—Act Aug. 17, 1950, made section applicable to the municipalities of Arecibo and Rio Piedras.

1937—Act Aug. 26, 1937, made section applicable to the municipality of Mayaguez and substituted wherever appearing "August 26, 1937" for "March 4, 1927".

1927—Act Mar. 4, 1927, made section applicable to the municipalities of San Juan and Ponce, limited the public indebtedness of other subdivisions or municipalities of Puerto Rico to 5 per centum, and inserted in the last sentence two clauses, the first relating to the non-inclusion of municipal bonds for the payment of interest and principal, and the second commencing with "but all bonds . . . shall be counted."

1921—Act Feb. 3, 1921, increased the allowable public indebtedness from 7 to 10 per centum of the aggregate tax valuation of property.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Act Apr. 12, 1900, ch. 191, § 38, 31 Stat. 86, provided that no public indebtedness of Puerto Rico or of any municipality thereof shall be authorized or allowed in excess of seven per centum of the aggregate tax valuation of its property.

ELIMINATION OF DEBT LIMITATIONS PROVISIONS

Pub. L. 87–121, Aug. 3, 1961, 75 Stat. 245 provided:

"That section 3 of the Puerto Rican Federal Relations Act (64 Stat. 319), as amended (64 Stat. 458) [this section], is amended by deleting therefrom the following language: '*Provided, however,* That no public indebtedness of Puerto Rico and the municipalities of San Juan, Ponce, Arecibo, Rio Piedras and Mayaguez shall be allowed in excess of 10 per centum of the aggregate tax valuation of its property, and no public indebtedness of any other subdivision or municipality of Puerto Rico shall hereafter be allowed in excess of 5 per centum of the aggregate tax valuation of the property in any such subdivision or municipality,' and 'In computing the indebtedness of the people of Puerto Rico, municipal bonds for the payment of interest and principal of which the good faith of the people of Puerto Rico has heretofore been pledged and bonds issued by the people of Puerto Rico shall not be counted but all bonds hereafter issued by of municipal corporations or school boards of Puerto Rico shall not be counted but all bods hereafter issued by any municipality or subdivision within the 5 per centum hereby authorized for which the good faith of the people or Puerto Rico is pledged shall be counted.'

"SEC. 2. Section 1 of this Act shall take effect upon a majority of the qualified electors of Puerto Rico having voted in a referendum pursuant to section 1 of article VII of the constitution of the Commonwealth of Puerto Rico, to include provisions in the Commonwealth constitution, in lieu of the provisions of section 3 of the Puerto Rican Federal Relations Act [this section] specified herein, limiting the debt-incurring capacity of the Commonwealth and of its municipalities (as proposed in the concurrent resolution of the legislative assembly of the Commonwealth)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 745a, 745b of this title.

§ 745a. Public improvement bonds sold to United States or agency thereof excluded from public indebtedness.

Bonds or other obligations of Puerto Rico or any municipal government therein, payable solely from revenues derived from any public improvement or undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking), and issued and sold to the United States of America or any agency or instrumentality thereof, shall not be considered public indebtedness of the issuer within the meaning of section 745 of this title. (Aug. 13, 1935, ch. 516, 49 Stat. 611.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

§ 745b. Refunding bonds excluded temporarily in computing indebtedness.

Any bonds or other obligations of Puerto Rico hereafter issued for the purpose of retiring previously outstanding bonds or obligations shall not be included in computing the public indebtedness of Puerto Rico under section 745 of this title, until six months after their issue. (Aug. 3, 1935, ch. 435, 49 Stat. 516.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

§ 746. Public lands and buildings; reservations; rights prior to July 1, 1902.

All public lands and buildings, not including harbor areas and navigable streams and bodies of water and the submerged lands underlying the same, owned by the United States in the island of Puerto Rico and not reserved by the President of the United States prior to July 1, 1903, pursuant to authority vested in him by law, are granted to the government of Puerto Rico, to be held or disposed of for the use and benefit of the people of said island. Said grant is upon the express condition that the government of Puerto Rico, by proper authority, release to the United States any interest or claim it may have in or upon the lands or buildings reserved by the President as mentioned herein. Nothing herein contained shall be so construed as to affect any legal or equitable rights acquired by the government of Puerto Rico or by any other party, under any contract, lease, or license made by the United States authorities prior to the 1st day of

May 1900. (July 1, 1902, ch. 1383, § 1, 32 Stat. 731; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

LAW LIBRARY

Section 2 of act July 1, 1902, made an appropriation for the purchase of a law library for the use of the United States District Court for Puerto Rico.

EXPENSES AND TERM OF RESIDENT COMMISSIONER

Section 3 of act July 1, 1902, related to allowance of traveling expenses in addition to salary to the resident commissioner from Puerto Rico, and to the commencement of his term.

§ 747. Public property transferred.

All property which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on the 10th day of December 1898, in any public bridges, road houses, water powers, highways, unnavigable streams and the beds thereof, subterranean waters, mines or minerals under the surface of private lands, all property which at the time of the cession belonged, under the laws of Spain then in force, to the various harbor works boards of Puerto Rico, all the harbor shores, docks, slips, reclaimed lands, and all public lands and buildings not reserved by the United States for public purposes prior to March 2, 1917, is placed under the control of the government of Puerto Rico, to be administered for the benefit of the people of Puerto Rico; and the Legislature of Puerto Rico shall have authority, subject to the limitations imposed upon all its acts, to legislate with respect to all matters, as it may deem advisable. (Mar. 2, 1917, ch. 145, § 7, 39 Stat. 954; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section is comprised of that part of section 7 of act Mar. 2, 1917, preceding the proviso clause. The remainder of section 7 is classified to section 748 of this title.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Substantially identical provisions were contained in act Apr. 12, 1900, ch. 191, § 13, 31 Stat. 80.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 749 of this title.

§ 748. Conveyance by President to people of lands, buildings, etc.

The President may, from time to time, in his discretion, convey to the people of Puerto Rico, such lands, buildings, or interests in lands, or other property now owned by the United States, and within the territorial limits of Puerto Rico as in his opinion are no longer needed for purposes of the United States. And he may from time to time accept by legislative grant from Puerto Rico any lands, buildings, or other interests or property which may be needed for public purposes by the United States. (Mar. 2, 1917, ch. 145, § 7, 39 Stat. 954; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section is comprised of proviso clause of section 7 of act Mar. 2, 1917. The text preceding the proviso clause of section 7 is classified to section 747 of this title.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F. R. 5385, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 749 of this title.

§ 749. Harbors and navigable waters transferred.

The harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, owned by the United States on March 2, 1917, and not reserved by the United States for public purposes, are placed under the control of the government of Puerto Rico, to be administered in the same manner and subject to the same limitations as the property enumerated in sections 747 and 748 of this title. All laws of the United States for the protection and improvement of the navigable waters of the United States and the preservation of the interests of navigation and commerce, except so far as the same may be locally inapplicable, shall apply to said island and waters and to its adjacent islands and waters. Nothing in this chapter contained shall be construed so as to affect or impair in any manner the terms or conditions of any authorizations, permits, or other powers lawfully granted or exercised in or in respect of said waters and submerged lands in and surrounding said island and its adjacent islands by the Secretary of War or other authorized officer or agent of the United States prior to March 2, 1917. (Mar. 2, 1917, ch. 145, § 8, 39 Stat. 954; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Mar. 2, 1917, ch. 145, 39 Stat. 951, which is known as the Puerto Rican Federal Relations Act, and is generally classified to this chapter. For distribution of that act, see Reference in Text note under section 731 of this title.

CODIFICATION

A further provision of section 8 of act Mar. 2, 1917, repealing act June 11, 1906, ch. 3075, 34 Stat. 234, and all other laws or parts of laws in conflict herewith was omitted as executed.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Protection of navigable waters and of harbor and river improvements generally, see chapter 9 of Title 33, Navigation and Navigable Waters.

§ 750. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, acts Mar. 2, 1917, ch. 145, § 38, 39 Stat. 964; Mar. 4, 1927, ch. 503, § 6, 44 Stat. 1420; June 24, 1948, ch. 610, § 7, 62 Stat. 580, which derived from act Apr. 12, 1900, ch. 191, § 32, 31 Stat. 83; Joint Res. May 1, 1900, No. 23, § 2, 31 Stat. 716, related to grants of franchises, public service commission, etc. Subject matter is now covered by Art. VI, § 13 of the Constitution of the Commonwealth

of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 751. Interstate commerce and certain other laws inapplicable to Puerto Rico.

The Interstate Commerce Act and the several amendments made or to be made thereto, the Safety Appliance Acts and the several amendments made or to be made thereto, and section 19a of Title 49, shall not apply to Puerto Rico. (Mar. 2, 1917, ch. 145, § 38, 39 Stat. 964; Mar. 4, 1927, ch. 503, § 6, 44 Stat. 1420; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in the text, is classified to chapters 1, 8, 12, 13, and 19 of Title 49, Transportation.

The Safety Appliance Acts, referred to in the text, are classified to chapter 1 of Title 45, Railroads.

CODIFICATION

Section is comprised of second paragraph of section 38 of act Mar. 2, 1917. The first and third paragraphs of section 38 were classified to sections 750 and 753, respectively, of this title.

AMENDMENTS

1927—Act Mar. 4, 1927, reenacted section without change.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

§ 752. Corporate real-estate holdings.

No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture. Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Puerto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable. (May 1, 1900, No. 23, § 3, 31 Stat. 716; May 17, 1932, ch. 190, 47 Stat. 158; July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

REPEALS

Section 5 (2) of act July 3, 1950, repealed act Mar. 2, 1917, ch. 145, § 39, 39 Stat. 964, eff. July 25, 1952, the date the constitution of Puerto Rico became effective.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§§ 753, 754. Repealed. July 3, 1950, ch. 446, § 5 (2, 4), 64 Stat. 320, eff. July 25, 1952.

Section 753, acts Mar. 2, 1917, ch. 145, § 38, 39 Stat. 964; Mar. 4, 1927, ch. 503, § 6, 44 Stat. 1420; May 17, 1932, ch. 190, 47 Stat. 158, authorized the Legislature to regulate rates, tariffs, etc., of public carriers and the public service commission to enforce those laws.

Section 754, act Mar. 2, 1917, ch. 145, § 35, 39 Stat. 963; May 17, 1932, ch. 190, 47 Stat. 158, which had been transferred to former section 814a of this title, related to qualifications of electors. Subject matter is now covered by Art. VI, § 4, of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 755. Coins; redemption; exchange; recoinage; legal tender.

CODIFICATION

Section, act Apr. 12, 1900, ch. 191, § 11, 31 Stat. 80, provided for redemption by Secretary of Treasury of Puerto Rican silver coins known as the peso and all other Puerto Rican silver and coppers in circulation on April 12, 1900, except those imported after February 1, 1900, at rate of 60 cents per peso and for recoinage of such coins into United States coins, and made United States coins sole legal tender in payment of debts, except those owing prior to April 12, 1900, which were payable in Puerto Rico coins or their exchanged equivalents.

THE EXECUTIVE AND GOVERNMENT OFFICIALS

§§ 771 to 793. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section 771, acts Mar. 2, 1917, ch. 145, § 12, 39 Stat. 950; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 5, 1947, ch. 490, § 1, 61 Stat. 770, which derived from act Apr. 12, 1900, ch. 191, § 7, related to the election, tenure of office and qualifications of the governor.

Section 771a, act Mar. 2, 1917, ch. 145, § 12a, as added Aug. 5, 1947, ch. 490, § 2, 61 Stat. 771, related to the impeachment of the governor.

Section 772, acts Mar. 2, 1917, ch. 145, § 24, 39 Stat. 958; Aug. 5, 1947, ch. 490, § 4, 61 Stat. 771, which derived from act Apr. 12, 1900, ch. 191, § 20, 31 Stat. 81, related to succession to office of governor.

Section 773, acts Mar. 2, 1917, ch. 145, § 13, 39 Stat. 955; Feb. 18, 1931, ch. 218, § 1, 46 Stat. 1168, which derived from act Apr. 12, 1900, ch. 191, §§ 18—26, 31 Stat. 81, 82, related to executive departments.

Section 774, act Mar. 2, 1917, ch. 145, § 37, 39 Stat. 964, prohibited the Legislature from creating new departments but authorized their consolidation or abolition.

Section 775, acts Mar. 2, 1917, ch. 145, § 13, 39 Stat. 955; Feb. 18, 1931, ch. 218, § 1, 46 Stat. 1168; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 5, 1947, ch. 490, § 3, 61 Stat. 771, related to appointment and tenure of office of heads of departments.

Section 776, acts Mar. 2, 1917, ch. 145, § 13, 39 Stat. 956; Feb. 18, 1931, ch. 218, § 1, 46 Stat. 1168; May 17, 1932, ch. 190, 47 Stat. 158, related to residence requirement for heads of departments.

Section 777, acts Mar. 2, 1917, ch. 145, § 13, 39 Stat. 956; Feb. 18, 1931, ch. 218, § 1, 46 Stat. 1168, which derived from act Apr. 12, 1900, ch. 191, § 21, 31 Stat. 82, related to the executive council, its duties and compensation.

Section 778, acts Mar. 2, 1917, ch. 145, § 14, 39 Stat. 956; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 21, 31 Stat. 82, related to the duties of the Attorney General.

Section 779, acts Mar. 2, 1917, ch. 145, § 22, 39 Stat. 958; June 27, 1924, ch. 322, § 2, 43 Stat. 631; May 17, 1932, ch. 190, 47 Stat. 158; June 24, 1948, ch. 610, § 6, 62 Stat. 580, which derived from act Apr. 12, 1900, ch. 191, §§ 18, 19, related to the powers and duties of the executive secretary.

Section 780, act Mar. 2, 1917, ch. 145, § 15, 39 Stat. 956; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 22, 31 Stat. 82, related to the powers and duties of the Treasurer, including the designation of depositaries.

Section 781, acts Mar. 2, 1917, ch. 145, § 15, 39 Stat. 956; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 22, 31 Stat. 82, required the Treasurer to give a bond not less than $125,000.

Section 782, act Mar. 2, 1917, ch. 145, § 16, 39 Stat. 956, which derived from act Apr. 12, 1900, ch. 191, § 24, 31 Stat. 82, related to the duties of the Commissioner of the Interior.

Section 783, acts Mar. 2, 1917, ch. 145, § 17, 39 Stat. 956; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 25, 31 Stat. 82, related to the duties of the Commissioner of Education.

Section 784, acts Mar. 2, 1917, ch. 145, § 18, 39 Stat. 957; Feb. 18, 1931, ch. 218, § 2, 46 Stat. 1168; May 17, 1932, ch. 190, 47 Stat. 158, related to the duties of the Commissioner of Agriculture and Commerce.

Section 784a, act Mar. 2, 1917, ch. 145, § 18, as added Feb. 18, 1931, ch. 218, § 3, 46 Stat. 1169, and amended May 17, 1932, ch. 190, 47 Stat. 158, related to the duties of the Commissioner of Labor.

Section 785, act Mar. 2, 1917, ch. 145, § 19, 39 Stat. 957, related to the duties of the Commissioner of Health.

Section 786, acts Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; June 7, 1924, ch. 322, § 1, 43 Stat. 631; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1419; May 17, 1932, ch. 190, 47 Stat. 158; June 24, 1948, ch. 610, § 5, 62 Stat. 580, which derived from act Apr. 12, 1900, ch. 191, § 23, 31 Stat. 82, related to the appointment, compensation and term of office of the Auditor and his powers and duties, and provided for an assistant auditor and other necessary assistants and employees.

Section 787, acts Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1419, which derived from act Apr. 12, 1900, ch. 191, § 23, 31 Stat. 82, related to the jurisdiction of the Auditor over accounts.

Section 788, acts Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; June 10, 1921, ch. 18, §§ 301, 304, 42 Stat. 23—25; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1419, which derived from act Apr. 12, 1900, ch. 191, § 23, 31 Stat. 82, related to the finality of the decisions of the Auditor and time for appeal therefrom, and vested such official with like authority as that conferred by the law upon the Comptroller General of the United States, with certain exceptions.

Section 789, act Mar. 2, 1917, ch. 145, § 21, 39 Stat. 958, related to appeals from the decisions of the Auditor to the Governor.

Section 790, acts Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1420, which derived from act Apr. 12, 1900, ch. 191, § 23, 31 Stat. 82, related to the annual report of the fiscal concern of the government from the Auditor to the Governor and those other reports as may be required.

Section 791, act Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1419, authorized the Auditor to summon witnesses, administer oaths, take evidence, etc.

Section 792, act Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1420, related to the supervision of the office of the Auditor by the Governor.

Section 793, acts Mar. 2, 1917, ch. 145, § 20, 39 Stat. 957; Mar. 4, 1927, ch. 503, § 3, 44 Stat. 1419; May 17, 1932, ch. 190, 47 Stat. 158, related to the performance of the powers and duties of the Auditor in case of a vacancy in the office or in his absence by the assistant auditor, or in the absence of that assistant, by an assistant designated by the Governor.

The subject matter of former sections 771—793 of this title is now covered by the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 793a. Repealed. June 30, 1954, ch. 428, § 1, 68 Stat. 336.

Section, act Mar. 2, 1934, ch. 37, § 4, 48 Stat. 361, created a Model Housing Board, and provided for the construction and sale of model houses and for the creation of a revolving "model housing fund".

DISPOSITION OF MONEYS IN REVOLVING FUND

Section 2 of act June 30, 1954 (section 1 of which repealed this section), provided: "Any moneys remaining in the revolving fund established by subsection (d) of section 4 of Act of March 2, 1934 [subsec. (d) of this former section], shall be covered into the treasury of the Commonwealth of Puerto Rico."

§ 793b. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, act Mar. 2, 1917, ch. 145, § 49b, as added Aug. 5, 1947, ch. 490, § 6, 61 Stat. 772, and amended June 24, 1948, ch. 610, § 1, 62 Stat. 579, provided for a Coordinator of Federal Agencies in Puerto Rico, his appointment, compensation and duties, and required President to prescribe rules and regulations to carry out the provisions of former section 793 of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 794. Official reports.

All reports required by law to be made by the governor or heads of departments to any official of the United States shall be made to an executive department of the Government of the United States to be designated by the President, and the President is authorized to place all matters pertaining to the government of Puerto Rico in the jurisdiction of such department. (Mar. 2, 1917, ch. 145, § 11, 39 Stat. 955; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Identical provisions were contained in act July 15, 1909, ch. 4, § 2, 36 Stat. 11.

EX. ORD. NO. 9383. COORDINATION OF FUNCTIONS AND POLICIES OF FEDERAL CIVIL AGENCIES IN PUERTO RICO AND THE VIRGIN ISLANDS

Ex. Ord. No. 9383, Oct. 5, 1943, 8 F.R. 13781, provided:

1. Each Federal civil agency performing services in Puerto Rico or in the Virgin Islands shall make current reports to the Secretary of the Interior concerning the work of such agency in such manner and form and at such times as may be prescribed by the Secretary of the Interior.

2. The Secretary of the Interior shall make such recommendations to the heads of Federal civil agencies so reporting as may in his judgment serve to correlate the work of such agencies in Puerto Rico and in the Virgin Islands, eliminate unessential Federal activities, assist insular agencies to assume increasing responsibility in civil administration, meet more efficiently the needs of the people of Puerto Rico and the Virgin Islands for essential Federal services, and implement the policies of the United States with respect to its island possessions.

3. The Secretary of the Interior shall from time to time report to the President and to the Congress concerning the actions taken pursuant to this order.

4. This order shall not be applicable to United States District Judges, United States Attorneys, and United States Marshals.

§ 795. Government expenses payable out of revenues.

All expenses that may be incurred on account of the government of Puerto Rico for salaries of officials and the conduct of their offices and departments,

and all expenses and obligations contracted for the internal improvement or development of the island, not, however, including defenses, barracks, harbors, lighthouses, buoys, and other works undertaken by the United States, shall, except as otherwise specifically provided by the Congress, be paid by the treasurer of Puerto Rico out of the revenue in his custody. (Mar. 2, 1917, ch. 145, § 6, 39 Stat. 953; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Substantially identical provisions were contained in act Apr. 12, 1900, ch. 191, § 12, 31 Stat. 80, with the exception of the words "except as otherwise specifically provided by the Congress."

§§ 796 to 799. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section 796, acts Mar. 2, 1917, ch. 145, § 53, 39 Stat. 968; May 17, 1932, ch. 190, 47 Stat. 158, related to transfer of bureaus or offices.

Section 797, acts Mar. 2, 1917, ch. 145, § 50, 39 Stat. 967; June 7, 1924, ch. 322, § 3, 43 Stat. 631; May 29, 1928, ch. 904, §§ 1, 2, 45 Stat. 997; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 5, 1947, ch. 490, § 5, 61 Stat. 771; June 24, 1948, ch. 610, § 2, 62 Stat. 579; Sept. 7, 1949, ch. 544, 63 Stat. 692, which derived from acts Apr. 12, 1900, ch. 191, § 36, 31 Stat. 85; Mar. 2, 1901, ch. 812, § 1, 31 Stat. 953, related to salaries and bonds of officials, and residence of governor.

Section 798, acts Mar. 2, 1917, ch. 145, § 50, 39 Stat. 967; June 7, 1924, ch. 322, § 3, 43 Stat. 631; June 24, 1948, ch. 610, § 2, 62 Stat. 579; Sept. 7, 1949, ch. 544, 63 Stat. 692, which derived from acts Apr. 12, 1900, ch. 191, § 36, 31 Stat. 85; Mar. 2, 1901, ch. 812, § 1, 31 Stat. 953, related to payment of salaries, office expenses and bond premiums.

Section 799, act Mar. 2, 1917, ch. 145, § 51, 39 Stat. 967, which derived from act Apr. 12, 1900, ch. 191, § 37, 31 Stat. 85, provided for payment of municipal expenses from municipal revenues.

The subject matter of former sections of this title is now covered by Art. III, § 16, and Art. IV, §§ 2, 4 of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

THE LEGISLATURE

§§ 811 to 820. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section 811, acts Mar. 2, 1917, ch. 145, § 25, 39 Stat. 958; act May 17, 1932, ch. 190, 47 Stat. 158, vested all local legislative powers in Puerto Rico, with certain exceptions, in the "Legislature of Puerto Rico", consisting of a "senate" and a "house of representatives".

Section 812, acts Mar. 2, 1917, ch. 145, § 26, 39 Stat. 958; May 17, 1932, ch. 190, 47 Stat. 158, related to the Senate of Puerto Rico, its members, election and powers.

Section 813, acts Mar. 2, 1917, ch. 145, § 27, 39 Stat. 959; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, §§ 27, 32, 31 Stat. 82, related to the House of Representatives, its members and their election.

Section 814, acts Mar. 2, 1917, ch. 145, § 28, 39 Stat. 959; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 28, 31 Stat. 82, provided for the division of Puerto Rico into thirty-five representative and seven senatorial districts.

Section 814a, acts Mar. 2, 1917, ch. 145, § 35, 39 Stat. 963; May 17, 1932, ch. 190, 47 Stat. 158, related to the qualification of electors.

Section 815, acts Mar. 2, 1917, ch. 145, § 29, 39 Stat. 959; May 17, 1932, ch. 190, 47 Stat. 158, provided for the time of holding elections and the revision of boundaries of senatorial and representative districts and municipalities.

Section 816, act Mar. 2, 1917, ch. 145, § 32, 39 Stat. 960, which derived from act Apr. 12, 1900, ch. 191, § 30, 31 Stat. 83, related to the powers of the senate and house of representatives, including the determination of election and qualifications of members.

Section 817, act Mar. 2, 1917, ch. 145, § 33, 39 Stat. 960; Mar. 4, 1927, ch. 503, § 5, 44 Stat. 1420, provided for the holding of annual sessions of the legislature and the time for convening.

Section 818, acts Mar. 2, 1917, ch. 145, § 33, 39 Stat. 960; Mar. 4, 1927, ch. 503, § 5, 44 Stat. 1420, authorized the governor to call special sessions of legislature or senate.

Section 819, acts Mar. 2, 1917, ch. 145, § 30, 39 Stat. 959; May 17, 1932, ch. 190, 47 Stat. 158; June 1, 1938, ch. 308, 52 Stat. 595, related to the term of office of senators and representatives, the filling of vacancies, and limitations upon appointment to other offices of those legislative members.

Section 820, acts Mar. 2, 1917, ch. 145, § 31, 39 Stat. 960; Mar. 4, 1927, ch. 503, § 4, 44 Stat. 1420; May 17, 1932, ch. 190, 47 Stat. 158; June 24, 1948, ch. 610, § 4, 62 Stat. 580, related to the compensation and mileage of members of the senate and house of representatives.

The subject matter of former sections 811—820 of this title is now covered by Arts. III and IV of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 821. Legislative power.

The legislative authority shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities so far as may be necessary, and to provide and repeal laws and ordinances therefor; also the power to alter, amend, modify, or repeal any or all laws and ordinances of every character in force in Puerto Rico or municipality or district thereof on March 2, 1917, insofar as such alteration, amendment, modification, or repeal may be consistent with the provisions of this chapter. (Mar. 2, 1917, ch. 145, § 37, 39 Stat. 964; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Mar. 2, 1917, ch. 145, 39 Stat. 951, which is known as the Puerto Rican Federal Relations Act, and is generally classified to this chapter. For distribution of that act, see Reference in Text note under section 31 of this title.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

§§ 822, 823. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section 822, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 960, related to origin of bills and resolutions.

Section 823, acts Mar. 2, 1917, ch. 145, § 34, 39 Stat. 960; May 17, 1932, ch. 190, 47 Stat. 158, related to enacting clauses of bills and resolutions.

The subject matter of former sections 822, 823 of this title is now covered by Art. III, §§ 17, 18 of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 823a. Congressional ratification, approval, and confirmation of all joint resolutions.

CODIFICATION

Section, act June 16, 1938, ch. 460, 52 Stat. 708, was omitted as executed.

§§ 824 to 844. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section 824, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961, related to the passage of bills and their alterations or amendments.

Section 825, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 960, related to the reference of bills to committees, signature by governor, and approval by President.

Section 826, acts Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961; May 29, 1928, ch. 901, § 1 (128), 45 Stat. 996; Feb. 28, 1929, ch. 364, §§ 1, 2, 45 Stat. 1348; May 17, 1932, ch. 190, 47 Stat. 158, required laws enacted by Legislature of Puerto Rico to be reported to Congress.

Section 827, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961, related to the time of taking effect of laws and to the introduction of a bill.

Section 828, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961, related to house journals.

Section 829, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961, required sessions of each house and committees to be open.

Section 830, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 961, related to adjournment.

Section 831, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, required presiding officer to sign bills and resolutions.

Section 832, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, provided that bills, with the exception of appropriation bills, were to contain one subject.

Section 833, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, provided that revenue bills were to originate in house of representatives.

Section 834, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, related to appropriation bills for executive, legislative and judicial departments.

Section 835, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, related to revival or amendment of laws.

Section 836, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, required the legislature to prescribe number, duties and compensation of officers and employees.

Section 837, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, prohibited bills giving extra compensation for services rendered.

Section 838, acts Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962; June 24, 1948, ch. 610, § 3, 62 Stat. 580 prohibited laws relating to extension of term of office of officials, double jobs and salary of senators or representatives during term of office.

Section 839, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, related to the presentation of orders, resolutions, etc., to the Governor.

Section 840, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 960, required the Governor to submit a financial budget at opening of each regular session of the legislature.

Section 841, acts Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962; May 17, 1932, ch. 190, 47 Stat. 158, provided for the order of payment of appropriations, where revenue insufficient to meet appropriations, and limited appropriations under certain conditions.

Section 842, acts Mar. 2, 1917, ch. 145, § 23, 39 Stat. 958; May 17, 1932, ch. 190, 47 Stat. 158, required the Governor to transmit copies of laws to executive department of United States.

Section 843, acts Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962; May 17, 1932, ch. 190, 47 Stat. 158, related to the definition and punishment of the offense of corrupt solicitation.

Section 844, act Mar. 2, 1917, ch. 145, § 34, 39 Stat. 962, related to punishment for offense of influencing officials by bribery.

The subject matter of former sections 824—844 of this title is now covered by Arts. III, IV, and VI of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 845. Income tax laws; modification or repeal by legislature.

The Puerto Rican Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Puerto Rico. (Feb. 26, 1926, ch. 27, §§ 261, 1200, 44 Stat. 52, 125; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Similar provision of act Feb. 26, 1926, which related to the Philippine Islands, was formerly classified to section 1055 of this title.

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Identical provisions were contained in act June 2, 1924, ch. 234, § 261, 43 Stat. 294, which was repealed by section 1200 of act Feb. 26, 1926, to take effect Jan. 1, 1925.

THE JUDICIARY

§ 861. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, acts Mar. 2, 1917, ch. 145, § 40, 39 Stat. 965; May 17, 1932, ch. 190, 47 Stat. 158, which derived from act Apr. 12, 1900, ch. 191, § 33, 31 Stat. 84, vested judicial power in courts established and in operation on Mar. 2, 1917, provided for appointment of chief justice and associate justices of the supreme court by President with advice and consent of United States Senate, and authorized Puerto Rican legislature to organize, modify or rearrange the courts and their jurisdiction and procedure, except United States District Court. Subject matter is now covered by Article V of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 862. Jurisdiction of offenses under National Prohibition Act.

CODIFICATION

Section, act Sept. 21, 1922, ch. 365, 42 Stat. 993, conferred on the courts of Puerto Rico jurisdiction of offenses under act Oct. 28, 1919, ch. 85, 41 Stat. 305, the National Prohibition Act. Titles I and II of that act were repealed by act Aug. 27, 1935, ch. 740, § 1, 49 Stat. 872. The remainder of that act constituted sections 63, 71—89 of Title 27, Intoxicating Liquors. Section 63 was repealed by act June 19, 1934, ch. 657, § 3, 48 Stat. 1116, and sections 71—89 have been incorporated into the Internal Revenue Code, 1954.

§ 863. Repealed. Pub. L. 91-272, § 13, June 2, 1970, 84 Stat. 298.

Section, acts Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Feb. 25, 1919, ch. 29, § 1, 40 Stat. 1156; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; Mar. 4, 1923, ch. 295, 42 Stat. 1560; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; May 17, 1932, ch. 190, 47 Stat. 158; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; July 31, 1946, ch. 704, 60 Stat. 716; June 25, 1948, ch. 646, § 20, 62 Stat. 989, set out the jurisdiction of the United States District Court for the District of Puerto Rico and provided for salaries of the judge and officials of the court and for the filling of vacancies.

SAVINGS PROVISION

Section 13 of Pub. L. 91-272, as amended by Pub. L. 91-450, Oct. 14, 1970, 84 Stat. 922, provided in part that nothing in the repeal of Act Mar. 2, 1917, as amended, by said section 13 would impair the jurisdiction of the United States District Court for the District of Puerto Rico to hear and determine any action or matter begun in the court on or before June 2, 1970.

§ 864. Appeals, certiorari, removal of causes, etc.; use of English language.

The laws of the United States relating to appeals, certiorari, removal of causes, and other matters or proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the United States District Court for the District of Puerto Rico and the courts of Puerto Rico.

All pleadings and proceedings in the United States District Court for the District of Puerto Rico shall be conducted in the English language. (Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85; Mar. 2, 1917, ch. 145, § 42, 39 Stat. 966; Feb. 13, 1925, ch. 230, § 13, 43 Stat. 942; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1948, ch. 646, §§ 1, 21, 62 Stat. 889, 895, 990.)

CODIFICATION

"United States District Court for the District of Puerto Rico" was substituted for "District Court of the United States for Puerto Rico" in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district" and section 119 of Title 28, which states that "Puerto Rico constitutes one judicial district."

AMENDMENTS

1948—Act June 25, 1948, omitted provisions relating to the term of district court and appeals to the circuit court.

1928—Act Jan. 31, 1928, abolished writ of error in civil and criminal cases and made all relief formerly obtained by writ of error obtainable by appeal.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section shall be effective as of Sept. 1, 1948.

REPEALS

Section 39 of act June 25, 1948, repealed section 1 of act Feb. 13, 1925, ch. 229, 43 Stat. 936.

Section 13 of act Feb. 13, 1925, repealed so much of this section as permitted a direct review by the Supreme Court of cases in the courts in Puerto Rico.

PRIOR LAW

Act Mar. 3, 1911, ch. 231, § 244, repealed by act Jan. 28, 1915, ch. 22, § 3, 38 Stat. 804, related to direct appeals from the Supreme Court and the United District Court for Puerto Rico to the United States Supreme Court.

Identical provisions were contained in act Apr. 12, 1900, ch. 191, § 34, 31 Stat. 85.

CROSS REFERENCES

Removal of cases from State courts, see chapter 89 of Title 28, Judiciary and Judicial Procedure.

Review generally, see chapter 133 of Title 28, Judiciary and Judicial Procedure.

Supreme Court—

Direct appeals from decisions invalidating Acts of Congress, see section 1252 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction and venue generally, see chapter 81 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Application of rules, see rule 1, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 865. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, acts Mar. 2, 1917, ch. 145, § 43, 39 Stat. 966; Feb. 13, 1925, ch. 229, § 13, 43 Stat. 942; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54, which related to writs of error and appeals, is covered by section 1294 of Title 28, Judiciary and Judicial Procedure.

§ 866. Proceedings in English language.

CODIFICATION

Section, act Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85, which provided that all proceedings in Supreme Court of United States to review decisions of Supreme Court of Puerto Rico and the District Court of the United States for Puerto Rico, should be conducted in the English language, is obsolete.

§ 867. Repealed. Pub. L. 90-274, § 103(g), Mar. 27, 1968, 82 Stat. 63.

Section, act Mar. 2, 1917, ch. 145, § 44, 39 Stat. 966, set out the qualifications for jurors in the District Court of the United States for Puerto Rico as different from those set by local law and directed that juries be selected, drawn, and subject to exemption in accordance with laws of Congress insofar as locally applicable.

EFFECTIVE DATE OF REPEAL

Repeal of section effective 270 days after Mar. 27, 1968, except as to cases in which an indictment is returned or petit jury is empaneled prior to such effective date, see section 104 of Pub. L. 90-274, set out as a note under section 1861 of Title 28, Judiciary and Judicial Procedure.

§ 868. Fees part of United States revenues.

All fees, fines, costs, and forfeitures as would be deposited to the credit of the United States if collected and paid into a district court of the United States shall become revenues of the United States when collected and paid into the United States District Court for the District of Puerto Rico. The sum of $500 a year from such fees, fines, costs, and forfeitures shall be retained by the clerk and expended for law library purposes under the direction of the judge. (Mar. 2, 1901, ch. 812, § 2, 31 Stat. 953; Mar. 2, 1917, ch. 145, § 45, 39 Stat. 966; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1948, ch. 646, § 1, 62 Stat. 889, 895.)

CODIFICATION

"United States District Court for the District of Puerto Rico" was substituted for "District Court of the United States for Puerto Rico" in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district" and section 119 of Title 28 which states that "Puerto Rico constitutes one judicial district".

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

See prior law note under section 869 of this title.

§ 869. Fees payable by United States out of revenue of Puerto Rico.

Such fees and expenses as are payable by the United States if earned or incurred in connection

with a district court of the United States shall be paid from the revenue of Puerto Rico if earned or incurred in connection with the United States District Court for the District of Puerto Rico. (Mar. 2, 1901, ch. 812, § 2, 31 Stat. 953; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1948, ch. 646, § 1, 62 Stat. 889, 895.)

CODIFICATION

"United States District Court for the District of Puerto Rico" was substituted for "District Court of the United States for Puerto Rico" in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district" and section 119 of Title 28 which states that "Puerto Rico constitutes one judicial district".

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

As originally enacted, so much of section 2 of act Mar. 2, 1901, as is pertinent here, was as follows: "Such fees and expenses as are payable by the United States, if earned or incurred in connection with a circuit or district court of the United States, shall be paid from the revenues of Porto Rico, if earned or incurred in connection with the district court of the United States for Porto Rico."

§ 870. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, acts Mar. 2, 1917, ch. 145, § 46, 39 Stat. 966; Feb. 26, 1919, ch. 49, §§ 2, 4, 40 Stat. 1182; Aug. 7, 1939, ch. 501, § 6, 53 Stat. 1226, which related to salaries of district court officials, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

§ 871. Fees and mileage of jurors and witnesses.

CODIFICATION

Section, acts Mar. 2, 1917, ch. 145, § 47, 39 Stat. 967; May 17, 1932, ch. 190, 47 Stat. 158, is now covered by sections 1821, 1825 and 1871 of Title 28, Judiciary and Judicial Procedure.

§ 872. Habeas corpus; mandamus; suit to restrain assessment or collection of taxes.

The supreme and district courts of Puerto Rico and the respective judges thereof may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the district courts of the United States, and the district courts may grant writs of mandamus in all proper cases.

No suit for the purpose of restraining the assessment or collection of any tax imposed by the laws of Puerto Rico shall be maintained in the United States District Court for the District of Puerto Rico. (Mar. 2, 1917, ch. 145, § 48, 39 Stat. 967; Mar. 4, 1927, ch. 503, § 7, 44 Stat. 1421; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1948, ch. 646, § 1, 62 Stat. 889, 895.)

CODIFICATION

"United States District Court for the District of Puerto Rico" was substituted for "District Court of the United States for Puerto Rico" in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district" and section 119 of Title 28 which states that "Puerto Rico constitutes one judicial district".

AMENDMENTS

1927—Act Mar. 4, 1927, added second paragraph.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Habeas corpus, see chapter 153 of Title 28, Judiciary and Judicial Procedure.

Suspension of privilege of writ of habeas corpus by Legislative Assembly, see Art. II, § 13, of Commonwealth Constitution, set out as a note under section 731d of this title.

Writs, issuance of, see section 1651 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Abolishment of writ of mandamus, see rule 81 (b), Title 28, Appendix, Judiciary and Judicial Procedure.

Rules of civil procedure for district courts, see section 2072 of Title 28, Judiciary and Judicial Procedure.

§ 873. Repealed. July 3, 1950, ch. 446, § 5 (2), 64 Stat. 320, eff. July 25, 1952.

Section, acts Mar. 2, 1917, ch. 145, § 49, 39 Stat. 967; May 17, 1932, ch. 190, 47 Stat. 158, related to the appointment of judges, marshals and secretaries. Subject matter is now covered by Art. V, § 8, of the Constitution of the Commonwealth of Puerto Rico, set out as a note under section 731d of this title.

EFFECTIVE DATE OF REPEAL

For explanation of the date of July 25, 1952, as being the effective date of that repeal, see note under former section 732 of this title.

§ 873a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, act Feb. 12, 1940, ch. 25, § 1, 54 Stat. 22, which related to rules governing civil cases, is now covered by section 2072 of Title 28, Judiciary and Judicial Procedure.

§ 874. Judicial process; officials to be citizens of United States; oath.

All judicial process shall run in the name of "United States of America, ss, the President of the United States", and all penal or criminal prosecutions in the local courts shall be conducted in the name and by the authority of "The People of Puerto Rico." All officials shall be citizens of the United States, and, before entering upon the duties of their respective offices, shall take an oath to support the Constitution of the United States and the laws of Puerto Rico. (Mar. 2, 1917, ch. 145, § 10, 39 Stat. 954; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Similar provisions were contained in act Apr. 12, 1900, ch. 191, § 16, 31 Stat. 81.

CROSS REFERENCES

Criminal actions to be conducted in the name of "The People of Puerto Rico" until otherwise provided by law, see Art. VI, § 18, of Commonwealth Constitution, set out as a note under section 731d of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Rules of civil procedure for district courts, see section 2072 of Title 28, Judiciary and Judicial Procedure.

§§ 875, 876. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 875, act Mar. 2, 1917, ch. 145, § 55, 39 Stat. 968, which related to continuation of court's jurisdiction, is not now covered as it is executed.

Section 876, act Jan. 7, 1913, ch. 6, 37 Stat. 648, which related to temporary judge, is not now covered.

RESIDENT COMMISSIONER

§ 891. Resident Commissioner; election.

The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States at each general election, whose term of office shall be four years from the 3d of January following such general election, and who shall be entitled to receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of State, of a certificate of election of the Governor of Puerto Rico. (Mar. 2, 1917, ch. 145, § 36, 39 Stat. 963; May 17, 1932, ch. 190, 47 Stat. 158; June 5, 1934, ch. 390, § 5, 48 Stat. 879.)

CODIFICATION

Section is comprised of second sentence of section 36 of act Mar. 2, 1917. The first sentence of section 36, providing for election of a Resident Commissioner to the United States at the next general election for a term commencing with date of issuance of certificate of election and terminating Mar. 4, 1921, was omitted as executed. The other sentences of section 36 are classified to section 46 of Title 2, The Congress, and to sections 892 and 893 of this title. Part of the third sentence of section 36, fixing the salary of the commissioner at $7,500 per annum, was superseded by act Mar. 4, 1925 as amended (section 893 of this title and section 31 of Title 2, The Congress), providing, for that commissioner, a salary of $22,500 per annum.

AMENDMENTS

1934—Act June 5, 1934, changed the commencement of the term of office from March 4th to January 3rd following the general election.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

PRIOR LAW

Similar provisions were contained in act Apr. 12, 1900, ch. 191, § 39, 31 Stat. 86.

The salary allowed by section 39 of act Apr. 12, 1900, was increased by act Feb. 26, 1907, ch. 1635, § 4, 34 Stat. 993.

The resident commissioner was allowed traveling expenses in addition to his salary, and the commencement of his term was fixed by act July 1, 1902, ch. 1383, § 3, 32 Stat. 732.

The manner of paying the salary and traveling expenses of the resident commissioner was fixed by a provision of act June 22, 1906, ch. 3514, § 1, 34 Stat. 417.

§ 892. Same; qualifications; appointment to fill vacancy.

No person shall be eligible to election as Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in the office of Resident Commissioner by death, resignation, or otherwise, the governor, by and with the advice and consent of the senate, shall appoint a Resident Commissioner to fill the vacancy, who shall serve until the next general election and until his successor is elected and qualified. (Mar. 2, 1917, ch. 145, § 36, 39 Stat. 963; Mar. 4, 1925, ch. 549, § 4, 43 Stat. 1301.)

CODIFICATION

Section is comprised of fifth sentence of section 36 of act Mar. 2, 1917. See, also, note under section 891 of this title.

§ 893. Same; salary; allowances; franking privilege.

The Resident Commissioner shall receive a salary payable monthly by the United States. He shall be allowed the same sum for stationery and for the pay of necessary clerk hire as is allowed Members of the House of Representatives of the United States. He shall be allowed the franking privilege granted Members of Congress. (Mar. 2, 1917, ch. 145, § 36, 39 Stat. 963; Mar. 4, 1925, ch. 549, § 4, 43 Stat. 1301.)

CODIFICATION

Section is comprised of parts of third and fourth sentences of section 36 of act Mar. 2, 1917. Part of third sentence of section 36, fixing the salary of the commissioner at $7,500 per annum, was superseded by act Mar. 4, 1925, as amended, and set out as section 31 of Title 2, The Congress, providing for that commissioner a salary of $22,500 per annum. Part of the fourth sentence of section 36 is classified to section 46 of Title 2, The Congress. See, also, note under section 891 of this title.

CROSS REFERENCES

Clerk hire, see section 60g of Title 2, The Congress.

Mileage, see section 43 of Title 2, The Congress.

Stationery allowance, see section 46b of Title 2, The Congress.

§ 894. Salary and traveling expenses; payment.

The salary and traveling expenses of the Resident Commissioner from Puerto Rico to the United States shall be paid by the Sergeant-at-Arms of the House of Representatives in the same manner as the salaries of the members of the House of Representatives are paid. (June 22, 1906, ch. 3514, § 1, 34 Stat. 417; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

CROSS REFERENCES

Mileage, see section 43 of Title 2, The Congress.

SLUM CLEARANCE AND URBAN REDEVELOPMENT PROJECTS

CROSS REFERENCES

Low rent housing projects and elimination of substandard housing, see section 911 et seq. of this title.

§ 910. Slum clearance and urban redevelopment and renewal projects; powers of government.

The government of Puerto Rico acting through its legislature, may create a public corporate authority or authorities and may authorize such authority or authorities or any other public corporate authority or any municipal corporation or political subdivision, acting directly or through any officer or agency thereof or through a public corporate authority, to undertake slum clearance and urban redevelopment projects and urban renewal projects and to do all things, exercise any and all powers, and to assume and fulfill any and all obligations, duties, responsibilities, and requirements, including but not limited to those relating to planning and zoning, necessary or desirable for receiving Federal assistance under title I of the Housing Act of 1949 (Public Law 171, Eighty-first Congress), as amended, or any other law, except that public corporate authorities (as distinct from municipalities or political subdivisions) created or authorized to operate in accordance with sections 910 to 910b of this title shall not be given any power of taxation or any power to pledge the full faith and credit of the people of the Territory.

or municipality, or political subdivision, as the case may be, for any loan whatever. The Legislature of Puerto Rico may, with respect to any public corporate authority or authorities empowered or which may be empowered to undertake slum clearance and urban redevelopment projects and urban renewal projects, provide for the appointment and terms of office of the members thereof, and for the powers of such authorities, including authority to accept whatever benefits the Federal Government may make available for slum clearance and urban redevelopment projects and urban renewal projects, and authority, notwithstanding any other Federal law, to borrow money and to issue notes, bonds, and other obligations of such character and maturity, with such security, and in such manner as the respective legislatures may provide. Such notes, bonds, and other obligations shall not be a debt of the United States, or of any Territory or municipal corporation or other political subdivision or agency thereof other than the public corporate authority which issued such notes, bonds, or obligations, nor constitute a debt, indebtedness, or the borrowing of money within the meaning of any limitation or restriction on the issuance of notes, bonds, or other obligations contained in any laws of the United States applicable to Puerto Rico, or to any municipal corporation or other political subdivision or agency thereof. (July 18, 1950, ch. 466, title I, § 101, 64 Stat. 344; Aug. 11, 1955, ch. 783, title I, § 107 (3), (7), (9), 69 Stat. 637, 638.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949 (Public Law 171, Eighty-first Congress), as amended, referred to in text, is title I of act July 15, 1949, ch. 338, which is classified to section 1450 et seq. of Title 42, The Public Health and Welfare.

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

AMENDMENTS

1955—Act Aug. 11, 1955, included urban renewal projects, and inserted "as amended" after (Public Law 171, Eighty-first Congress).

URBAN RENEWAL ACTIVITIES

Financial assistance available for urban renewal projects, see section 107 (1), (2) of act Aug. 11, 1955, set out as a note under section 480 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 910b of this title.

§ 910a. Same; authorization of loans, conveyances, etc., by government and municipalities.

The government of Puerto Rico may assist slum clearance and urban redevelopment projects and urban renewal projects through cash donations, loans, conveyances of real and personal property, facilities, and services, and otherwise, and may authorize municipalities or other political subdivisions to make cash donations, loans, conveyances of real and personal property to public corporate authorities and to take other action, including but not limited to the making available or the furnishing of facilities and services, in aid of slum clearance and urban redevelopment projects and urban renewal projects. (July 18, 1950, ch. 466, title I, § 102, 64 Stat. 344; Aug. 11, 1955, ch. 783, title I, § 107 (3), 69 Stat. 637.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

AMENDMENTS

1955—Act Aug. 11, 1955, included urban renewal projects.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 910, 910b of this title.

§ 910b. Same; ratification of prior acts.

All legislation heretofore enacted by the Legislature of the Territory of Puerto Rico dealing with the subject matter of sections 910 to 916 of this title and not inconsistent herewith is ratified and confirmed. (July 18, 1950, ch. 466, title I, § 103, 64 Stat. 345.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 910 of this title.

LOW RENT HOUSING PROJECTS AND ELIMINATION OF SUB-STANDARD HOUSING

§ 911. Legislative authorization to create authorities.

The Legislature of Puerto Rico may create public corporate authorities to undertake slum clearance and projects to provide dwelling accommodations for families of low income. (June 25, 1938, ch. 703, § 1, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 910b, 916 of this title.

§ 912. Same; appointment of commissioners; powers of authorities.

The Legislature of Puerto Rico may provide for the appointment and terms of the commissioners of such authorities, and for the powers of such authorities, except that such authorities shall be given no power of taxation, and may authorize the commissioners of such authorities to fix the salaries of employees. (June 25, 1938, ch. 703, § 2, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 910b, 916 of this title.

§ 913. Same; authorization of loans, conveyances, etc., by municipalities.

The legislature may appropriate funds for and may make and authorize any municipality of Puerto Rico to make loans, donations, and conveyances of money or property to such authorities; may make and authorize any municipality of Puerto Rico to make available its facilities and services to such authorities and take other action

in aid of slum clearance or low-rent housing; and may, without regard to any Federal Acts restricting the disposition of public property or lands in Puerto Rico, provide for the use by or disposal to such authorities of any public lands or other property held or controlled by the people of Puerto Rico, its municipalities, or other subdivisions. (June 25, 1938, ch. 703, § 3, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 910b, 916 of this title.

§ 914. Same; issuance of bonds and obligations.

The legislature may authorize such authorities to issue bonds or other obligations with such security as the legislature may provide and may provide for the disposition of the proceeds of such bonds and all receipts and revenues of such authorities. (June 25, 1938, ch. 703, § 4, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 910b, 916 of this title.

§ 915. Same; bonds as public debt.

Such bonds shall not be a debt of Puerto Rico or any municipality, and shall not constitute a public indebtedness within the meaning of section 745 of this title. (June 25, 1938, ch. 703, § 5, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is refrerred to in sections 910b, 916 of this title.

§ 916. Same; ratification of previous legislation.

All legislation heretofore enacted by the Legislature of Puerto Rico dealing with the subject matter of sections 911 to 916 of this title and not inconsistent herewith is ratified and confirmed. (June 25, 1938, ch. 703, § 6, 52 Stat. 1203.)

CODIFICATION

Section was not enacted as a part of the Puerto Rican Federal Relations Act, which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 910b of this title.

Chapter 5.—THE PHILIPPINE ISLANDS

PHILIPPINE INDEPENDENCE

The independence of the Philippine Islands was recognized and American sovereignty withdrawn by 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and set out as a note under that section.

CROSS REFERENCES

Philippine Property Act of 1946, see section 1381 et seq. of Title 22, Foreign Relations and Intercourse.

Philippine Trade Act of 1946, see section 1251 et seq. of Title 22, Foreign Relations and Intercourse.

Philippine Trade Agreement Revision Act of 1955, see sections 734 of this title and 1371 et seq. of Title 22, Foreign Relations and Intercourse.

§§ 1001 to 1008. Omitted.

CODIFICATION

Sections 1001—1008 of this title, which related to the Philippine Islands, are obsolete or, in some cases, have been transferred to Title 22, Foreign Relations and Intercourse, in view of recognition of Philippine Independence by 1946 Proc. No. 2695, issued under authority of section 1394 of Title 22, and set out as a note under that section.

The prior history of sections 1001—1008 is as follows:

Section 1001, act Aug. 29, 1916, ch. 416, § 1, 39 Stat. 545, defined the Philippine Islands.

Section 1002, act Aug. 29, 1916, ch. 416, § 2, 39 Stat. 546, related to Philippine citizenship.

Section 1003, act Aug. 29, 1916, ch. 416, § 5, 39 Stat. 547, related to the application of statutory law of United States.

Section 1004, act Aug. 29, 1916, ch. 416, § 6, 39 Stat. 547, related to the continuing force and effect of Philippine laws.

Section 1005, act Aug. 29, 1916, ch. 416, § 7, 39 Stat. 547, related to the power of the Philippine Legislature to modify, repeal, etc., laws.

Section 1006, act Aug. 29, 1916, ch. 416, § 31, 39 Stat. 556, related to laws continued in force.

Section 1007, act Aug. 29, 1916, ch. 416, § 4, 39 Stat. 547, related to payment of expenses of the Philippine government.

Section 1007a, acts Sept. 1, 1937, ch. 898, title V, § 503, 50 Stat. 915; Oct. 15, 1940, ch. 887, 54 Stat. 1178, related to appropriations for financing program of economic adjustment.

Section 1008, act Aug. 29, 1916, ch. 416, § 3, 39 Stat. 546, related to a bill of rights and restrictions for the Islands.

§ 1009. Repealed. Oct. 31, 1951, ch. 655, § 56 (d), 65 Stat. 729.

Section, act Mar. 8, 1902, ch. 140, § 9, 32 Stat. 55, related to requirements as to evidence in treason cases in the Philippines. Prior to this repeal, it had been omitted from the Code as obsolete in view of the independence of the Philippines.

SAVINGS CLAUSE

Subsec. (*l*) of section 56 of act Oct. 31, 1951 provided that the repeal of this section should not affect any rights or liabilities existing hereunder on the effective date of that repeal (Oct. 31, 1951).

§§ 1010 to 1276e. Omitted.

CODIFICATION

Sections 1010—1276e of this title, which related to the Philippine Islands, are obsolete or, in some cases, have been transferred to Title 22, Foreign Relations and Intercourse, in view of recognition of Philippine Independence by 1946 Proc. No. 2695, issued under authority of section 1394 of Title 22, and set out as a note under that section.

Section 1010, acts Aug. 29, 1916, ch. 416, § 11, 39 Stat. 548; July 21, 1921, ch. 51, 42 Stat. 145; May 31, 1922, ch. 203, 42 Stat. 599, related to prohibition against export duties and imposition of taxes and assessments.

Section 1011, acts July 1, 1902, ch. 1369, § 84, 32 Stat. 711; July 1, 1944, ch. 373, title VII, § 711, 58 Stat. 714; Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, related to shipping, customs duties, seamen, and health laws.

Section 1011a, act July 3, 1930, ch. 831, 46 Stat. 851, related to imports consigned to departments and bureaus of United States Government.

Section 1012, act Feb. 6, 1905, ch. 453, § 5, 33 Stat. 692, related to the admission free of duty of railroad material.

Section 1013, act Feb. 6, 1905, ch. 453, § 6, 33 Stat. 692, related to the administration of immigration laws.

Section 1014, act Apr. 29, 1908, ch. 152, § 5, 35 Stat. 70, related to the administration of navigation laws.

Section 1015, act Apr. 29, 1908, ch. 152, § 1, 35 Stat. 70, related to the temporary regulation of transportation of merchandise and passengers.

Section 1016, acts Apr. 29, 1908, ch. 152, § 4, 35 Stat. 70; Aug. 29, 1916, ch. 416, § 22, 39 Stat. 553, related to licenses to certain vessels.

Section 1017, act Apr. 29, 1908, ch. 152, § 3, 35 Stat. 70, related to inapplicability to certain foreign vessels of restrictions on transportation of merchandise and passengers.

Section 1018, act July 1, 1902, ch. 1369, § 11, 32 Stat. 695, related to improvement of harbors and navigable waters.

Section 1019, acts Mar. 22, 1902, ch. 273, 32 Stat. 88; Mar. 2, 1917, ch. 145, § 54, 39 Stat. 968, related to acknowledgment of deeds.

Section 1041, act Aug. 29, 1916, ch. 416, § 8, 39 Stat. 547, related to the grant of legislative power to the Philippine Legislature.

Section 1042, act Aug. 29, 1916, ch. 416, § 10, 39 Stat. 548, related to Legislature's authority over trade relations tariff acts, and immigration.

Section 1043, act Aug. 29, 1916, ch. 416, § 12, 39 Stat. 548, related to the composition of the Legislature.

Section 1044, act Aug. 29, 1916, ch. 416, § 13, 39 Stat. 549, related to the qualifications and election of senators.

Section 1045, act Aug. 29, 1916, ch. 416, § 14, 39 Stat 549, related to the qualifications and election of representatives.

Section 1046, act Aug. 29, 1916, ch. 416, § 16, 39 Stat 549, related to senatorial and representative districts.

Section 1047, act Aug. 29, 1916, ch. 416, § 15, 39 Stat 549, related to qualifications of voters.

Section 1048, act Aug. 29, 1916, ch. 416, § 17, 39 Stat 550, related to terms of office of senators and representatives.

Section 1049, act Aug. 29, 1916, ch. 416, § 18, 39 Stat. 550, related to legislative sessions.

Section 1050, act Aug. 29, 1916, ch. 416, § 18, 39 Stat. 550, related to the compensation and privileges of members.

Section 1051, act Aug. 29, 1916, ch. 416, § 18, 39 Stat. 550, related to the ineligibility of senators and representatives to hold certain offices.

Section 1052, act Aug. 29, 1916, ch. 416, § 19, 39 Stat. 551, related to the enactment of laws and approval by the President of the United States.

Section 1053, act Aug. 29, 1916, ch. 416, § 19, 39 Stat. 551, related to the failure to make appropriations.

Section 1054, acts Aug. 29, 1916, ch. 416, § 19, 39 Stat. 551; May 29, 1928, ch. 901, § 1, 45 Stat. 996; Feb. 28, 1929, ch. 364, §§ 1, 2, 45 Stat. 1348, related to the reporting of laws to Congress.

Section 1055, acts June 2, 1924, ch. 234, § 261, 43 Stat. 294; Feb. 26, 1926, ch. 27, §§ 261, 1200, 44 Stat. 52, 125, related to income tax laws.

Section 1071, acts July 1, 1902, ch. 1369, § 9, 32 Stat. 695; Aug. 29, 1916, ch. 416, § 26, 39 Stat. 555, related to jurisdiction of the courts.

Section 1072, act Aug. 29, 1916, ch. 416, § 26, 39 Stat. 555, related to admiralty jurisdiction.

Section 1073, act Aug. 29, 1916, ch. 416, § 26, 39 Stat. 555, related to appointment of chief justice and associate justices of the supreme court.

Section 1074, act Aug. 29, 1916, ch. 416, § 26, 39 Stat. 555, related to appointment of judges of courts of first instance.

Section 1075, acts Aug. 29, 1916, ch. 416, § 29, 39 Stat. 556; May 29, 1928, ch. 904, §§ 1, 2, 45 Stat. 997, related to salaries of judges.

Section 1075a, act May 29, 1928, ch. 904, §§ 1, 2, 45 Stat. 997, related to salaries of judges.

Section 1076, act Apr. 9, 1910, No. 19, 36 Stat. 877, related to special terms of supreme court.

Section 1077, act Feb. 6, 1905, ch. 453, § 7, 33 Stat. 692, related to temporary judges of the supreme court.

Section 1078, act Aug. 29, 1916, ch. 416, § 26, 39 Stat. 555, related to jurisdiction of municipal courts.

Section 1091, acts Aug. 29, 1916, ch. 416, § 20, 39 Stat. 552; June 5, 1934, ch. 390, § 4, 48 Stat. 879, related to appointment and qualifications of Resident Commissioners.

Section 1092, acts July 1, 1902, ch. 1369, § 8, 32 Stat. 694; Aug. 29, 1916, ch. 416, § 20, 39 Stat. 552, related to temporary appointment of Resident Commissioners.

Section 1093, acts May 22, 1908, ch. 186, § 1, 35 Stat. 188; May 17, 1932, ch. 190, 47 Stat. 158, related to salary of Resident Commissioners.

Section 1094, act Aug. 29, 1916, ch. 416, § 20, 39 Stat. 552, related to allowance for stationery and clerk hire.

Section 1111, act Aug. 29, 1916, ch. 416, § 21, 39 Stat. 552, related to appointment, powers, and duties of Governor General.

Section 1112, act Aug. 29, 1916, ch. 416, § 23, 39 Stat. 553, related to designation of acting Governor General.

Section 1113, act Aug. 29, 1916, ch. 416, § 23, 39 Stat. 553, related to appointment and duties of Vice Governor.

Section 1114, act Aug. 29, 1916, ch. 416, § 22, 39 Stat. 553, related to increase or decrease in executive departments.

Section 1115, act Aug. 29, 1916, ch. 416, § 22, 39 Stat. 553, related to the bureau of non-christian tribes.

Section 1116, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to appointment and duties of auditor.

Section 1117, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to the deputy and assistant auditor.

Section 1118, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to the administrative jurisdiction of accounts.

Section 1119, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to auditor's authority to summon witnesses.

Section 1120, acts Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553; June 10, 1921, ch. 18, §§ 301, 310, 42 Stat. 23, 25, related to the finality of auditor's decisions.

Section 1121, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to reports by auditor to Governor General and Secretary of War.

Section 1122, act Aug. 29, 1916, ch. 416, § 24, 39 Stat. 553, related to supervision of auditor's office by Governor General.

Section 1123, act Aug. 29, 1916, ch. 416, § 25, 39 Stat. 554, related to appeals from auditor's decisions.

Section 1124, act Aug. 29, 1916, ch. 416, § 29, 39 Stat. 556, related to salaries of officials.

Section 1125, act Aug. 29, 1916, ch. 416, § 30, 39 Stat. 556, related to compensation of municipal officers out of provincial and municipal revenues.

Section 1141, act July 1, 1902, ch. 1369, § 76, 32 Stat. 710, related to the establishment of a mint at Manila.

Section 1142, act Mar. 2, 1903, ch. 980, § 1, 32 Stat. 952, related to the establishment of the gold peso as the unit of value.

Section 1143, act Mar. 2, 1903, ch. 980, §§ 2, 3, 32 Stat. 953, related to coinage of silver pesos.

Section 1144, acts July 1, 1902, ch. 1369, § 77, 32 Stat. 710; Mar. 2, 1903, ch. 980, § 4, 32 Stat. 953, related to coinage of subsidiary silver coins.

Section 1145, act Mar. 2, 1903, ch. 980, § 5, 32 Stat. 953, related to the limitations on subsidiary coins as legal tender.

Section 1146, act July 1, 1902, ch. 1369, § 79, 32 Stat. 710, related to coinage of minor coins.

Section 1147, acts July 1, 1902, ch. 1369, § 82, 32 Stat. 711; Mar. 2, 1903, ch. 980, § 11, 32 Stat. 954, related to devices and inscriptions on coins.

Section 1148, acts July 1, 1902, ch. 1369, § 81, 32 Stat. 710; Mar. 2, 1903, ch. 980, § 10, 32 Stat. 954, related to place of coinage.

Section 1149, act Mar. 2, 1903, ch. 980, § 5, 32 Stat. 953, related to purchase of silver bullion and recoinage.

Section 1150, acts July 1, 1902, ch. 1369, § 80, 32 Stat. 710; Mar. 2, 1903, ch. 980, § 9, 32 Stat. 954, related to the purchase of metal.

Section 1151, acts Mar. 2, 1903, ch. 980, § 6, 32 Stat. 953; July 21, 1921, ch. 51, 42 Stat. 146, related to gold and silver peso parity.

Section 1152, act June 23, 1906, ch. 3521, § 1, 34 Stat. 453, related to change in weight and fineness of silver coins.

Section 1153, acts Mar. 2, 1903, ch. 980, § 8, 32 Stat. 954; Feb. 6, 1905, ch. 453, § 10, 33 Stat. 697; June 23, 1906, ch. 3521, § 2, 34 Stat. 453, related to redemption of silver certificates.

Section 1154, act Mar. 2, 1903, ch. 980, § 12, 32 Stat. 954, related to drawings, designs, and plates.

Section 1155, act Mar. 2, 1903, ch. 980, § 7, 32 Stat. 954, related to previously used silver coins as legal tender.

Section 1156, act July 1, 1902, ch. 1369, § 83, 32 Stat. 711, related to redemption and reissue of defective coins.

Section 1157, acts June 11, 1934, ch. 445, 48 Stat. 929; Aug. 7, 1946, ch. 809, § 1, 60 Stat. 901, which related to deposits of public money in the United States Treasury, and which had been transferred to former section 1333 of

Title 22, Foreign Relations and Intercourse, terminated on July 1, 1951, under the provisions of section 2 of act Aug. 7, 1946.

Section 1171, act Aug. 29, 1916, ch. 416, § 28, 39 Stat. 555, related to the granting of franchises and rights and compensation for property taken or damaged.

Section 1172, act Aug. 29, 1916, ch. 416, § 28, 39 Stat. 555, related to involuntary servitude and penalties therefor.

Section 1173, act July 1, 1902, ch. 1369, § 75, 32 Stat. 709, related to corporation engaged in real estate business.

Section 1191, acts Aug. 29, 1916, ch. 416, § 11, 39 Stat. 548; July 21, 1921, ch. 51, 42 Stat. 145; May 31, 1922, ch. 203, 42 Stat. 599, related to bond issues to anticipate taxes and revenue.

Section 1192, act Feb. 6, 1905, ch. 453, § 2, 33 Stat. 689, related to bond issues for public improvements.

Section 1193, act Feb. 6, 1905, ch. 453, § 1, 33 Stat. 689, related to government bonds as exempt from taxation.

Section 1194, acts July 1, 1902, ch. 1369, § 66, 32 Stat. 707; Feb. 6, 1905, ch. 453, § 3, 33 Stat. 690, related to municipal indebtedness for improvements.

Section 1195, act July 1, 1902, ch. 1369, § 67, 32 Stat. 707, related to denominations of bonds.

Section 1196, act July 1, 1902, ch. 1369, § 68, 32 Stat. 708, related to use of funds from sale of bonds.

Section 1197, act July 1, 1902, ch. 1369, § 69, 32 Stat. 708, related to taxes to pay bonds and creation of a sinking fund.

Section 1198, act July 1, 1902, ch. 1369, §§ 70, 71, 32 Stat. 708, related to bonds for sewers and water supply in Manila.

Section 1199, act July 1, 1902, ch. 1369, § 72, 32 Stat. 708, related to use of funds from sale of bonds for sewers and water supply in Manila.

Section 1200, act July 1, 1902, ch. 1369, § 73, 32 Stat. 708, related to taxes and sinking fund for payment of bonds for sewers and water supply in Manila.

Section 1201, act Feb. 6, 1905, ch. 453, § 4, 33 Stat. 690, related to guarantee of railroad bonds and the contract of guaranty.

Section 1202, act Feb. 6, 1905, ch. 453, § 4, 33 Stat. 690, related to jurisdiction of Supreme Court of Philippines over actions brought under former section 1201 of this title.

Section 1221, act Aug. 29, 1916, ch. 416, § 9, 39 Stat. 547, related to restoration of public property and lands ceded to United States by Spain to the Philippine Legislature.

Section 1222, act Aug. 29, 1916, ch. 416, § 9, 39 Stat. 547, related to approval by President of acts regulating public domain, mining, and timber.

Section 1223, acts July 1, 1902, ch. 1369, § 14, 32 Stat. 696; Aug. 29, 1916, ch. 416, § 12, 39 Stat. 548, related to perfecting titles of claimants from Spain.

Section 1224, act July 1, 1902, ch. 1369, § 63, 32 Stat. 706, related to authority of Government to acquire real and personal property.

Section 1225, acts July 1, 1902, ch. 1369, § 64, 32 Stat. 706; Aug. 29, 1916, ch. 416, §§ 12, 22, 39 Stat. 548, 553, related to the acquisition of property of religious orders.

Section 1226, act July 1, 1902, ch. 1369, § 65, 32 Stat. 707, related to use of lands acquired from religious orders as public property.

Section 1231, acts Jan. 17, 1933, ch. 11, § 1, 47 Stat. 761; Mar. 24, 1934, ch. 84, § 1, 48 Stat. 456, related to a convention to frame a constitution for Philippines.

Section 1232, acts Jan. 17, 1933, ch. 11, § 10, 47 Stat. 768; Mar. 24, 1934, ch. 84, § 2, 48 Stat. 457; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7515, 60 Stat. 1352, related to mandatory provisions of constitution.

Section 1233, acts Jan. 17, 1933, ch. 11, § 3, 47 Stat. 763; Mar. 24, 1934, ch. 84, § 3, 48 Stat. 458, related to the submission of the proposed constitution to the President of the United States.

Section 1234, acts Jan. 17, 1933, ch. 11, § 4, 47 Stat. 763; Mar. 24, 1934, ch. 84, § 4, 48 Stat. 458, related to submission of constitution to Filipino people.

Section 1235 related to transfer of property and rights to Philippine Commonwealth, and has been transferred to section 1391 of Title 22, Foreign Relations and Intercourse.

Section 1235a related to acquisition of military and naval bases by United States, and has been transferred to section 1392 of Title 22, Foreign Relations and Intercourse.

Section 1236 related to supplementary sinking fund for bond payments, purchase of bonds by United States, and creation of special trust account, and has been transferred to section 1393 of Title 22, Foreign Relations and Intercourse.

Section 1236a, act June 14, 1935, ch. 240, §§ 1—5, 49 Stat. 340, which fixed the quantity of Manila and other fibre products, produced in the Philippine Islands, to be admitted into the United States duty free, by its own terms originally expired three years from May 1, 1935. By 1938 Proc. No. 2272, Jan. 26, 1938, 3 F. R. 222, 52 Stat. 1534, the effective period was extended for an additional three years from and including May 1, 1938.

Section 1236b, act Dec. 22, 1941, ch. 617, § 1, 55 Stat. 352, related to export tax rate and temporary suspension.

Section 1236c, act Dec. 22, 1941, ch. 617, § 2, 55 Stat. 852, related to reduction of export quotas and temporary suspension.

Section 1237, acts Jan. 17, 1933, ch. 11, § 7, 47 Stat. 765; Mar. 24, 1934, ch. 84, § 7, 48 Stat. 460, related to government relations and appointment and duties of the High Commissioner to the Philippines.

Section 1237a, acts Mar. 21, 1935, ch. 36, title I, 49 Stat. 59; May 15, 1936, ch. 404, § 1, 49 Stat. 1306; July 19, 1937, ch. 511, § 1, 50 Stat. 516; June 11, 1938, ch. 348, § 1, 52 Stat. 669; June 28, 1939, ch. 246, § 1, 53 Stat. 858; June 18, 1940, ch. 395, § 1, 54 Stat. 410; June 28, 1941, ch. 259, § 1, 55 Stat. 309; July 2, 1942, ch. 473, § 1, 56 Stat. 510; July 12, 1943, ch. 219, § 1, 57 Stat. 454, related to salaries of legal advisor and financial expert.

Section 1237b, act June 5, 1936, ch. 519, 49 Stat. 1478, related to the appointment, powers, and duties of the acting High Commissioner.

Section 1237c, act Aug. 11, 1937, ch. 581, §§ 1—3, 50 Stat. 621, 622, related to the authorization to Chief Clerk and Assistant Chief Clerk of High Commissioner to administer oaths.

Section 1238, acts Jan. 17, 1933, ch. 11, § 8, 47 Stat. 767; Mar. 24, 1934, ch. 84, § 8, 48 Stat. 462; Aug. 7, 1939, ch. 502, § 2, 53 Stat. 1230, which related to immigration, repealed by act June 27, 1952, ch. 477, title IV, § 403 (a) (35), 66 Stat. 279, is now covered by subchapter II of chapter 12 of Title 8, Aliens and Nationality.

Section 1238a, act Aug. 7, 1939, ch. 502, § 8, 53 Stat. 1234, related to the assignment of Foreign Service Officers to Philippines.

Section 1239, acts Jan. 17, 1933, ch. 11, § 9, 47 Stat. 768; Mar. 24, 1934, ch. 84, § 9, 48 Stat. 463, related to obligation of United States as to Philippine bonds and exemption of bonds from taxation.

Section 1240 related to recognition of Philippine Independence, withdrawal of American sovereignty, and property for diplomatic purposes, and has been transferred to section 1394 of Title 22, Foreign Relations and Intercourse.

Section 1241, acts Jan. 17, 1933, ch. 11, § 11, 47 Stat. 769; Mar. 24, 1934, ch. 84, § 11, 48 Stat. 463, related to neutralization of the Philippines.

Section 1242, acts Jan. 17, 1933, ch. 11, § 12, 47 Stat. 769; Mar. 24, 1934, ch. 84, § 12, 48 Stat. 463, related to notification to foreign governments of Philippine Independence.

Section 1243, acts Jan. 17, 1933, ch. 11, § 13, 47 Stat. 769; Mar. 24, 1934, ch. 84, § 13, 48 Stat. 464; Aug. 7, 1939, ch. 502, § 4, 53 Stat. 1231; June 29, 1944, ch. 323, § 1, 58 Stat. 626; Apr. 30, 1946, ch. 244, title V, § 511 (3), 60 Stat. 158, related to the establishment of the Filipino Rehabilitation Commission.

Section 1244, acts Jan. 17, 1933, ch. 11, § 14, 47 Stat. 769; Mar. 24, 1934, ch. 84, § 14, 48 Stat. 464, which related to immigration after independence, repealed by act June 27, 1952, ch. 477, title IV, § 403 (a) (35), 66 Stat. 279, and is now covered by subchapter II of chapter 12 of Title 8, Aliens and Nationality.

Section 1245, acts Jan. 17, 1933, ch. 11, § 15, 47 Stat. 769; Mar. 24, 1934, ch. 84, § 15, 48 Stat. 464, related to statutes continued in force.

Section 1246 was a saving clause, and has been transferred to a note under section 1391 of Title 22, Foreign Relations and Intercourse.

Section 1247, acts Jan. 17, 1933, ch. 11, § 17, 47 Stat. 770; Mar. 24, 1934, ch. 84, § 17, 48 Stat. 465, related to effective date.

Section 1247a related to definitions, and has been transferred to section 1395 of Title 22, Foreign Relations and Intercourse.

Section 1248, act Mar. 24, 1934, ch. 84, § 19, as added Aug. 7, 1939, ch. 502, § 6, 53 Stat. 1232, related to disposition of tax proceeds.

Section 1249, act Nov. 8, 1945, ch. 454, 59 Stat. 577, related to disposition of excise tax proceeds into general funds of Philippine Treasury.

Sections 1251—1257 related to the return of any native Filipino residing in the United States to the Philippines at the expense of the United States, and were repealed by act June 27, 1952, ch. 477, title IV, § 403 (a) (35), 66 Stat. 279.

Section 1251 was from acts July 10, 1935, ch. 376, § 1, 49 Stat. 478; July 27, 1939, ch. 390, § 1, 53 Stat. 1133; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F. R. 2223, 54 Stat. 1238.

Section 1252 was from acts July 10, 1935, ch. 376, § 2, 49 Stat. 478; July 27, 1939, ch. 390, § 2, 53 Stat. 1133; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F. R. 2223, 54 Stat. 1238.

Section 1253 was from acts July 10, 1935, ch. 376, § 3, 49 Stat. 478; July 27, 1939, ch. 390, § 3, 53 Stat. 1133; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F. R. 2223, 54 Stat. 1238.

Section 1254 was from acts July 10, 1935, ch. 376, § 4, 49 Stat. 479; July 27, 1939, ch. 390, § 4, 53 Stat. 1134.

Section 1255 was from acts July 10, 1935, ch. 376, § 5, 49 Stat. 479; July 27, 1939, ch. 390, § 5, 53 Stat. 1134; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F. R. 2223, 54 Stat. 1238.

Section 1256 was from acts July 10, 1935, ch. 376, § 6, 49 Stat. 479; June 4, 1936, ch. 497, 49 Stat. 1462; May 14, 1937, ch. 184, 50 Stat. 165; July 27, 1939, ch. 390, § 6, 53 Stat. 1134; 1940 Reorg. Plan No. V, § 1, eff. June 14, 1940, 5 F. R. 2223, 54 Stat. 1238.

Section 1257 was from acts July 10, 1935, ch. 376, § 7, 49 Stat. 479; July 27, 1939, ch. 390, § 7, 53 Stat. 1134.

Sections 1261—1264 related to law and obligations of the United States, and have been transferred to sections 1251—1281, respectively, of Title 22, Foreign Relations and Intercourse.

Sections 1266—1270a related to obligations of Philippines, and have been transferred to sections 1291—1332. respectively, of Title 22. Foreign Relations and Intercourse.

Section 1270b related to allocation of quotas, and has been transferred to section 1334 of Title 22, Foreign Relations and Intercourse.

Sections 1272—1272g related to executive agreement between United States and Philippines, and have been transferred to sections 1341—1348, respectively, of Title 22, Foreign Relations and Intercourse.

Sections 1274—1274i contained general provisions relating to trade relations, and have been transferred to sections 1351—1360, respectively, of Title 22, Foreign Relations and Intercourse.

Sections 1276—1276e related to property retained by the United States, and have been transferred to sections 1381—1386, respectively, of Title 22, Foreign Relations and Intercourse.

Chapter 6.—CANAL ZONE

Canal Zone Code

Pub. L. 87-845, Oct. 18, 1962, 76A Stat. 1, revised and codified into the "Canal Zone Code" all the general and permanent laws relating to and in force in the Canal Zone as of Oct. 18, 1962, other than the general laws of the United States relating to or applying in the Canal Zone.

Act June 19, 1934, ch. 667, 48 Stat. 1122, enacted the "Canal Zone Code" to establish conclusively and be deemed to embrace all the permanent laws relating to or applying in the Canal Zone in force on date of enactment of the Code.

GENERAL PROVISIONS

§§ 1301 to 1304. Omitted.

Section 1301, acts Aug. 24, 1912, ch. 390, § 14, 37 Stat. 569; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to short title.

Section 1302, acts Aug. 24, 1912, ch. 390, § 1, 37 Stat. 560; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to establishment of the Canal Zone. See sections 1 and 2 of Title 2 of the Canal Zone Code.

Section 1303, acts Feb. 27, 1909, ch. 224, § 4, 35 Stat. 658; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to a land survey of the Canal Zone. See section 333 of Title 2 of the Canal Zone Code.

Section 1304, acts Aug. 24, 1912, ch. 390, § 3, 37 Stat. 561; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to acquisition of lands. See section 331 of Title 2 of the Canal Zone Code.

§§ 1304a to 1304c. Repealed. Aug. 10, 1949, ch. 415, § 9 (c), 63 Stat. 597.

Sections 1304a—1304c, act May 3, 1932, ch. 162, 47 Stat. 145, related to modification of boundary line.

§§ 1305 to 1314a. Omitted.

Section 1305, acts Aug. 24, 1912, ch. 390, § 4, 37 Stat. 561; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; July 9, 1937, ch. 470, § 3, 50 Stat. 487; Oct. 15, 1949, ch. 695, § 5 (a), 63 Stat. 880; Sept. 26, 1950, ch. 1049, §§ 1, 2 (a) 64 Stat. 1038, related to the establishment, administration, and functions of the Canal Zone Government. See sections 31, 32, 101, and 201 of Title 2 of the Canal Zone Code.

Section 1305-1, act Sept. 26, 1950, ch. 1049, § 2 (a), (b), 64 Stat. 1038, related to changes in names of the terms "the Panama Canal", "the Canal", and "the Canal authorities" to "the Canal Zone Government" and "the Panama Railroad Company" to "the Panama Canal Company".

Section 1305a, acts Aug. 24, 1912, ch. 390, § 4, 37 Stat. 561; Mar. 12, 1928, ch. 213, 45 Stat. 310; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Sept. 26, 1950, ch. 1049, § 4, 64 Stat. 1040, related to compensation of persons in military, naval, or public health service. See section 201 of Title 2 of the Canal Zone Code.

Section 1305b, acts June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Aug. 12, 1949, ch. 422, § 3, 63 Stat. 602; Sept. 26, 1950, ch. 1049, § 2 (a), (1) (b), 64 Stat. 1038, related to special training of employees.

Section 1305c, acts June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Aug. 12, 1949, ch. 422, § 4, 63 Stat. 601; Sept. 26, 1950, ch. 1049, § 2 (a), (1) (b), 64 Stat. 1038, related to artificial limbs and appliances for employees injured prior to Sept. 7, 1916. See section 182 of Title 2 of the Canal Zone Code.

Section 1306, acts Aug. 24, 1912, ch. 390, § 13, 37 Stat. 569; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to Army control in time of war or emergency. See section 34 of Title 2 of the Canal Zone Code.

Section 1307, acts Aug. 24, 1912, ch. 390, § 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, § 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, § 1, 47 Stat. 814; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Sept. 26, 1950, ch. 1049, § 2 (e), 64 Stat. 1038, related to jurisdiction of the Governor. See section 33 of Title 2 of the Canal Zone Code.

Section 1308, acts Feb. 27, 1909, ch. 224, §§ 1—3, 5, 35 Stat. 658; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to lease of public lands. See section 333 of Title 2 of the Canal Zone Code.

Section 1309, act Aug. 24, 1912, ch. 390, § 2, 37 Stat. 561, related to continuation of early laws and regulations.

Section 1310, acts Aug. 21, 1916, ch. 371, § 1, 39 Stat. 527; Feb. 16, 1933, ch. 92, 47 Stat. 818; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to sanitary regulations. See sections 911, 912 and 1191 of Title 2 of the Canal Zone Code.

Section 1311, acts Aug. 21, 1916, ch. 371, § 2, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to tax regulations. See section 1441 of Title 2 of the Canal Zone Code.

Section 1311a, acts Aug. 21, 1916, ch. 371, § 5, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to penalties for tax violations. See section 1442 of Title 2 of the Canal Zone Code.

Section 1312, acts Aug. 21, 1916, ch. 371, § 3, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to highway regulations. See sections 1001 and 1002 of Title 2 of the Canal Zone Code.

Section 1312a, acts Aug. 21, 1916, ch. 371, § 5, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; July 10, 1937, ch. 487, § 2, 50 Stat. 510, related to violations of highway regulations. See section 1003 of Title 2 of the Canal Zone Code.

Section 1313, acts Aug. 21, 1916, ch. 371, § 4, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to police regulations. See section 1001 of Title 2 of the Canal Zone Code.

Section 1314, acts Aug. 21, 1916, ch. 371, § 5, 39 Stat. 528; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to violation of regulations generally. See section 1003 of Title 2 of the Canal Zone Code.

Section 1314a, act July 9, 1937, ch. 470, § 1, 50 Stat. 486, related to air regulations. See sections 701 and 702 of Title 2 of the Canal Zone Code.

§§ 1314b to 1314e. Repealed. Aug. 10, 1949, ch. 415, § 9 (d), 63 Stat. 597.

Sections, act June 19, 1934, ch. 657, 48 Stat. 1116, related to intoxicating liquors in the Canal Zone. See sections 731 and 732 of Title 2 of the Canal Zone Code.

§§ 1313f to 1315a. Omitted.

Sections 1314f—1314i, act Oct. 1, 1942, ch. 574, 56 Stat. 763, related to control of marihuana. See sections 1151–1155 of Title 6 of the Canal Zone Code.

Sections 1315 and 1315a, acts Aug. 24, 1912, ch. 390, § 5, 37 Stat. 562; June 15, 1914, ch. 106, §§1, 2, 38 Stat. 385, 386; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Sept. 26, 1950, ch. 1049, §§ 11, 12, 64 Stat. 1042, related to tolls. See sections 411 and 412 of Title 2 of the Canal Zone Code.

§ 1316. Repealed. Sept. 26, 1950, ch. 1049, § 13 (3), 64 Stat. 1043.

Section, act June 12, 1917, ch. 27, § 1, 40 Stat. 179, related to refund of excessive tolls.

§§ 1317 to 1322. Omitted.

Section 1317, acts June 15, 1914, ch. 106, § 2, 38 Stat. 386; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to reservation of right to discriminate in favor of American vessels.

Section 1318, acts Aug. 24, 1912, ch. 390, § 5, 37 Stat. 562; Sept. 21, 1922, ch. 370, § 10, 42 Stat. 1008; July 5, 1932, ch. 425, 47 Stat. 578; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to regulations governing the operation of the Canal. See section 1331 of Title 2 of the Canal Zone Code.

Section 1319, acts Aug. 24, 1912, ch. 390, § 5, 37 Stat. 562; June 15, 1914, ch. 106, § 1, 38 Stat. 385; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; June 13, 1940, ch. 358, § 1, 54 Stat. 387; Sept. 26, 1950, ch. 1049, § 3, 64 Stat. 1039, related to injuries to vessels, cargo, crew, or passengers in operation of Canal. See sections 291–297 of Title 2 of the Canal Zone Code.

Section 1320, act Aug. 24, 1912, ch. 390, § 5, 37 Stat. 562, related to injuries to employees, and is now covered by sections 790, 791, and 793 of Title 5, Executive Departments and Government Officers and Employees.

Section 1321, act Aug. 21, 1916, ch. 371, § 10, 39 Stat. 529; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to passage of persons through the Canal Zone. See section 841 of Title 2 of the Canal Zone Code.

Section 1322, acts Aug. 21, 1916, ch. 371, 39 Stat. 529; June 19, 1934, ch. 667, § 1, 48 Stat. 1122, related to injury to Canal and appurtenances. See sections 1184 and 1591 of Title 6 of the Canal Zone Code.

§§ 1323 to 1323–3. Repealed. Sept. 26, 1950, ch. 1049, § 13 (2), 64 Stat. 1043.

Sections, acts Aug. 24, 1912, ch. 390, § 6, 37 Stat. 563; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; Aug. 12, 1949, ch. 422, § 2, 63 Stat. 601, related to the establishment and operation of various business facilities.

§§ 1323a to 1323k. Omitted.

Section 1323a, acts Feb. 16, 1933, ch. 89, § 1, 47 Stat. 812; June 13, 1940, ch. 358, § 2, 58 Stat. 389; Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related to the postal service generally. See sections 1131 and 1132 of Title 2 of the Canal Zone Code.

Section 1323b, act June 13, 1940, ch. 358, § 2, 54 Stat. 389, related to postal-savings deposits. See section 1133 of Title 2 of the Canal Zone Code.

Section 1323c, acts Aug. 21, 1916, ch. 371, § 6, 39 Stat. 528; Sept. 21, 1922, ch. 370, § 11, 42 Stat. 1008; Feb. 16, 1933, ch. 89, § 2, 47 Stat. 812; June 13, 1940, ch. 358, § 2, 54 Stat. 389, related to interest rate on postal-savings certificates. See section 1134 of Title 2 of the Canal Zone Code.

Sections 1323d—1323h, act June 13, 1940, ch. 358, § 2, 54 Stat. 389, related to money-orders. See sections 1136–1139 of Title 2 of the Canal Zone Code.

Section 1323i, acts Aug. 21, 1916, ch. 371, § 7, 39 Stat. 528; Feb. 16, 1933, ch. 89, § 3, 47 Stat. 812; June 13, 1940, ch. 358, § 2, 54 Stat. 389, related to use of interest and profits on money-order and postal-savings funds. See section 1140 of Title 2 of the Canal Zone Code.

Section 1323j, June 13, 1940, ch. 358, § 2, 54 Stat. 389, related to deposit money orders. See section 1141 of Title 2 of the Canal Zone Code.

Section 1323k, act Feb. 16, 1933, ch. 89, § 4, 47 Stat. 813, related to repeal of prior postal laws.

§§ 1324, 1325. Repealed. Feb. 16, 1933, ch. 89, § 4, 47 Stat. 812.

Section 1324, acts Aug. 21, 1916, ch. 371, § 6, 39 Stat. 528; Sept. 21, 1922, ch. 370, § 11, 42 Stat. 1008, related to interest on deposit money orders. See section 1134 of Title 2 of the Canal Zone Code.

Section 1325, act Aug. 21, 1916, ch. 371, § 7, 39 Stat. 528, related to use of interest on money-order funds. See section 1140 of Title 2 of the Canal Zone Code.

§§ 1325a to 1327. Omitted.

Section 1325a, acts Feb. 16, 1933, ch. 90, § 1, 47 Stat. 813; Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related to rules and regulations of the Customs Service. See section 761 of Title 2 of the Canal Zone Code.

Section 1325b, act Feb. 16, 1933, ch. 90, § 2, 47 Stat. 813, related to powers of search, seizure, and arrest of customs officers. See section 762 of Title 2 of the Canal Zone Code.

Section 1325c, acts Feb. 16, 1933, ch. 90, § 3, 47 Stat. 813; July 10, 1937, ch. 487, § 1, 50 Stat. 509, related to unlawful entry or importation. See sections 781 and 782 of Title 2 of the Canal Zone Code.

Section 1325d, act Feb. 16, 1933, ch. 90, §4, 47 Stat. 813, related to unmanifested merchandise. See section 783 of Title 2 of the Canal Zone Code.

Section 1325e, act Feb. 16, 1933, ch. 90, § 5, 47 Stat. 814, related to unlisted sea stores. See section 784 of Title 2 of the Canal Zone Code.

Section 1326, act Aug. 21, 1916, ch. 371, § 8, 39 Stat. 528, related to fees of customs officers. See section 763 of Title 2 of the Canal Zone Code.

Section 1327, act Aug. 1, 1914, ch. 223, § 4, 38 Stat. 679, related to accounting by collection officers. See section 231 of Title 2 of the Canal Zone Code.

§§ 1328, 1329. Repealed. Sept. 26, 1950, ch. 1049, § 13 (1), 64 Stat. 1043.

Section 1328, acts Aug. 1, 1914, ch. 223, § 5, 38 Stat. 679; June 10, 1921, ch. 18, §§ 301, 304, 42 Stat. 23, 24, related to accounting by collecting officers.

Section 1329, acts Mar. 3, 1915, ch. 75, § 3, 38 Stat. 886; June 10, 1921, ch. 18, §§ 301, 304, 42 Stat. 23, 24, related to examination of accounts.

§§ 1330 to 1336h. Omitted.

Section 1330, act Aug. 24, 1912, ch. 390, 12, 37 Stat. 569, related to extradition of fugitives. See section 4981 of Title 6 of the Canal Zone Code.

Section 1330–1, act Dec. 16, 1941, ch. 580, § 2, 55 Stat. 802, related to extradition to and from the United States. See section 4982 of Title 6 of the Canal Zone Code.

Section 1330a, act July 5, 1932, ch. 419, § 1, 47 Stat. 574, related to extradition to Republic of Panama. See section 5081 of Title 6 of the Canal Zone Code.

Section 1330b, act July 5, 1932, ch. 419, § 2. 47 Stat. 574; Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related to extradition to the Republic of Panama where fugitive a citizen of United States. See section 5082 of Title 6 of the Canal Zone Code.

Sections 1330c and 1330d, act July 5, 1932, ch. 419, §§ 3, 4, 47 Stat. 574, related to fugitives accused of crime in Canal Zone. See sections 5083 and 5084 of Title 6 of the Canal Zone Code.

Section 1330e, acts July 5, 1932, ch. 419, § 5, 47 Stat. 575; Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related to written demand for arrest and delivery of fugitive. See section 5085 of Title 6 of the Canal Zone Code.

Section 1330f, act July 5, 1932, ch. 419, § 6, 47 Stat. 575, related to detention on telegraphic request. See sections 5086—5088 of Title 6 of the Canal Zone Code.

Sections 1330g—1330j, act July 5, 1932, ch. 419, §§ 7–10, 47 Stat. 575, related to authority of agents and expenses of capture and transportation of fugitives. See sections 5089—5092 of Title 6 of the Canal Zone Code.

Section 1331, act Aug. 21, 1916, ch. 371, § 9, 39 Stat. 529, related to laws governing American seamen in Zone. See section 1381 of Title 2 of the Canal Zone Code.

Section 1332, act Aug. 24, 1912, ch. 355, § 4, 37 Stat. 486, related to payments for Toro Point Light.

Section 1333, acts Mar. 4, 1911, ch. 285, § 2, 36 Stat. 1451; July 10, 1937, ch. 487, § 10, 50 Stat. 511; Sept. 26, 1950, ch. 1049, § 2 (a), (2), 64 Stat. 1038, related to carrying of insurance by the Panama Canal Company. See section 74 of Title 2 of the Canal Zone Code.

Section 1334, acts June 25, 1910, ch. 384, § 2, 36 Stat. 772; Sept. 26, 1950, ch. 1049, § 2 (a), (2), 64 Stat. 1048, related to subsidy payments by Panama Canal Company.

Section 1335, acts Mar. 4, 1911, ch. 285, § 6, 36 Stat. 1452; Sept. 26, 1950, ch. 1049, § 2 (a), (2), 64 Stat. 1048, related to bonds by Panama Canal Company.

Section 1336, acts Aug. 24, 1912, ch. 390, § 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, § 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, § 1, 47 Stat. 1038, related to notaries public. See section 1071 of Title 2 of the Canal Zone Code.

Section 1336a, acts June 30, 1932, ch. 314, §§ 501, 502, 47 Stat. 415; Feb. 16, 1933, ch. 88, § 1, 47 Stat. 811, related rules and regulations of steamboat inspection. See sections 1351 and 1353 of Title 2 of the Canal Zone Code.

Section 1336b, act Feb. 16, 1933, ch. 88, § 2, 47 Stat. 811, related to inspection of foreign vessels. See section 1352 of the Canal Zone Code.

Section 1336c, acts Feb. 16, 1933, ch. 88, § 3, 47 Stat. 811; Sept. 26, 1950, ch. 1049, § 2 (a), (1) 64 Stat. 1038, related to certificate of inspection. See section 1354 of Title 2 of the Canal Zone Code.

Section 1336d, act Feb. 16, 1933, ch. 88, § 4, 47 Stat. 811, related to refusal of certificate. See section 1355 of Title 2 of the Canal Zone Code.

Section 1336e, acts June 30, 1932, ch. 314, § 501, 47 Stat. 415; Feb. 16, 1933, ch. 88, § 5, 47 Stat. 811; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; Sept. 26, 1950, ch. 1049, (2) (a), (1), 64 Stat. 1038, related to navigating waters without lawful certificate. See section 1356 of Title 2 of the Canal Zone Code.

Section 1336f, acts Feb. 16, 1933, ch. 88, § 6, 47 Stat. 811; Sept. 26, 1950, ch. 1049, § 2 (a), (1), 64 Stat. 1038, related to revocation of certificate. See section 1357 of Title 2 of the Canal Zone Code.

Section 1336g, acts Feb. 16, 1933, ch. 88, § 7, 47 Stat. 812; June 24, 1936, ch. 754, § 8, 49 Stat. 1905; Sept. 26, 1950, ch. 1049, § 2 (a), (1), 64 Stat. 1038, related to registration of small vessels propelled by machinery. See section 1358 of Title 2 of the Canal Zone Code.

Section 1336h, acts Feb. 16, 1933, ch. 88, § 8, 47 Stat. 812; June 24, 1936, ch. 754, § 9, 49 Stat. 1906, related to registration of small vessels not propelled by machinery. See section 1359 of Title 2 of the Canal Zone Code.

§ 1336i. Repealed. June 24, 1936, ch. 754, § 10, 49 Stat. 1906.

Section, act Feb. 16, 1933, ch. 88, § 9, 47 Stat. 812, related to small vessels carrying passengers.

§§ 1336j to 1337c. Omitted.

Sections 1336j and 1336k, act July 5, 1932, ch. 421, 47 Stat. 576, related to equipment on ocean-going vessels.

Section 1337, acts Dec. 12, 1941, ch. 569, 55 Stat. 798; Sept. 26, 1950, ch. 1049, § 2 (a), (1) (b), 64 Stat. 1038, related to photographic regulations. See sections 1051 and 1052 of Title 2 of the Canal Zone Code.

Sections 1337a—1337c, act June 19, 1934, ch. 667, §§ 16—18, as added Aug. 12, 1949, ch. 422, § 1, 63 Stat. 600, and amended Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related acquisition or construction of structures, property damage claims, and disaster relief. See sections 235, 271, and 371 of Title 2 of the Canal Zone Code.

§§ 1341 to 1355. Omitted.

Section 1341, acts Aug. 24, 1912, ch. 390, § 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, § 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, § 1, 47 Stat. 814, related to the determination of towns in Canal Zone. See section 3 of Title 2 of the Canal Zone Code.

Section 1342, acts Aug. 24, 1912, ch. 390, § 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, § 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, § 1, 47 Stat. 814, related to magistrate courts. See sections 81, 82, 84, 86, 171 and 172 of Title 3 and sections 3801 and 6581 of Title 6 of the Canal Zone Code.

Section 1343, acts Aug. 24, 1912, ch. 390, § 7, 37 Stat. 564; Sept. 21, 1922, ch. 370, § 1, 42 Stat. 1004; Feb. 16, 1933, ch. 91, § 1, 47 Stat. 814, related to appeals from magistrate courts. See section 3921 of Title 6 of the Canal Zone Code.

Section 1344, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 815, related to district courts generally. See sections 1, 2, 3 and 5 of Title 3 of the Canal Zone Code.

Section 1344–1, act Dec. 16, 1941, ch. 580, § 3, 55 Stat. 802, related to rules of criminal procedure.

Section 1344a, acts Aug. 12, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 816, related to orders made when outside jurisdiction.

Section 1345, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 815, related to general jurisdiction of district court. See sections 141 and 142 of Title 3 of the Canal Zone Code.

Section 1345a, act July 5, 1932, ch. 422, § 2, 47 Stat. 577, related to issuance of process. See section 1102 of Title 2 of the Canal Zone Code.

Section 1346, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 47 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 815, related to jurisdiction of crimes committed on high seas. See section 143 of Title 3 and section 3510 of Title 6 of the Canal Zone Code.

Section 1347, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Dec. 29, 1926, ch. 19, § 1, 44 Stat. 924; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 816; Sept. 26, 1950, ch. 1049, § 2 (a), 64 Stat. 1038, related to juries and jury trials. See sections 471 and 472 of Title 3 of the Canal Zone Code.

Section 1348, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 816, related to compensation of district judge. See section 5 of Title 3 of the Canal Zone Code.

Section 1349, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, 42 Stat. 1005; Feb. 16, 1933, ch. 91, 47 Stat. 816, related to clerk of district court. See section 7 of Title 3 of the Canal Zone Code.

Section 1350, act Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 815, related to appointment and compensation of special judge. See sections 5 and 6 of Title 3 of the Canal Zone Code.

Section 1351, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 815; Sept. 26, 1950, ch. 1049, § 2 (b), 64 Stat. 1038, related to the district attorney. See sections 41—44 of Title 3 of the Canal Zone Code.

Section 1352, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Feb. 16, 1933,

ch. 91, § 2, 47 Stat. 817, related to the marshal. See sections 45 and 46 of Title 3 of the Canal Zone Code.

Section 1353, acts Aug. 24, 1912, ch. 390, § 8, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 2, 42 Stat. 1005; Dec. 29, 1926, ch. 19, § 2, 44 Stat. 924; Feb. 16, 1933, ch. 91, § 2, 47 Stat. 817; Mar. 26, 1938, ch. 51, § 1, 52 Stat. 118; July 1, 1944, ch. 366, 58 Stat. 676; June 25, 1948, ch. 646, § 31, 67 Stat. 991, related to appointment of district judge, district attorney, and marshal. See sections 5, 41 and 45 of Title 3 of the Canal Zone Code.

Sections 1354 and 1355, acts Aug. 24, 1912, ch. 390, § 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006, related to transfer of causes to new courts, and continuance of laws defining clerks' duties.

§ 1356. Repealed. June 25, 1948, ch. 646, § 35, 62 Stat. 991, eff. Sept. 1, 1948.

Section, acts Aug. 24, 1912, ch. 390, § 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006; Feb. 16, 1933, ch. 91, § 3, 47 Stat. 817, which related to appeals from district courts, is covered by sections 1291, 1292, and 1294 of Title 28, Judiciary and Judicial Procedure.

§§ 1357, 1358. Omitted.

Section 1357, acts Aug. 24, 1912, ch. 390, § 9, 37 Stat. 565; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006, related to blending of law and equity jurisdiction.

Section 1358, act June 28, 1906, ch. 3585, 34 Stat. 552, related to acknowledgment of deeds. See section 744 of Title 4 of the Canal Zone Code.

§ 1361. Repealed. Sept. 26, 1950, ch. 1049, § 13 (7), 64 Stat. 1043.

Section, act June 29, 1948, ch. 706, § 1, 62 Stat. 1075, related to the purpose of organization of the former Panama Railroad Company.

§§ 1361a to 1361*l*. Omitted.

Sections, acts June 29, 1948, ch. 706, § 2, 62 Stat. 1076; Sept. 26, 1950, ch. 1049, § 5, 64 Stat. 1041, related to the Panama Canal Company. See sections 61—71, 75 and 121 of Title 2 of the Canal Zone Code.

§§ 1371 to 1371b. Repealed. July 21, 1949, ch. 356, § 1 (b), 63 Stat. 475, eff. Apr. 1, 1948.

Sections 1371—1371b, related to retirement of employees of Panama Canal and Panama Railroad Company.

Section 1371 from act Mar. 2, 1931, ch. 375, § 1, 46 Stat. 1471.

Section 1371a from acts Mar. 2, 1931, ch. 375, § 2, 46 Stat. 1471; June 19, 1934, ch. 667, § 1, 48 Stat. 1122; July 29, 1942, ch. 536, § 1, 56 Stat. 726.

Section 1371b from acts Mar. 2, 1931, ch. 375, § 3, 46 Stat. 1472; July 2, 1945, ch. 220, 59 Stat. 212.

§ 1371b-1. Involuntary separation.

CODIFICATION

Section, act June 16, 1933, ch. 101, § 8 (b), 48 Stat. 306, related to involuntary separation, and has been omitted from the Code due to the repeal of sections 1731—1731b and 1731c—1731p of this title.

§§ 1371c to 1371p. Repealed. July 21, 1949, ch. 356, § 1 (b), 63 Stat. 475, eff. Apr. 1, 1948.

Sections 1371c—1371p, related to retirement of employees of Panama Canal and Panama Railroad Company.

Section 1371c from acts Mar. 2, 1931, ch. 375, § 4, 46 Stat. 1472; Apr. 7, 1934, Ex. Ord. No. 6670; June 24, 1936, ch. 754, § 2, 49 Stat. 1904; Apr. 12, 1939, ch. 58, 53 Stat. 574; Dec. 16, 1941, ch. 584, § 2, 55 Stat. 806.

Section 1371d from act July 29, 1942, ch. 536, § 2, 56 Stat. 727.

Section 1371e from acts Mar. 2, 1931, ch. 375, § 6, 46 Stat. 1474; Aug. 10, 1939, ch. 660, 53 Stat. 1347; Dec. 16, 1941, ch. 584, § 1, 55 Stat. 805; July 29, 1942, ch. 536, § 3, 56 Stat. 727.

Section 1371f from acts Mar. 2, 1931, ch. 375, § 7, 46 Stat. 1476; Oct. 14, 1940, ch. 859, § 2, 54 Stat. 1117.

Section 1371g from acts Mar. 2, 1931, ch. 375, § 8, 46 Stat. 1476; Apr. 7, 1934, Ex. Ord. No. 6670.

Section 1371h from acts Mar. 2, 1931, ch. 375, § 9, 46 Stat. 1477; Apr. 7, 1934, Ex. Ord. No. 6670; Dec. 16, 1941, ch. 584, § 2, 55 Stat. 806.

Section 1371i from act Mar. 2, 1931, ch. 375, § 10, 46 Stat. 1477.

Section 1371j from acts Mar. 2, 1931, ch. 375, § 11, 46 Stat. 1477; Apr. 7, 1934, Ex. Ord. No. 6670; June 24, 1936, ch. 754, §§ 4—6, 49 Stat. 1905; Dec. 16, 1941, ch. 584, § 4, 55 Stat. 806; July 29, 1942, ch. 536, § 4, 56 Stat. 728.

Section 1371k from acts Mar. 2, 1931, ch. 375, § 12, 46 Stat. 1478; Apr. 7, 1934, Ex. Ord. No. 6670; July 29, 1942, ch. 536, § 5, 56 Stat. 728.

Section 1371*l* from acts Mar. 2, 1931, ch. 375, § 13, 46 Stat. 1479; Aug. 10, 1937, ch. 573, 50 Stat. 619.

Section 1371m from acts Mar. 2, 1931, ch. 375, § 14, 46 Stat. 1479; Apr. 7, 1934, Ex. Ord. No. 6670.

Section 1371n and 1371o from act Mar. 2, 1931, ch. 375, §§ 15, 16, 46 Stat. 1479, 1480.

Section 1371p from acts Mar. 2, 1931, ch. 375, § 17, 46 Stat. 1480; Apr. 7, 1934, Ex. Ord. No. 6670; Aug. 4, 1947, ch. 470, § 1, 61 Stat. 743.

§§ 1372 to 1374d. Omitted.

Section 1372, acts July 8, 1937, ch. 443, § 1, 50 Stat. 478; Sept. 26, 1950, ch. 1049, § 2 (a), (b), 64 Stat. 1038, related to relief of employee not entitled to retirement benefits. See section 181 of Title 2 of the Canal Zone Code.

Sections 1373—1373g, acts May 29, 1944, ch. 214, 58 Stat. 257; Aug. 7, 1946, ch. 774, 60 Stat. 873; Sept. 26, 1950, ch. 1049, § 2 (a), (1), 64 Stat. 1038, related to recognition and benefits of employees engaged in construction of Panama Canal.

Sections 1374—1374d, acts July 24, 1947, ch. 308, § 1, 61 Stat. 415; Sept. 26, 1950, ch. 1049, § 2 (a), (2), 64 Stat. 1038, related to retirement of Panama Canal Company employees not employed on the Isthmus of Panama.

§§ 1381 to 1387. Transferred or Omitted.

CODIFICATION

Sections 1381 and 1382, relating to setting aside of Barro Colorado Island for scientific observation and investigation, were transferred to sections 79 and 79a, respectively, of Title 20, Education.

Section 1383, act July 2, 1940, ch. 516, § 3, 54 Stat. 724, providing for the appointment and compensation of the Board of Directors of the Canal Zone Biological Area, was superseded by 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Board of Directors and the office of its executive officer and transferred their functions to the Smithsonian Institution.

Sections 1384—1387, relating to functions of Smithsonian Institution, powers, duties, and compensation of resident manager, deposits and disbursements, and appropriations, were transferred to sections 79b—79e, respectively, of Title 20, Education.

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For additional provisions, constituting a revision of the Organic Act of the Virgin Islands of the United States, see chapter 12 of this title.

CODIFICATION

A new organic act, or basic charter of civil government, for the people of the Virgin Islands of the United States, was passed in 1954. Act July 22, 1954, ch. 558, 68 Stat. 497, known as the Revised Organic Act of the Virgin Islands, is set out as chapter 12 of this title. Section 8(c) of the Revised Organic Act, set out as section 1574(c) of this title, provides that laws of the United States, set out generally in this chapter, as well as local laws and ordinances, including provisions of the Organic Act of the Virgin Islands of the United States, act June 22, 1936, ch. 699, 49 Stat. 1807, section 1405 et seq. of this title, in force on July 22, 1954, and not inconsistent with the 1954 act, are to remain in force and effect until otherwise changed.

§ 1391. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 643.

Section, act Mar. 3, 1917, ch. 171, § 1, 39 Stat. 1132, provided for the appointment and pay of the Governor of the Virgin Islands and other employees.

§ 1392. Local laws continued; courts.

Until Congress shall otherwise provide, insofar as compatible with the changed sovereignty and not in conflict with the provisions of this section and sections 1391 and 1394 to 1396 of this title, the laws regulating elections and the electoral franchise as set forth in the code of laws published at Amalienborg the 6th day of April, 1906, and the other local laws, in force and effect in said islands on the 17th day of January, 1917, shall remain in force and effect in said islands, and the same shall be administered by the civil officials and through the local judicial tribunals established in said islands, respectively; and the orders, judgments, and decrees of said judicial tribunals shall be duly enforced. With the approval of the President, or under such rules and regulations as the President may prescribe, any of said laws may be repealed, altered, or amended by the colonial council having jurisdiction. The jurisdiction of the judicial tribunals of said islands shall extend to all judicial proceedings and controversies in said islands to which the United States or any citizen thereof may be a party. (Mar. 3, 1917, ch. 171, § 2, 39 Stat. 1132; June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

CODIFICATION

Section 1391 of this title, referred to in text, was repealed by Pub. L. 89-554, as part of the general revision of Title 5, Government Organization and Employees.

AMENDMENTS

1948—Act June 25, 1948, repealed last sentence relating to appeals as this provision is now covered by section 1294 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section shall be effective Sept. 1, 1948.

§ 1392a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650, 654.

Section, acts May 24, 1940, ch. 209, § 3, 54 Stat. 220, July 31, 1946, ch. 704, § 1, 60 Stat. 716; June 25, 1948, ch. 646, § 30, 62 Stat. 991, related to the salary of the judge of the District Court.

§ 1392b. Jurisdiction of district court of violations of provisions for protection of navigable waters.

Violations of the provisions of section 1399 of this title may be prosecuted in the District Court of the Virgin Islands of the United States, and jurisdiction is vested in said court to try and determine such causes. (July 1, 1932, ch. 370, § 2, 47 Stat. 565.)

CROSS REFERENCES

Jurisdiction of District Court of the Virgin Islands, see sections 1405q, 1406, 1406a, and 1612 of this title.

Laws of United States for protection and improvement of navigable waters and the preservation of the interest of navigation and commerce to apply to Virgin Islands, see section 1405c of this title.

§ 1393. Colonial councils; eligibility to membership in.

No person owing allegiance to any country other than the United States of America shall be eligible to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands. (July 12, 1921, ch. 44, § 1, 42 Stat. 123.)

CODIFICATION

Section is a provision from the Naval Service Appropriation Act, 1922.

§ 1394. Customs duties and internal-revenue taxes.

There shall be levied, collected, and paid upon all articles coming into the United States or its possessions from the Virgin Islands the rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided,* That all articles, the growth or product of, or manufactured in, such islands, from materials the growth or product of such islands or of the United States, or of both, or which do not contain foreign materials to the value of more than 20 per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from such islands shall be admitted free of duty. In determining whether such a Virgin Islands article contains foreign material to the value of more than 20 per centum, no material shall be considered foreign which, at the time the Virgin Islands article is entered, or withdrawn from warehouse, for consumption, may be imported into the continental United States free of duty generally. (Mar. 3, 1917, ch. 171, § 3, 39 Stat. 1133; Sept. 7, 1950, ch. 909, 64 Stat. 784.)

AMENDMENTS

1950—Act Sept. 7, 1950, permitted free entry of articles into the United States from the Virgin Islands when such articles contain foreign materials which may be imported directly into the United States free of duty.

CROSS REFERENCES

Industrial alcohol plants, application of internal revenue laws to Virgin Islands, see section 5314 of Title 26, Internal Revenue Code, 1954.

Internal revenue, special provisions applicable to Virgin Islands, see sections 7652 and 7653 of Title 26, Internal Revenue Code, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1392, 1396 of this title.

§ 1395. Tax laws continued; tax on sugar.

Until Congress shall otherwise provide all laws now imposing taxes in the said West Indian Islands, including the customs laws and regulations, shall, insofar as compatible with the changed sovereignty and not otherwise herein provided, continue in force and effect, except that articles the growth, product, or manufacture of the United States shall be admitted

there free of duty: *Provided,* That upon exportation of sugar to any foreign country, or the shipment thereof to the United States or any of its possessions, there shall be levied, collected, and paid thereon an export duty of $6 per ton of two thousand pounds, irrespective of polariscope test, in lieu of any export tax now required by law: *Provided further,* That the internal revenue taxes levied by the Colonial Council of Saint Croix, or by the Colonial Council of Saint Thomas and Saint John, in pursuance of the authority granted by this section and sections 1391, 1392, 1394, and 1396 of this title on articles, goods, wares, or merchandise may be levied and collected as the Colonial Council of Saint Croix, or as the Colonial Council of Saint Thomas and Saint John, may direct, on the articles subject to said tax, as soon as the same are manufactured, sold, used, or brought into the island: *And provided further,* That no discrimination be made between the articles imported from the United States or foreign countries and similar articles produced or manufactured in the municipality of Saint Croix, or in the municipality of Saint Thomas and Saint John, respectively. The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the municipality of Saint Croix, or of the municipality of Saint Thomas and Saint John, in the collection of these taxes. (Mar. 3, 1917, ch. 171, § 4, 39 Stat. 1133; Feb. 25, 1927, ch. 192, § 5, 44 Stat. 1235; June 24, 1932, ch. 275, 47 Stat. 333.)

AMENDMENTS

1932—Act June 24, 1932, added provisos permitting local levy of internal revenue taxes, prohibiting discrimination against imports, and directing the customs and postal services to assist in collecting taxes.

1927—Act Feb. 25, 1927, reduced export duty on sugar from $8 to $6 per ton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1392, 1396 of this title.

§ 1396. Duties and taxes covered into island treasury.

The duties and taxes collected in pursuance of sections 1394 and 1395 of this title shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of the Virgin Islands, under such rules and regulations as the President may prescribe. (Mar. 3, 1917, ch. 171, § 5, 39 Stat. 1133.)

CROSS REFERENCES

Disposition of proceeds of taxes on articles produced in the Virgin Islands and transported into the United States, see section 7652(b)(3) of Title 26, Internal Revenue Code, 1954.

Use of proceeds of customs duties and taxes collected in the Virgin Islands, see section 1642 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 1397. Income-tax laws of United States in force.

The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United States, except that the proceeds of such taxes shall be paid into the treasuries of said islands. (July 12, 1921, ch. 44, § 1, 42 Stat. 123.)

CODIFICATION

Section is a provision from the Naval Service Appropriation Act, 1922.

CROSS REFERENCES

All provisions of laws of the United States applicable to assessment and collection of taxes imposed by Internal Revenue Code as applicable to possessions, see section 7651(a) of Title 26, Internal Revenue Code, 1954.

Disposition of proceeds of taxes on articles produced in the Virgin Islands and transported into the United States, see section 7652(b)(3) of Title 26, Internal Revenue Code, 1954.

Use of proceeds of United States income tax collected in the Virgin Islands, see section 1642 of this title.

Taxation of income derived from sources within the United States, see section 933 of Title 26, Internal Revenue Code, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 sections 932, 934.

§ 1398. Quarantine and passport fees.

CODIFICATION

Section, act July 1, 1922, ch. 259, 42 Stat. 788, was a provision from the Navy Department and Naval Service Appropriation Act, 1923, and is now covered by section 1642 of this title.

§ 1399. Laws of United States affecting navigation; applicability.

The provisions of sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, 418, and 502 of Title 33, are made applicable to the Virgin Islands and the navigable waters thereof. (July 3, 1930, ch. 847, § 8, 46 Stat. 948; July 1, 1932, ch. 370, § 1, 47 Stat. 565.)

REFERENCES IN TEXT

Section 416 of Title 33, included within the reference to sections 411 to 416 of Title 33, has been omitted from the Code as covered by section 725a(b)(14) of Title 31, Money and Finance.

AMENDMENTS

1932—Act July 1, 1932, included sections 401, 403, 404, 406, 407, 408, 409, 411—413, and 502 in enumerated sections.

CROSS REFERENCES

Jurisdiction of violations of sections set out in this section as vested in the District Court of the Virgin Islands of the United States, see section 1392b of this title.

Laws of United States for protection and improvement of navigable waters and the preservation of the interest of navigation and commerce to apply to Virgin Islands, see section 1405c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392b of this title.

§ 1400. Admiralty laws of United States; extension to islands.

There is conferred upon the judicial tribunals of the Virgin Islands jurisdiction in admiralty which shall be the same as is exercised by the United States district courts, and the practice and procedure shall be the same as in the United States district courts, and all cases coming within the admiralty jurisdiction of said tribunals shall be determined in accordance with the general admiralty laws of the United States of America. (May 20, 1932, ch. 194, 47 Stat. 160.)

CROSS REFERENCES

Admiralty jurisdiction of United States district courts, see section 1333 of Title 28, Judiciary and Judicial Procedure.

§ 1401. Equalization of taxes on real property; declaration of policy.

It is the policy of Congress to equalize and more equitably to distribute existing taxes on real property in the Virgin Islands of the United States and to reduce the burden of taxation now imposed on land in productive use in such islands. (May 26, 1936, ch. 450, § 1, 49 Stat. 1372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401b, 1401e of this title.

§ 1401a. Same; valuation for assessment; uniformity of rates.

For the calendar year 1936 and for all succeeding years all taxes on real property in the Virgin Islands shall be computed on the basis of the actual value of such property and the rate in each municipality of such islands shall be the same for all real property subject to taxation in such municipality whether or not such property is in cultivation and regardless of the use to which such property is put. (May 26, 1936, ch. 450, § 2, 49 Stat. 1372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401b, 1401e of this title.

§ 1401b. Rate of tax in absence of local laws; regulations by President for assessment and collection pending adoption of local laws.

Until local tax laws conforming to the requirements of sections 1401 to 1401e of this title are in effect in a municipality the tax on real property in such municipality for any calendar year shall be at the rate of 1.25 per centum of the assessed value. If the legislative authority of a municipality failed to enact laws for the levy, assessment, collection, or enforcement of any tax imposed under authority of said sections, within three months after May 26, 1936, the President shall prescribe regulations for the levy, assessment, collection, and enforcement of such tax, which shall be in effect until the legislative authority of such municipality shall make regulations for such purposes. (May 26, 1936, ch. 450, § 3, 49 Stat. 1372.)

CROSS REFERENCES

Excess or additional rate of taxation for servicing outstanding bonds authorized, see section 1403 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1401e of this title.

§ 1401c. Same; depository.

All taxes so levied and collected shall be deposited in the municipal treasury of the municipality in which such taxes are collected. (May 26, 1936, ch. 450, § 4, 49 Stat. 1372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401b, 1401e of this title.

§ 1401d. Same; payments by Virgin Islands Corporation; valuation; property owned by United States.

The Virgin Islands Corporation shall pay annually into the municipal treasuries of the Virgin Islands in lieu of taxes an amount equal to the amount of taxes which would be payable on the real property in the Virgin Islands owned by the Virgin Islands Corporation, if such real property were in private ownership and taxable, but the valuation placed upon such property for taxation purposes by the local taxing authorities shall be reduced to a reasonable amount by the designee of the President of the United States as provided in section 1407 of this title if, after investigation, he finds that such valuation is excessive and unreasonable, and any such reduction in valuation, together with the findings on which it is based, shall not be reviewable by any court. The Virgin Islands Corporation shall also pay into the municipal treasuries of the Virgin Islands amounts equal to the amounts of any taxes of general application which a private corporation similarly situated would be required to pay into the said treasuries. Similar payments shall be made with respect to any property owned by the United States in the Virgin Islands which is used for ordinary business or commercial purposes, and the income derived from any property so used shall be available for making such payments: *Provided, however*, That the payments authorized by this section shall not include payments in lieu of income taxes, capital stock taxes, or franchise taxes. (May 26, 1936, ch. 450, § 5, 49 Stat. 1372; June 30, 1949, ch. 285, § 12, 63 Stat. 356.)

AMENDMENTS

1949—Act June 30, 1949, made section applicable to the Virgin Islands Corporation.

EFFECTIVE DATE OF 1949 AMENDMENT

Section 14 of act June 30, 1949, provided that amendment of this section by section 12 of act June 30, 1949, shall be effective as of June 30, 1949.

CROSS REFERENCES

Financial control of Virgin Islands Company, see chapter 14 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401b, 1401e of this title.

§ 1401e. Same; exemptions; authority of municipalities to alter, amend, or repeal existing laws.

Nothing in sections 1401 to 1401e of this title shall be construed as altering, amending, or repealing exemptions from taxation, existing on May 26, 1936, of property used for educational, charitable, or religious purposes. Subject to the provisions of said sections, the legislative authority of the respective municipalities is empowered to alter, amend, or repeal, subject to the approval of the Governor, any law imposing taxes on real and personal property on May 26, 1936. (May 26, 1936, ch. 450, § 6, 49 Stat. 1373.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1401b of this title.

§ 1401f. Purchases.

The Territorial and local governments of the Virgin Islands are authorized to make purchases through the General Services Administration. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 673.)

CODIFICATION

Section, as it relates to Guam, American Samoa, and the Trust Territory of the Pacific Islands, is set out as sections 1423*l*, 1665, and 1682, respectively, of this title.

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91–98, title I, § 100, 83 Stat. 151.
1968—July 26, 1968, Pub. L. 90–425, title I, § 100, 82 Stat. 430.
1967—June 24, 1967, Pub. L. 90–28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89–435, title I, § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89–52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88–356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88–79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87–578, title I, § 100, 76 Stat. 339.
1961—Aug. 3, 1961, Pub. L. 87–122, title I, § 100, 75 Stat. 250.
1960—May 13, 1960, Pub. L. 86–455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86–60, title I, § 100 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85–439, title I, § 100, 72 Stat. 163.
1957—July 1, 1957, Pub. L. 85–77, title I, § 100, 72 Stat. 163.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 264.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 372.
1953—July 31 1953, ch. 298, title I, § 1, 67 Stat. 273.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 457.
1951—Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 263.
1950—Sept. 6, 1950, ch. 896, ch. VII, title I, § 101, 64 Stat. 694.

§ 1402. Extension of industrial alcohol and internal revenue laws to Virgin Islands.

Sections 71 to 89 of Title 27 and all provisions of the internal revenue laws relating to the enforcement thereof, are extended to and made applicable to the Virgin Islands, from and after August 27, 1935. The Insular Government shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in the Virgin Islands of the said sections and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this section. (June 26, 1936, ch. 830, title III. § 320(c), 49 Stat. 1957.)

REFERENCES IN TEXT

The provisions of sections 71—89 of Title 27, Intoxicating Liquors, to which reference is made in this section, were repealed and substantially reenacted as part of the Internal Revenue Code, 1954.

CODIFICATION

Provisions similar to this section relating to Puerto Rico are set out as section 734a of this title.

CROSS REFERENCE

Industrial alcohol plants, application of internal revenue laws to Virgin Islands, see section 5314 of Title 26, Internal Revenue Code, 1954.

§ 1403. Issuance of bonds or other obligations by government or municipalities; use of proceeds; limit on public indebtedness; terms, execution, interest rate, and sale price; taxes.

To construct, improve, extend, better, repair, reconstruct, acquire, and operate any and all types of public works which shall include, but not be limited to, streets, bridges, wharves, and harbor facilities, sewers and sewage-disposal plants, municipal buildings, schools, libraries, gymnasia and athletic fields, fire houses, electric distribution systems or other work pertaining to electric systems, and other public utilities, including those owned or operated by the Saint Thomas Power Authority, or to clear slums, accomplish urban redevelopment or provide low-rent housing, negotiable general obligation bonds and other obligations may be issued by the government of the Virgin Islands or any municipality thereof: *Provided,* That no public indebtedness of any municipality thereof shall be incurred in excess of 10 per centum of the aggregate assessed valuation of the taxable real property in such municipality and that no public indebtedness of the government of the Virgin Islands shall be incurred in excess of 10 per centum of the aggregate assessed valuation of the taxable real property in the islands. Bonds issued pursuant to sections 1403 to 1403b of this title shall bear such date or dates, may be in such denominations, may mature in such amounts and at such time or times, not exceeding thirty years from the date thereof, may be payable at such place or places, may be sold at either public or private sale, may be redeemable (either with or without premium) or nonredeemable, may carry such registration privileges as to either principal and interest, or principal only, and may be executed by such officers and in such manner, as shall be prescribed by the government of the Virgin Islands or of the municipality issuing the bonds. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signature, whether manual or facsimile, shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until such delivery. The bonds so issued shall bear interest at a rate not to exceed 4 per centum per annum, payable semiannually. All such bonds shall be sold for not less than the principal amount thereof plus accrued interest. All bonds issued by the government of the Virgin Islands or any municipality thereof, including specifically interest thereon, shall be exempt from taxation by the Government of the United States, or by the government of the Virgin Islands or any political subdivision thereof, or by any State, Territory, or possession or by any political subdivision of any State, Territory, or possession, or by the District of Columbia: *Provided further,* That the government of the Virgin Islands and any municipality thereof shall be obliged to levy and collect sufficient taxes for servicing any of the outstanding bonds, even if such taxation is required at a rate in excess of or in addition to the tax or tax rate of 1.25 per centum of the assessed value which is provided for in section 1401b of this title. (Oct. 27, 1949, ch. 769, § 1, 63 Stat. 940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1403b, 1408a of this title.

§ 1403a. Same; expenditure for public improvements.

The proceeds of the bond issues or other obligations herein authorized shall be expended only for the public improvements set forth in section 1403 of

this title, or for the reduction of the debt created by such bond issue or obligation, unless otherwise authorized by the Congress. (Oct. 27, 1949, ch. 769, § 2, 63 Stat. 941.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1403, 1403b, 1408a of this title.

§ 1403b. Same; liability of United States.

Bonds or other obligations issued pursuant to sections 1403 to 1403b of this title shall not be a debt of the United States, nor shall the United States be liable thereon. (Oct. 27, 1949, ch. 769, § 3, 63 Stat. 941.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1403, 1408a of this title.

CIVIL GOVERNMENT

§ 1405. Geographical application of sections; land and waters included in term "Virgin Islands."

The provisions of this Act, and the name "the Virgin Islands" as used in this Act, shall apply to and include the territorial domain, lands and waters acquired by the United States through cession of the Danish West Indian Islands by the convention between the United States of America and His Majesty the King of Denmark entered in August 4, 1916, and ratified by the Senate on September 7, 1916 (39 Stat. L. 1706). (June 22, 1936, ch. 699, § 1, 49 Stat. 1807.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z of 1406i, and 1405k to 1406m of this title.

CROSS REFERENCE

Provisions of act of June 22, 1936, ch. 699, 49 Stat. 1807, not inconsistent with chapter 12 of this title as continued in force and effect, see section 1574(c) of this title. See, also, References in Text note under this section.

§ 1405a. Division into municipalities of "Saint Croix" and "Saint Thomas and Saint John"; boundaries; capital; governing authority.

The insular possession which is the Virgin Islands shall be divided into two municipalities, namely, (1) the municipality of Saint Croix and (2) the municipality of Saint Thomas and Saint John. The boundaries of said municipalities shall be the same as at present established in accordance with laws in force on June 22, 1936, and the capital and seat of the central government shall be Saint Thomas. In this Act the phrase "the Government of the Virgin Islands" shall include, in addition to the governing authority of the insular possession, the governing authority of the two municipalities, unless the context shall indicate a different intention. (June 22, 1936, ch. 699, § 2, 49 Stat. 1807.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1405b. Inhabitants of municipalities constituted bodies politic and juridic; powers generally.

The inhabitants of the municipality of Saint Croix and of the municipality of Saint Thomas and Saint John are constituted into bodies politic and juridic, under the present name of each such municipality, and as such bodies they shall have perpetual succession and power (a) to adopt and use an official seal; (b) to sue and in cases arising out of contract to be sued; (c) to demand the fulfillment of obligations under the law and to defend and prosecute all actions at law; (d) to acquire property by purchase, exchange, donation or bequest, by virtue of proceedings for the collection of taxes, by eminent-domain proceedings, or by any other means provided by law, and to possess, administer, and govern such property; and (e) to alienate or encumber any of their property, subject to the provisions of this Act. (June 22, 1936, ch. 699, § 3, 49 Stat. 1807.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1405c. Transfer of property to Government; application of tonnage duties, navigation laws, etc.; existing powers of United States officers unaffected; sale of property by Secretary of Interior.

(a) All property which may have been acquired by the United States from Denmark in the Virgin Islands under the convention entered into August 4, 1916, not reserved by the United States for public purposes prior to June 22, 1937, is placed under the control of the Government of the Virgin Islands.

(b) Except as otherwise expressly provided, all laws of the United States for the protection and improvement of the navigable waters of the United States shall apply to the Virgin Islands.

(c) No Federal laws levying tonnage duties, light money, or entrance and clearance fees shall apply to the Virgin Islands.

(d) The Legislative Assembly of the Virgin Islands shall have power to enact navigation, boat inspection, and safety laws of local application; but the President shall have power to make applicable to the Virgin Islands such of the navigation, vessel inspection, and coastwise laws of the United States as he may find and declare to be necessary in the public interest, and, to the extent that the laws so made applicable conflict with any laws of local application enacted by the Legislative Assembly, such laws enacted by the Legislative Assembly shall have no force and effect.

(e) Nothing in this Act shall be construed to affect or impair in any manner the terms and conditions of any authorizations, permits, or other powers heretofore lawfully granted or exercised in or in respect of the Virgin Islands by any authorized officer or agent of the United States. (June 22, 1936, ch. 699, § 4, 49 Stat. 1808; Aug. 7, 1939, ch. 515, 53 Stat. 1242; Oct. 31, 1951, ch. 654, § 1 (127), 65 Stat. 706.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

AMENDMENTS

1951—Subsec. (f). Act Oct. 31, 1951, repealed subsec. (f), which authorized the Secretary of the Interior to

lease or sell any property under his administrative supervision in the Virgin Islands not needed for public purposes.

CROSS REFERENCES

Terms of the convention between the United States and Denmark, see 39 Stat. 1706.

EX. ORD. NO. 9170. CERTAIN NAVIGATION LAWS MADE APPLICABLE TO VIRGIN ISLANDS

Ex. Ord. No. 9170, May 21, 1942, 7 F. R. 384, provided in part:

It is ordered that all of the navigation and vessel inspection laws of the United States be, and they are hereby, made applicable to the Virgin Islands of the United States, with the following exceptions:

(1) The coastwise laws of the United States.

(2) The act of Congress approved June 7, 1897 (30 Stat. 96), as amended by the acts of February 19, 1900 (31 Stat. 30), May 25, 1914 (38 Stat. 381), March 1, 1933 (47 Stat. 1417), August 21, 1935 (49 Stat. 668, 669), May 20, 1936 (49 Stat. 1367), and April 22, 1940 (54 Stat. 150).

(3) So much of the vessel inspection laws of the United States as requires the inspection as a passenger vessel of any cargo vessel, foreign or domestic, when carrying more than twelve passengers or persons in addition to the crew.

(4) Federal laws levying tonnage duties, light money, or entrance and clearance fees

§ 1405d. Legislative branch; "Municipal Council of Saint Croix"; composition and election.

All local legislative powers in the municipality of Saint Croix, except as herein otherwise provided, shall be vested in a local legislative assembly, which shall be designated the "Municipal Council of Saint Croix." Said council shall consist of nine members elected by the qualified electors of the municipality for a term of two years beginning the 1st day of January next succeeding the date of election. The members shall be elected in four representative districts, two of which shall be the town of Christiansted and the country district thereof, and two of which shall be the town of Frederiksted and the country district thereof, as defined by law in force on June 22, 1936: *Provided,* That two members shall be elected for each of said districts and one member at large. (June 22, 1936, ch. 699, § 5, 49 Stat. 1808.)

§ 1405e. Same; "Municipal Council of Saint Thomas and Saint John"; composition and election.

All local legislative powers in the municipality of Saint Thomas and Saint John, except as herein otherwise provided, shall be vested in a local legislative assembly which shall be designated the "Municipal Council of Saint Thomas and Saint John." Said council shall consist of seven members elected by the qualified electors of the municipality for a term of two years beginning the 1st day of January next succeeding the date of election. The members shall be elected in three representative districts, one of which shall be the town district and one the country district of Saint Thomas, and one the district of Saint John, as defined by law in force on June 22, 1936: *Provided,* That two members shall be elected for each of the districts of Saint Thomas, one member for the district of Saint John, and two members at large. (June 22, 1936, ch. 699, § 6, 49 Stat. 1808.)

§ 1405f. Same; "Legislative Assembly of the Virgin Islands"; composition; meetings; powers.

After January 1, 1937, joint sessions of said municipal councils shall constitute and shall be designated the "Legislative Assembly of the Virgin Islands." The legislative assembly shall convene in Saint Thomas upon call by the Governor, and also whenever both municipal councils shall determine by resolutions passed by each of them: *Provided,* That the Governor shall call the legislative assembly at least once during each calendar year. The legislative assembly shall have power to enact legislation applicable to the Virgin Islands as a whole, but no legislation shall be considered other than that specified in the message by the Governor calling such a session, or in both of said resolutions: *Provided further,* That so long as the membership of the legislative assembly does not exceed sixteen members, a quorum of the legislative assembly shall consist of not less than ten members, and no bill shall be enacted until it shall be passed by a two-thirds majority vote of the members present. The municipal councils shall not enact laws or ordinances in conflict with the enactments of the legislative assembly. (June 22, 1936, ch. 699, § 7, 49 Stat. 1808.)

§ 1405g. Same; elections, time of holding.

After November 3, 1936, the elections shall be held on the first Tuesday after the first Monday in November, beginning with the year 1938, and every two years thereafter. (June 22, 1936, ch. 699, § 8, 49 Stat. 1809.)

CODIFICATION

Act June 22, 1936, § 8, contained additional provisions continuing, until January 1, 1937, the former colonial councils, providing for the holding of the general election on November 3, 1936, and extending to such date the terms of members of such councils of the municipalities of Saint Thomas and Saint John and of Saint Croix which otherwise would have expired prior to that date. These provisions were omitted as executed and obsolete.

§§ 1405h, 1405i. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Sections, act June 22, 1936, ch. 699 §§ 9, 10, 49 Stat. 1809, related to eligibility to membership in municipal councils, and to compensation and travel expenses of members.

§ 1405j. Legislative branch; powers of councils; exemption from liability for speech in council; privilege from arrest.

The respective municipal councils shall be the sole judges of the elections, returns, and qualifications of their members, shall be vested with the authority and attributes inherent in legislative bodies, and shall jointly or separately have the power to institute and conduct investigations, issue subpenas to witnesses and other parties concerned, and administer oaths. Existing rules of the colonial councils shall continue in force and effect, except as inconsistent with this Act, until altered, amended, or repealed by the respective municipal councils. No members shall be held to answer before any tribunal other than the respective municipal councils themselves for any speech or debate in the municipal councils and the members shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the municipal councils and in going to and returning from the same. (June 22, 1936, ch. 699, § 11, 49 Stat. 1809.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1405k. Same; Municipal Committees; appointment and powers.

Each municipal council shall annually appoint from among its members, for a term of one year, three members to serve as a standing committee, which, under the name of the "Municipal Committee", shall advise the Governor concerning the management of the fiscal affairs of the municipality, and concerning matters relating to the municipality. The procedure of the Municipal Committee shall be in accordance with bylaws adopted by the municipal council and approved by the Governor. The Municipal Committee shall have power when granted by local law to recommend to the Governor transfers between items in the annual budgets, and loans from municipal funds, but no such transfers or loans shall be made by the Governor except upon the recommendation of the Municipal Committee. (June 22, 1936, ch. 699, § 12, 49 Stat. 1809.)

§ 1405*l*. Same; meetings of councils; time and place.

Each municipal council shall assemble for ordinary meetings on a certain day of every second month, which day shall be previously fixed by the Governor for the whole year, and for extraordinary meetings at the call of the Governor or the chairman of the council. The Governor may postpone the meetings of the municipal councils, but not for a longer period than fourteen days. The Municipal Council of Saint Thomas and Saint John shall convene at Saint Thomas, and the Municipal Council of Saint Croix shall convene at Christiansted. (June 22, 1936, ch. 699, § 13, 49 Stat. 1810.)

§ 1405m. Same; introduction of bills in councils by Governor; submission of annual budget; submission of reports.

The Governor may introduce bills in the respective municipal councils. The Governor shall submit to the respective municipal councils, at least ninety days before the close of each fiscal year, a budget of estimated receipts and expenditures for the respective municipalities, which shall be the basis for the annual local appropriation bills for such municipalities. He shall from time to time submit to the respective municipal councils such reports concerning the fiscal affairs of the municipalities as may be requested by resolution of either municipal council. (June 22, 1936, ch. 699, § 14, 49 Stat. 1810.)

§ 1405n. Same; quorum of councils; vote on adoption bills; journals.

The quorum of each municipal council shall consist of an absolute majority of all its members. No bill shall become a law until it shall be passed by a majority (yea-and-nay) vote of the members present and voting of the municipal council having jurisdiction, entered upon the journal, and approved by the Governor, except as otherwise herein provided. Each municipal council shall keep a journal of its proceedings and publish the same during the year, and the yeas and nays of the members voting on any question shall be entered on the journal. (June 22, 1936, ch. 699, § 15, 49 Stat. 1810.)

§ 1405*o*. Same; acts of councils and assembly; approval or veto by Governor; submission of repassed vetoed bills to President; annulment of acts by Congress; appropriations.

New legislation, and repeals, alterations, and amendments of local laws of the Virgin Islands by the municipal council having jurisdiction, and by the legislative assembly, shall be effective and enforced when, and to the extent, such new legislation, repeals, alterations, and amendments are approved by the Governor, and the Governor shall state specifically in each case whether his approval or disapproval is in whole or in part, and if in part only, what part is approved and what part not approved. The Governor may veto any specific item or items in any bill which appropriates money for specific purposes, but shall veto other bills, if at all, only as a whole. If any bill passed by the municipal council having jurisdiction or by the legislative assembly be disapproved in whole or in part by the Governor, the Governor shall within thirty calendar days return such bill to the said municipal council or to the legislative assembly, whether in actual session or not, setting forth his objections. If after reconsideration by the legislative body having jurisdiction two-thirds of all the members of the said body pass such bill or part thereof, it shall be sent to the Governor who, in case he shall not then approve it, shall transmit the same to the President. If the President approves such bill or part of bill, he shall sign it and it shall become law; if he does not approve such bill or part of bill, he shall return it to the Governor, so stating, and it shall not become law. If any bill shall not be returned by the Governor as herein provided within thirty calendar days after it shall have been presented to him the same shall become a law in like manner as if he had signed it. The President shall approve or disapprove an act submitted to him under the provisions of this section within three months from and after its presentation for his approval; and if not acted upon within such time, it shall become a law the same as if it had been specifically approved. All laws enacted by the Municipal Council of Saint Croix, by the Municipal Council of Saint Thomas and Saint John, or by the legislative assembly, shall be reported by the Governor to the Secretary of the Interior, and by him to the Congress, which reserves the power and the authority to annul the same. The laws not annulled shall be published annually as a public document. If at the termination of any fiscal year the appropriation necessary for the support of the municipal government for the ensuing fiscal year shall not have been made, then the several sums apropriated[1] in the last appropriation bills for the objects and purposes therein specified, so far as the same may be applicable, shall be deemed to be reappropriated, item by item; and until the municipal council of the municipality having jurisdiction shall act in such behalf, the Governor may make the payments and collections necessary for the purpose aforesaid. (June 22, 1936, ch. 699, § 16, 49 Stat. 1810.)

§ 1405p. Same; voting franchise; discrimination based on race, color, sex, or religious belief prohibited.

Beginning on January 1, 1938, or on such earlier date subsequent to January 1, 1937, as may be fixed

[1] So in original. Probably should read "appropriated".

by local law or ordinance for either municipality, and thereafter, the franchise shall be vested in residents of the Virgin Islands who are citizens of the United States, twenty-one years of age or over, and able to read and write the English language. Additional qualifications may be prescribed by the legislative assembly: *Provided, however,* That no property or income qualification shall ever be imposed upon or required of any voter, nor shall any discrimination in qualification be made or based upon difference in race, color, sex, or religious belief. (June 22, 1936, ch. 699, § 17, 49 Stat. 1811.)

§ 1405q. Same; laws continued in force until modified; patent, trade-mark, and copyright laws extended to Islands; jurisdiction of district court.

The laws of the United States applicable to the Virgin Islands on June 22, 1936, and all local laws and ordinances in force on such date in the Virgin Islands, not inconsistent with this Act, shall continue in force and effect: *Provided,* That the Municipal Council of Saint Croix and the Municipal Council of Saint Thomas and Saint John, and the legislative assembly, shall have power when not inconsistent with said sections and within their respective jurisdictions, to amend, alter, modify, or repeal any law of the United States of local application only, or any ordinance, public or private, civil or criminal, continued in force and effect by said sections, except as herein otherwise provided, and to enact new laws and ordinances not inconsistent with said sections and not inconsistent with the laws of the United States hereafter made applicable to the Virgin Islands or any part thereof, subject to the power of the Congress to annul the same. The laws of the United States relating to patents, trade marks, and copyrights, and to the enforcement of rights arising thereunder, shall have the same force and effect in the Virgin Islands as in the continental United States, and the District Court of the Virgin Islands shall have the same jurisdiction in causes arising under such laws as is exercised by United States district courts. (June 22, 1936, ch. 699, § 18, 49 Stat. 1811.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

CROSS REFERENCES

Jurisdiction of District Court of the Virgin Islands, see sections 1392b, 1406, 1406a, and 1612 of this title.

Provisions of act June 22, 1936, ch. 699, 49 Stat. 1807, not inconsistent with chapter 12 of this title as continued in force and effect, see section 1574(c) of this title. See, also References in Text note under this section.

§ 1405r. Same; legislative power; tax discrimination against nonresidents prohibited.

The legislative power of the Virgin Islands shall extend to all subjects of local application not inconsistent with this Act or the laws of the United States made applicable to said islands, but no law shall be enacted which would impair rights existing or arising by virtue of any treaty entered into by the United States, nor shall the lands or other property of nonresidents be taxed higher than the lands or other property of residents. (June 22, 1936, ch. 699, § 19, 49 Stat. 1811.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1405s to 1405t. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649, 651, 655.

Section 1405s, acts June 22, 1936, ch. 699, § 20, 49 Stat. 1812; Dec. 26, 1941, ch. 637, 55 Stat. 872, related to the executive branch of the Government, and to the appointment, powers and duties of the Governor.

Section 1405s-1, act Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, prescribed the compensation of the Governor.

Section 1405t, act June 22, 1939, ch. 699, § 21, 49 Stat. 1812, related to the appointment, powers and duties of the Government Secretary.

§ 1405u. Executive branch; Administrator for Saint Croix; appointment, powers, and duties.

The Secretary of the Interior shall appoint an Administrator for Saint Croix, who shall act for the Governor in the administration of the affairs of the municipality of Saint Croix. He shall, when practicable, attend all meetings of the Municipal Council of Saint Croix, before which body he shall give expression to the advice of the Governor. He shall exercise supervision over all administrative departments in the municipality of Saint Croix, subject to the direction of the Governor. (June 22, 1936, ch. 699, § 22, 49 Stat. 1812.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1405v. Same; executive and administrative officers; appointment, powers, and duties.

The Secretary of the Interior shall appoint such other executive and administrative officers as may, in his discretion, be required. Such officers shall have such powers and duties as may be conferred or imposed upon them by law or ordinance, or by order of the Secretary of the Interior or executive regulation of the Governor not inconsistent with any such law or ordinance. The salary of all executive officers and employees appointed by the President or by the Secretary of the Interior shall be paid from funds appropriated for the Government of the Virgin Islands by the Congress in annual appropriation bills, or as may be otherwise provided by law. The officers appointed by the Secretary of the Interior shall hold office during his pleasure, and in making such appointments the Secretary shall give due consideration to natives of the Virgin Islands. (June 22, 1936, ch. 699, § 23, 49 Stat. 1813.)

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out

in the Appendix to Title 5, Government Organization and Employees.

§ 1405w. Same; salaried officers and employees; appointment.

The Governor shall appoint, by and with the advice and consent of the municipal council having jurisdiction, all salaried officers and employees of the municipal governments whose salaries are provided for in the budgets of the municipal governments. In the event of a vacancy in any appointive office under the Government of the Virgin Islands, or the absence, illness, or temporary disqualification of any appointive officer, the Governor shall designate an officer or employee of the Government of the Virgin Islands to discharge the functions of such officer during such vacancy, absence, illness, or temporary disqualification. (June 22, 1936, ch. 699, § 24, 49 Stat. 1813.)

§ 1405w-1. Appointment of executive assistant to the Governor and the legal counsel.

CODIFICATION

Section, act July 3, 1945, ch. 262, § 1, 59 Stat. 359, which was a provision from the Interior Department Appropriation Act, 1946, is now covered by section 1591 of this title.

§ 1405x. Judicial branch; "District Court of Virgin Islands"; inferior courts; Superior Court.

The judicial power of the Virgin Islands shall be vested in a court to be designated "the District Court of the Virgin Islands" and in such court or courts of inferior jurisdiction as may have been or may hereafter be established by local law: *Provided,* That the legislative assembly may provide for the organization and conduct of a Superior Court of the Virgin Islands and may transfer from the district court to such Superior Court jurisdiction over any or all causes other than those arising under the laws of the United States. Appeals from the Superior Court shall be as provided by law in the case of appeals from the district court. (June 22, 1936, ch. 699, § 25, 49 Stat. 1813.)

§ 1405y. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649, 650, 654, 657.

Section, acts June 22, 1936, ch. 699, § 26, 49 Stat. 1813; Aug. 5, 1939, ch. 430, 53 Stat. 1203; June 25, 1948, ch. 646, § 28, 62 Stat. 991; Feb. 10, 1954, ch. 6, § 3(a), 68 Stat. 12, related to the appointment of a judge of the district court, a special judge, district attorney, and court officers.

§ 1405z. Judicial branch; divisions of district court; terms; rules of practice; process.

The District Court of the Virgin Islands shall consist of two divisions, one constituted by the municipality of Saint Croix and one constituted by the municipality of Saint Thomas and Saint John, as defined by local law in force on June 22, 1936. The judge of the district court shall hold court in each division at such time as he may designate by order, at least once in two months in each division. The rules of practice and procedure in such district court shall be prescribed by law or ordinance or by rules and regulations of the district judge not inconsistent with law or ordinance. The process of the district court shall run throughout the Virgin Islands. (June 22, 1936, ch. 699, § 27, 49 Stat. 1813.)

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1406. Same; jurisdiction of district court generally.

The district court shall have jurisdiction of—

(1) All criminal cases under the laws of the respective municipalities or under the laws of the United States applicable to the Virgin Islands;

(2) All cases in equity;

(3) All cases in admiralty;

(4) All cases of divorce and annulment of marriage;

(5) All cases at law involving principal sums exceeding $200;

(6) All cases involving title to real estate;

(7) All appeals from judgments rendered in the inferior courts;

(8) All matters and proceedings not otherwise hereinabove provided for which, on June 22, 1936, were within the jurisdiction of the District Court of the Virgin Islands, or of the judge thereof, or which may hereafter be placed within the jurisdiction of the District Court of the Virgin Islands, or of the judge thereof, by local law.

The district court shall also have concurrent jurisdiction with the inferior courts as provided in section 1406d of this title. (June 22, 1936, ch. 699, § 28, 49 Stat. 1814.)

CROSS REFERENCES

Jurisdiction of—

District Court of the Virgin Islands over violations of provisions for protection of navigable waters, see section 1392b of this title.

Injunction proceedings under Fair Labor Standards Act of 1938, section 201 et seq. of Title 29, Labor, see section 217 of Title 29, Labor.

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1406a. Same; jurisdiction of district court over crimes on high seas.

The district court shall also have jurisdiction of offenses under the criminal laws of the United States when such offenses are committed on the high seas beyond the territorial limits of the Virgin Islands on vessels belonging in whole or in part to the United States, to any citizen thereof, or to any corporation created by or under the laws of the United States or of any State or Territory thereof, and the offenders are found in the Virgin Islands or are brought into the Virgin Islands after the commission of the offense. (June 22, 1936, ch. 699, § 29, 49 Stat. 1814.)

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1406b. Same; appeals from district court.

Appeals from the District Court of the Virgin Islands shall be as provided by law in force on June 26, 1936: *Provided,* That no appeal shall be predicated upon the existence of a right of appeal under the law of Denmark. (June 22, 1936, ch. 699, § 30. 49 Stat. 1814.)

§ 1406c. Same; jury trials in criminal cases.

In any criminal case originating in said district court, no person shall be denied the right to trial by jury on the demand of either party: *Provided,* That if no jury is demanded the case shall be tried by the court without a jury: *Provided further,* That the judge of the district court may, on his own motion, order a jury for the trial of any criminal action: *Provided further,* That the respective municipal councils of Saint Croix and of Saint Thomas and Saint John, may provide for trial in misdemeanor cases by a jury of six qualified persons. (June 22, 1936, ch. 699, § 31, 49 Stat. 1814.)

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of rules, see note by Advisory Committee under rule 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1406d. Same; jurisdiction of inferior courts.

The inferior courts shall have jurisdiction concurrent with the district court in all civil cases in which the principal sum claimed does not exceed $200, and of all criminal cases wherein the punishment that may be imposed shall not exceed a fine of $100 or imprisonment not exceeding six months, all violations of police regulations and executive regulations, and any cause or offense wherein jurisdiction hereafter shall have been conferred by local law. Such inferior courts shall hold preliminary investigations in charges of felony and charges of misdemeanor in which the punishment that may be imposed is beyond the jurisdiction granted to the inferior courts by this section, and shall commit offenders to the district court and grant bail in bailable cases. The rules governing said courts and prescribing the duties of inferior judges and inferior court officers, oaths, and bonds, the times and places of holding such courts, the disposition of fines, costs, forfeitures, enforcements of judgments, providing for appeals therefrom to the district court, and the disposition and treatment of prisoners shall be as established by law or ordinance in force on June 22, 1936, or as may hereafter be established by law or ordinance by the municipal council having jurisdiction. (June 22, 1936, ch. 699, § 32, 49 Stat. 1814.)

§ 1406e. Same; appeals from inferior courts.

Appeals in civil and criminal cases from the judgments and rulings of the inferior courts shall be to the district court and shall be taken in accordance with the laws and ordinances of the respective municipalities: *Provided,* That the right of appeal in all cases, civil and criminal, shall be as established by law or ordinance in force on June 22, 1936, or as may hereafter be established by law or ordinance by the municipal council having jurisdiction. (June 22, 1936, ch. 699, § 33, 49 Stat. 1815.)

§ 1406f. Judicial process; title of criminal prosecutions.

All judicial process shall run in the name of "United States of America, scilicet, the President of the United States", and all penal or criminal prosecutions in the local courts shall be conducted in the name of and by authority of "the People of the Virgin Islands of the United States." (June 22, 1936, ch. 699, § 37, 49 Stat. 1817.)

§ 1406g. Bill of rights and restrictions.

No law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws.

In all criminal prosecutions the accused shall enjoy the right to be represented by counsel for his defense, to be informed of the nature and cause of the accusation, to have a copy thereof, to have a speedy and public trial, to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favor.

No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal cause to give evidence against himself; nor shall any person sit as judge or magistrate in any case in which he has been engaged as attorney or prosecutor.

All persons shall be bailable by sufficient sureties in the case of criminal offenses, except for first-degree murder or any capital offense when the proof is evident or the presumption great.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned or shall suffer forced labor for debt.

All persons shall have the privilege of the writ of habeas corpus and the same shall not be suspended except as herein expressly provided.

No ex-post-facto law or bill of attainder shall be enacted.

Private property shall not be taken for public use except upon payment of just compensation ascertained in the manner provided by law.

Nothing contained in this Act shall be construed to limit the power of the municipal councils herein provided to enact laws for the protection of life, the public health, or the public safety.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

The right to be secure against unreasonable searches and seizures shall not be violated.

No warrant for arrest or search shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Slavery shall not exist in the Virgin Islands.

Involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall not exist in the Virgin Islands.

No law shall be passed abridging the freedom of speech or of the press or the right of the people peaceably to assemble and petition the Government for the redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed, and no political or religious test other than an oath to support the Constitution and the laws of the United States applicable to the Virgin Islands, and the laws of the Virgin Islands, shall be required as a qualification to any

office or public trust under the Government of the Virgin Islands.

The contracting of polygamous or plural marriages is prohibited.

No money shall be paid out of the treasury except in accordance with an Act of Congress or money bill of the local legislative authority having jurisdiction and on warrant drawn by the proper officer.

The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is prohibited. (June 22, 1936, ch. 699, § 34, 49 Stat. 1815.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1406h. Taxes, duties and fees as funds for benefit of municipalities; appropriations.

All taxes, duties, fees, and public revenues collected in the municipality of Saint Croix shall be covered into the treasury of the Virgin Islands and held in account for said municipality and all taxes, duties, fees, and public revenues collected in the municipality of Saint Thomas and Saint John shall be covered into said treasury of the Virgin Islands and held in account for said municipality: *Provided,* That the proceeds of cusoms duties, less the cost of collection, and the proceeds of the United States income tax, and the proceeds of any taxes levied by the Congress on the inhabitants of the Virgin Islands, and all quarantine, passport, immigration, and naturalization fees collected in the Virgin Islands shall be covered into the treasury of the Virgin Islands and held in account for the respective municipalities, and shall be expended for the benefit and government of said municipalities in accordance with the annual municipal budgets. The Municipal Council of Saint Croix may make appropriations for the purposes of said municipality from, and to be paid out of, the funds credited to its account in the treasury of the Virgin Islands; and the Municipal Council of Saint Thomas and Saint John may make appropriations for the purposes of said municipality from, and to be paid out of, the funds credited to its account in said treasury. (June 22, 1936, ch. 699, § 35, 49 Stat. 1816.)

§ 1406i. Taxes and fees; power to assess and collect; ports of entry; export duties.

Taxes and assessments on property and incomes, internal-revenue taxes, license fees, and service fees may be imposed and collected, and royalties for franchises, privileges, and concessions granted may be collected for the purposes of the Government of the Virgin Islands as may be provided and defined by the municipal councils herein established: *Provided,* That all money hereafter derived from any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury of the Virgin Islands and paid out for such purpose only, except when otherwise authorized by the legislative authority having jurisdiction after the purpose for which such fund was created has been accomplished. Until Congress shall otherwise provide, all laws concerning import duties and customs in the municipality of Saint Thomas and Saint John now in effect shall be in force and effect in and for the Virgin Islands: *Provided,* That the Secretary of the Treasury shall designate the several ports and sub-ports of entry in the Virgin Islands of the United States and shall make such rules and regulations and appoint such officers and employees as he may deem necessary for the administration of the customs laws in the Virgin Islands of the United States; and he shall fix the compensation of all such officers and employees and provide for the payment of such compensations and other expenses of the collection of duties, fees, and taxes imposed under the customs laws from the receipts thereof. The export duties in effect on June 22, 1936 may be from time to time reduced, repealed, or restored by ordinance of the municipal council having jurisdiction: *Provided further,* That no new export duties shall be levied in the Virgin Islands except by the Congress. (June 22, 1936, ch. 699, § 36, 49 Stat. 1816.)

§ 1406j. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649.

Section, act June 22, 1936, ch. 699, § 38, 49 Stat. 1817, provided for the citizenship of officials and for oath of office.

§ 1406k. Jurisdiction of Secretary of the Interior and Attorney General.

All reports required by law to be made by the Governor to any official of the United States shall hereafter be made to the Secretary of the Interior, and the President is authorized to place all matters pertaining to the Government of the Virgin Islands under the jurisdiction of the Secretary of the Interior, except matters relating to the judicial branch of said Government which shall be as hereinbefore in this Act provided under the supervision of the Attorney General. (June 22, 1936, ch. 699, § 39, 49 Stat. 1817.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1406*l*. Effective date.

This Act shall take effect June 22, 1936, but until its provisions shall severally become operative as herein provided, the corresponding legislative, executive, and judicial functions of the existing government shall continue to be exercised as now provided by law or ordinance, and the present incumbents of all offices under the Government of the Virgin Islands shall continue in office until their successors are appointed and have qualified unless sooner removed by competent authority. (June 22, 1936, ch. 699, § 40, 49 Stat. 1817.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

§ 1406m. Short title.

This Act may be cited as the Organic Act of the Virgin Islands of the United States. (June 22, 1936, ch. 699, § 41, 49 Stat. 1817.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 699, 49 Stat. 1807, known as the Organic Act of the Virgin Islands of the United States, which is classified to sections 1405 to 1405g, 1405j to 1405r, 1405u to 1405w, 1405x, 1405z to 1406i, and 1406k to 1406m of this title.

CROSS REFERENCES

Provisions of Organic Act of the Virgin Islands of the United States not inconsistent with the Revised Organic Act of the Virgin Islands or chapter 12 of this title as continued in force and effect, see section 1574(c) of this title and References in Text note under that section.

VIRGIN ISLANDS CORPORATION

§ 1407. Creation of Corporation; name.

In order to promote the general welfare of the inhabitants of the Virgin Islands of the United States through the economic development of the Virgin Islands, there is created a body corporate to be known as the Virgin Islands Corporation, hereinafter referred to as the "Corporation". The Corporation shall be subject to the general direction of the President of the United States, or the head of such agency as he may designate as his representative. (June 30, 1949, ch. 285, § 1, 63 Stat. 350.)

EFFECTIVE DATE

Section 14 of act June 30, 1949, provided that sections 1407—1407i of this title shall become effective June 30, 1949.

SHORT TITLE

Congress in enacting sections 1407—1407i and amendments to section 846 of Title 31 and section 1401d of this title provided by section 15 of act June 30, 1949 that they shall be known as the "Virgin Islands Corporation Act".

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

DISSOLUTION OF VIRGIN ISLANDS COMPANY

Section 11 of act June 30, 1949, provided that: "The Secretary of the Interior, the Under Secretary of the Interior, and the Governor of the Virgin Islands, who are the stockholders of the Virgin Islands Company, a corporation created by ordinance of the Colonial Council for Saint Thomas and Saint John, Virgin Islands of the United States, are authorized and directed to take such steps as may be appropriate to dissolve the said Virgin Islands Company."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401d, 1407b, 1407c, 1407d, 1407e, 1407f of this title.

§ 1407a. Principal offices; venue; establishment of branch offices.

The Corporation shall have its principal offices in the Virgin Islands and in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant of each of these jurisdictions. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business. (June 30, 1949, ch. 285, § 2, 63 Stat. 351.)

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407e, 1407f of this title.

§ 1407b. Authorized activities of Corporation.

Subject to the provisions of the Government Corporation Control Act, the Corporation is authorized to engage in the following activities when it finds that such activities will further the purposes of sections 1407 to 1407i of this title and will not conflict with the encouragement and promotion of private enterprise in the Virgin Islands:

(a) To examine, investigate, and conduct research and experimentation in the marketing, distributing, advertising, and exporting of products or resources of the Virgin Islands, and to make known the results of such activities.

(b) To encourage and promote the investment of private capital in industrial, agricultural, commercial, or related enterprises, undertakings, or activities in the Virgin Islands. Insofar as may be possible without jeopardizing the maximum development of the industrial, agricultural, commercial, and related resources of the Virgin Islands for the public good, the Corporation shall formulate its policies so as to encourage and promote the investment of capital owned by residents of the Virgin Islands.

(c) To engage in land-use planning to the end that the most economic and socially beneficial use may be made of the soil of the Virgin Islands, and to encourage and assist private persons and organizations to act in accordance with the results of such planning.

(d) To encourage and engage in the business of providing, whenever adequate facilities are not otherwise available, transportation for persons and property between the Virgin Islands and to and from the Virgin Islands, Puerto Rico, and Tortola.

(e) To encourage, promote, and develop, and to assist in the encouragement, promotion, and development of, tourist trade in the Virgin Islands.

(f) To encourage the establishment and development of small farms and small farm communities in the Virgin Islands, and, for that purpose, to construct, equip, improve, and supervise such small farms or communities and to give other assistance to them.

(g) To make loans to any person for the establishment, maintenance, operation, construction, reconstruction, repair, improvement, or enlargement of any industrial, commercial, agricultural, or related enterprise, undertaking, or activity in the Virgin Islands whenever such loans are not available from private sources. All loans so made shall be of such sound value or so secured as reasonably to assure repayment, taking into consideration the policy of the Congress that the lending powers of the Corporation shall be administered as a means for accomplishing the purposes stated in section 1407 of

this title, and shall bear interest at a rate not exceeding 6 per centum per annum. It shall be the general policy of the Corporation to establish interest rates on loans, subject to the foregoing limitations, that, in the judgment of the Board of Directors, will at least cover the interest cost of funds to the United States Treasury, other expenses of the lending activities of the Corporation, and a risk factor which, over all, should provide for losses that may materialize on loans. The loans made under the authority of this paragraph outstanding at any one time shall not exceed a total of $5,000,000.

(h) To establish, maintain, operate, and engage in, upon its own account, any appropriate enterprise, undertaking, or activity for the development of the industrial, commercial, mining, agricultural, livestock, fishery, or forestry resources of the Virgin Islands: *Provided,* That the Corporation shall not engage in the manufacture of rum or other alcoholic beverages. (June 30, 1949, ch. 285, § 3, 63 Stat. 351.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in the opening paragraph of section, is classified to chapter 14 of Title 31, Money and Finance.

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407c, 1407d, 1407e, 1407f of this title.

§ 1407c. General powers; termination date.

The Corporation shall have, and may exercise, the following general powers in carrying on the activities specified in section 1407b of this title:

(a) To have succession until June 30, 1969, unless sooner dissolved by Act of Congress. At such time as the Board of Directors finds that the economic development of the Virgin Islands of the United States will be served effectively by the sale of some or all of the assets of the Corporation to private enterprise, such disposal may be effected, and for this purpose the Board of Directors is authorized to sell any or all such assets at such time as it considers appropriate for a fair and reasonable value, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, or any other law: *Provided,* That the sale of any property valued at $500 or more shall be made only after public advertisement and by sealed competitive bids or public auction: *Provided further,* That in either such case the Government of the Virgin Islands shall have the right to purchase the property at a price not greater than that offered by the highest responsible bidder and that, in the case of sales of property valued at less than $500, it shall have a right to purchase at a price not greater than that offered by responsible prospective purchasers.

(b) To adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) To adopt, amend, and repeal bylaws governing the conduct of its business, and the performance of the powers and duties granted to or imposed upon it by law.

(d) To sue and to be sued in its corporate name.

(e) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the laws applicable specifically to Government corporations.

(f) To acquire, in any lawful manner, any property—real, personal, or mixed, tangible or intangible—to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activties authorized by sections 1407 to 1407i of this title, and on such terms as may be prescribed by the Corporation.

(g) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation, as may be deemed necessary or appropriate to the conduct of the activities authorized by sections 1407 to 1407i of this title, and on such terms as may be prescribed by the Corporation: *Provided,* That in no case shall the Corporation contract to undertake an activity for any agency or instrumentality of the United States, or for any State, Territory, or possession, or for any political subdivision thereof, unless the latter is authorized by law to undertake such activity and furnishes the funds for such purpose.

(h) To execute all instruments necessary or appropriate in the exercise of any of its functions.

(i) To appoint, without regard to the provisions of the civil-service laws, such officers, agents, attorneys, and employees as may be necessary for the conduct of the business of the Corporation; to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Corporation; to establish an efficiency or merit rating system, as may be desirable; to fix and pay such compensation to them for their services as the Corporation may determine, without regard to the provisions of the classification laws except to the extent that these laws may be extended to the Corporation by the President of the United States; without regard to the provisions of any other law, to establish hours of work, conditions governing the payment of compensation for overtime hours, and working rules and working conditions generally; and to require bonds from such of them as the Corporation may designate, the premiums therefor to be paid by the Corporation. In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such officials or employees, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said board who is found by the

President of the United States or his representative to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said board who is found by the board to be guilty of a violation of this section shall be removed from office by said board. Persons employed by the Corporation shall not be included in making computations pursuant to the provisions of section 947 of Title 5. The Corporation shall give due consideration to residents of the Virgin Islands in the selection and promotion of its officers and employees.

(j) To use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(k) To have, in the payment of debts out of bankrupt or insolvent estates, the priority of the United States.

(*l*) To accept gifts or donations of services, or of property—real, personal, or mixed, tangible or intangible—in aid of any of the activities authorized by sections 1407 to 1407i of this title.

(m) To settle and adjust claims held by it against other persons or parties and by other persons or parties against the Corporation.

(n) To take such actions as may be necessary or appropriate to carry out the powers and duties herein or hereafter specifically granted to or imposed upon it.

(o) To construct, operate, and maintain salt water distillation facilities in Saint Thomas, Virgin Islands. Such facilities shall be used to supply water for sale to the government of the Virgin Islands and to persons purchasing directly from the Corporation: *Provided,* That the principal contract for the construction of such facilities shall not be executed by the Corporation—

(i) until the government of the Virgin Islands has contracted to purchase a minimum quantity of water at a price established by the Corporation, and the price established by the Corporation for sale of water shall be calculated to cover, as a minimum, all costs of construction, operation, and maintenance of such water distillation facilities, including but not limited to depreciation and payment of interest on the Corporation's indebtedness in connection with such facilities;

(ii) until the Secretary of the Interior has concluded that such facilities will most economically and expeditiously provide an adequate supplemental supply of potable water for St. Thomas; and

(iii) if the Secretary so concludes, until the expiration of forty-five calendar days (exclusive of days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which such construction contract has been submitted to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate. With such contract, there shall also be submitted to such committees an explanatory statement of the Secretary's conclusion pursuant to (ii) hereof, together with the reasons therefor and supplemental data concerning alternative sources of water which have been investigated.

The Corporation shall report annually to the Congress on the operation of the plant and shall include in its reports all technical and operational information pertinent to the prosecution of the Government's saline water research and development program (sections 1951—1958 of Title 42) which is derived from said operation.

(p) To borrow from the Treasury of the United States, within such amounts as may be approved in appropriation Acts, for the sole purpose of constructing, operating, and maintaining the facilities authorized in subsection (o) of this section, sums of money not to exceed a total of $2,000,000. For this purpose the Corporation may issue to the Secretary of the Treasury its notes, debentures, bonds, or other obligations to be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations: *Provided,* That all such obligations shall be redeemed within a period of not to exceed twenty years from date of issuance out of revenues from the sale of water. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having comparable maturities. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Corporation to be issued hereunder and, for such purpose, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Corporation's obligations hereunder. (June 30, 1949, ch. 285, § 4, 63 Stat. 352; Sept. 2, 1958, Pub. L. 85–913, §§ 1—3, 72 Stat. 1759.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

The civil-service laws, referred to in subsec. (i), are classified generally to Title 5, Government Organization and Employees.

The classification laws, referred to in subsec. (i), are chapter 51 and subchapter III of chapter 53 of Title 5.

Section 947 of Title 5, referred to in subsec. (i), was repealed by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843.

The Second Liberty Bond Act, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, and sections 757c–2, 757c–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of title 31, Money and Finance.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–913, § 1, extended the Corporation's existence from June 30, 1959, to June 30, 1969 and authorized the sale of assets to promote the economic development of the Virgin Islands.

Subsec. (i). Pub. L. 85–913, § 2, authorized the Corporation to establish an efficiency or merit rating system

and to establish hours of work, conditions governing the payment of compensation for overtime hours, and working rules and working conditions generally.

Subsecs. (o), (p). Pub. L. 85-913, § 3, added subsecs. (o) and (p).

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407d, 1407e, 1407f of this title.

§ 1407d. Utilization of other Federal agencies and instrumentalities.

The Corporation in carrying on the activities authorized by sections 1407 to 1407i of this title shall utilize, to the extent practicable, the available services and facilities of other agencies and instrumentalities of the Federal Government or of the government of the Virgin Islands; and shall not engage in any undertaking which substantially duplicates an undertaking previously initiated and currently being prosecuted within the Virgin Islands by any such agency or instrumentality. (June 30, 1949, ch. 285, § 5, 63 Stat. 353.)

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407e, 1407f of this title.

§ 1407e. Revolving fund; total amount available; advances appropriation for fiscal years 1950 and 1951; repayment to revolving fund.

(a) The Corporation is authorized to obtain money from the Treasury of the United States, for use in the performance of the powers and duties granted to or imposed upon it by law, not to exceed a total of $15,000,000 outstanding at any one time. For this purpose appropriations not to exceed $15,000,000 are authorized to be made to a revolving fund in the Treasury. Advances shall be made to the Corporation from the revolving fund when requested by the Corporation. Not to exceed a total of $2,750,000 shall be appropriated under any authority contained in sections 1407 to 1407i of this title for the period ending June 30, 1951, comprising the fiscal years 1950 and 1951.

(b) As the Corporation repays the amounts thus obtained from the Treasury, the repayments shall be made to the revolving fund. (June 30, 1949, ch. 285, § 6, 63 Stat. 353; Sept. 2, 1958, Pub. L. 85-913, § 4, 72 Stat. 1760; Oct. 4, 1961, Pub. L. 87-382, 75 Stat. 812.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-382 authorized an increase from $11,000,000 to $15,000,000 in amount of appropriations to be made to revolving fund in the Treasury of the United States for use by the Corporation in the performance of its powers and duties.

1958—Subsec. (a). Pub. L. 85-913 authorized an increase from $9,000,000 to $11,000,000 in amount of appropriations to be made to revolving fund in the Treasury of the United States for use by the Corporation in the performance of its powers and duties.

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407f, 1407g of this title.

§ 1407f. Corporate use of funds.

(a) Undertaking new or major activities outside budget program; approval by Congress or President.

The Corporation is authorized to use its funds, from whatever source derived, in the exercise of its corporate powers and functions: *Provided, however*, That the Corporation shall not undertake any new types of activities or major activities not included in the budget program submitted to the Congress pursuant to section 847 of Title 31, except when authorized by legislation enacted by the Congress after said program is submitted, or except, when the Congress is not in session, upon finding made by the Corporation and approved by the President of the United States that an emergency exists which justifies the undertaking of new types of activities authorized by sections 1407 to 1407i of this title but not included in the budget program. Such finding and emergency action shall be reported to the Congress by the President, and appropriations for the expenses of such emergency action are authorized.

(b) Interest payments on advances; covered into Treasury; determination of interest rate.

The Corporation shall pay into the Treasury as miscellaneous receipts interest on the advances from the Treasury provided for by section 1407e (a) of this title; on that part of the Government's investment represented by the value, at the time of transfer of the property and other assets transferred, less the liabilities assumed, pursuant to section 1407i of this title; and on the net value, as approved by the Director of the Office of Management and Budget, of any property and assets, the ownership of which hereafter may be transferred by the Government to the Corporation without cost, or for consideration clearly not commensurate with the value received. The Secretary of the Treasury shall determine the interest rate annually in advance, such rate to be calculated to reimburse the Treasury for its cost, taking into consideration the current average interest rate which the Treasury pays upon its marketable obligations.

(c) Contributions to civil-service retirement and disability fund and Employees' Compensation Fund; basis.

The Corporation shall after June 30, 1949, contribute to the civil-service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the civil-service retirement system applicable to the corporation's employees and their beneficiaries. The Corporation shall also after June 30, 1949, contribute to the Employees' Compensation Fund, on the basis of annual billings as determined by the Federal Security Administrator for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Corporation into the Treasury as miscellaneous receipts. (June 30, 1949, ch. 285, § 7, 63 Stat. 353, 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. ——).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407e of this title.

§ 1407g. Appropriations; appraisal of working capital requirements.

(a) Appropriations are authorized for payment to the Corporation in the form of a grant of such amounts as may be necessary to cover losses incurred in the conduct of its activities which are included in the annual budget as predominantly revenue producing.

(b) Appropriations are also authorized for payment to the Corporation in the form of a grant, to be accounted for as general funds of the Corporation, in such amounts as may be necessary to meet expenses to be incurred for specific programs which are included in the annual budget as not predominantly of a revenue-producing character: *Provided, however,* That (1) in the case of activities of a predominantly non-revenue-producing character the expenses shall not exceed the amounts of the grants for these activities, and that (2) the funds granted under this subsection shall be expended only upon certification by a duly authorized certifying officer designated by the Corporation, and the responsibilities and liabilities of such certifying officer shall be fixed in the same manner as those of certifying officers under sections 82b, and 82c to 82e of Title 31.

(c) The Board of Directors shall have the power and duty to appraise at least annually its necessary working capital requirements and its reasonably foreseeable requirements for authorized plant replacement and expansion, and it shall pay into the Treasury of the United States any funds in excess thereof. Such payments shall be applied, first, to reduce the balance attributable to advances outstanding under section 1407e (a) of this title and, second, to the Government's investment represented by the value of the net assets transferred under section 1407i of this title and any subsequent similar investments by the Government in the Corporation. (June 30, 1949, ch. 285, § 8, 63 Stat. 354; Sept. 2, 1958, Pub. L. 85–913, § 5, 72 Stat. 1760.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–913 substituted provision authorizing appropriations only for deficits which have actually been incurred for prior provision permitting appropriation in advance of sums required to meet expected deficits.

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407e, 1407f of this title.

§ 1407h. Board of Directors; composition, appointment, tenure, and compensation; selection of Chairman; meetings; duties; administrative staff.

The management of the Corporation shall be vested in a Board of Directors consisting of seven members, including the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the Small Business Administration, the Governor of the Virgin Islands, and three experienced businessmen who shall be appointed by the President of the United States.

The Board shall select its Chairman. The appointed directors shall serve for a period of six years, except that (1) any director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term, and (2) the terms of office of the directors first taking office after June 30, 1949 shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of six years, after June 30, 1949. Qualifications of Board members shall include demonstrated ability, attachment to the public interest, impartiality, and diversified experience among its members. The Board shall be responsible for over-all policy

making and general supervision. The Board shall meet at least quarterly, at least one of which meetings each year shall be held in the Virgin Islands. The Board of Directors shall act only by a majority vote of those present at a meeting attended by a quorum, and such quorum shall consist of four directors. Subject to the foregoing limitation, vacancies in the membership of the Board shall not affect its power to act. The directors shall receive no salary for their services on the Board, but under regulations and in amounts prescribed by the Board, with the approval of the President or his representative, may be paid by the Corporation reasonable per diem fees, and allowances in lieu of subsistence expenses, for attendance at meetings of the Board and for time spent on official service of the Corporation, and their necessary travel expenses to and from meetings or when upon such official service, without regard to the Travel Expense Act of 1949. The administrative functions shall be centered in a staff of full-time executive officers headed by a President appointed by the Board. The President shall be responsible to the Board for the execution of programs and policies adopted by the Board and for the day-to-day operations of the Corporation. Between meetings of the Board, the Chairman shall see that the Corporation faithfully executes the programs and policies adopted by the Board. (June 30, 1949, ch. 285, § 9, 63 Stat. 354; Sept. 2, 1958, Pub. L. 85–913, § 6, 72 Stat. 1760.)

REFERENCES IN TEXT

The Travel Expense Act of 1949, referred to in the text, is now covered by section 5701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1958—Pub. L. 85–913 substituted in first paragraph "Administrator of the Small Business Administration" for "Chairman of the Reconstruction Finance Corporation".

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407e, 1407f of this title.

§ 1407i. Transfer of functions.

(a) There is transferred to the Corporation the following property:

(1) All property—real, personal, and mixed—now operated by the Virgin Islands Company on behalf of the United States, except the property now operated by that Company for the Department of the Interior which was conveyed to that Department by revocable permit from the Navy Department under agreement dated January 1, 1948. The value of the property so transferred shall be fixed at the depreciated cost as of June 30, 1947, shown in schedule 1 of the Comptroller General's report on the audit of the Virgin Islands Company for the fiscal year ended June 30, 1947, adjusted for all changes from that date to the date of transfer, including depreciation at the rates set forth in said schedule 1.

(2) All the assets and property—real, personal and mixed, tangible and intangible—of the Virgin Islands Company. The value of the property so transferred shall be fixed at the value shown on the books of the Virgin Islands Company at the date of transfer, subject to any adjustment deemed necessary as a result of the audit required to be made by the Comptroller General under section 850 of Title 31.

(3) All the interest of the United States in the property known as Bluebeard's Castle Hotel situated in the island of Saint Thomas in the Virgin Islands. The value of the property so transferred shall be fixed at a value approved by the Director of the Office of Management and Budget.

(b) The Corporation shall assume and discharge all of the liabilities of the Virgin Islands Company: *Provided, however,* That such liabilities shall not be deemed to include the balances of relief grants held by the Virgin Islands Company which are invested in the assets and property embraced by paragraph (a) (2) of this section, and such balances shall become part of the investment of the United States in the Corporation. (June 30, 1949, ch. 285, § 10, 63 Stat. 355; 1970 Reog. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. ——.)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

EFFECTIVE DATE

Section effective June 30, 1949, see note set out under section 1407 of this title.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Virgin Islands Corporation and of its Board of Directors and officers were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FACILITIES; INVESTMENT INCREASE; SUPPLY OF ELECTRIC POWER

Section 7 of Pub. L. 85–913, Sept. 2, 1958, 72 Stat. 1760, authorized the Secretary of the Navy to transfer and convey to the Virgin Islands Corporation, without reimbursement, the power-generating facilities located at the Marine Corps air facility and naval submarine base, Saint Thomas, Virgin Islands, together with all the land, buildings, structures, facilities, distribution lines, fuel tanks, and equpment appurtenant thereto and necessary for the operation thereof, with such transfer to be accomplished not later than June 30, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1407b, 1407c, 1407d, 1407e, 1407f, 1407g of this title.

PUBLIC HOUSING

§ 1408. Legislative authority to create authorities; appointment of members; powers of authorities.

The government of the Virgin Islands, through its legislative assembly, may grant to a public corporate authority existing or to be created through said assembly, exclusive authority to undertake slum clearance, urban redevelopment, urban renewal, and low-rent housing activities within the municipalities of the Virgin Islands. The legislative assembly may provide for the appointment and terms of office of the members of such authority and for the powers of such authority, including authority to accept whatever benefits the Federal Government may make available under the Housing Act of 1949, as amended, or any other law, for projects contemplated by sections 1408 to 1408e of this title and to do all things, to exercise any and all powers, and to assume and fulfill any and all obligations, duties, responsibilities, and requirements, including but not limited to those relating to planning or zoning, necessary or desirable for receiving such Federal assistance, except that such authority shall not be given any power of taxation, nor any power to pledge the faith and credit of the people of the Virgin Islands for any loan whatever. (July 18, 1950, ch. 466, title III, § 301, 64 Stat. 346; Aug. 11, 1955, ch. 783, title I, § 107 (5), (7), (9), 69 Stat. 638.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in the text, is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A of Title 40, The Public Health and Welfare.

AMENDMENTS

1955—Act Aug. 11, 1955, included urban renewal projects, and inserted "as amended" after "Housing Act of 1949".

URBAN RENEWAL ACTIVITIES

Section 107 (4) of act Aug. 11, 1955, amended the heading of title III of the Territorial Enabling Act of 1950, which is classified to sections 1408—1408e of this title, to insert the words "urban renewal" in order to make financial assistance available for urban renewal projects.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408c, 1408d, 1408e of this title.

§ 1408a. Issuance of notes, bonds, and obligations.

The legislative assembly may authorize such authority, any provision of the Virgin Islands Organic Act or any other Act of Congress to the contrary notwithstanding, to borrow money and to issue notes, bonds, and other obligations of such character and maturity, with such security, and in such manner as the legislative assembly may provide. Such notes, bonds, and other obligations shall not be a debt of the United States, or of the Virgin Islands or of any municipality or subdivision thereof, other than such authority, nor constitute "bonds and other obligations" within the meaning of sections 1403 to 1403b of this title, or a debt, indebtedness, or the borrowing of money within the meaning of any limitation or restriction on the issuance of notes, bonds, or other obligations contained in any laws of the United States applicable to the Virgin Islands or to any municipal corporation or other political subdivision or agency thereof. (July 18, 1950, ch. 466, title III, § 302, 64 Stat. 346.)

REFERENCES IN TEXT

The Virgin Islands Organic Act, referred to in the text, is classified to section 1405 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408, 1408c, 1408d, 1408e of this title.

§ 1408b. Authorization of loans, conveyances, etc., by government and municipalities.

The government of the Virgin Islands, through its legislative assembly, may assist such authority with cash donations, loans, conveyances of real and personal property, facilities, and services, and otherwise, and may authorize municipalities and other subdivisions to make cash donations, loans, conveyances of real and personal property to such authority, and to take other action, including but not limited to, the making available or the furnishing of facilities and services, in aid of slum clearance, urban redevelopment, urban renewal, or low-rent housing projects. (July 18, 1950, ch. 466, title III, § 303, 64 Stat. 347; Aug. 11, 1955, ch. 783, title I, § 107 (5), 69 Stat. 638.)

AMENDMENTS

1955—Act Aug. 11, 1955, included urban renewal projects.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408, 1408c, 1408d, 1408e of this title.

§ 1408c. Grants-in-aid by Federal government.

Notwithstanding the limitation contained in the last sentence of section 1460 (d) of Title 42 or in any other provision of title I of the Housing Act of 1949 (Public Law 171, Eighty-first Congress), as amended, the Secretary of Housing and Urban Development is authorized to allow and credit to such authority as may be created for the Virgin Islands under section 1408 to 1408e of this title (1) such local grants-in-aid as are otherwise approvable pursuant to the first sentence of section 1460(d) of Title 42 with respect to any slum clearance and urban redevelopment or urban renewal project or projects undertaken by such authority with Federal assistance made available under title I of the Housing Act of 1949, as amended, and (2) such grants-in-aid made or assistance given to the local community by any Federal department or agency pursuant to authority of law other than the Housing Act of 1949 which would, if made or given by a State or local community, be approvable pursuant to said first sentence of section 1460 (d) of this title with respect to any such project or projects so undertaken. (July 18, 1950, ch. 466, title III, § 304, 64 Stat. 347; Aug. 11, 1955, ch. 783, title I, § 107 (6)—(9), 69 Stat. 638; May 25, 1967, Pub. L. 90–19, § 19, 81 Stat. 22.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, referred to in text, is classified to section 1450 et seq. of Title 42, The Public Health and Welfare.

The Housing Act of 1949, referred to in the text, is Act July 15, 1949, ch. 338, 63 Stat: 413, which is classified principally to chapter 8A of Title 42.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrators".

1955—Act Aug. 11, 1955, included urban renewal projects, and inserted "as amended" after (Public Law 171, Eighty-first Congress), and after "Housing Act of 1949" in clause (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sectons 1408, 1408d, 1408e of this title.

§ 1408d. Same; ratification of prior acts.

All legislation heretofore enacted by the legislative assembly of the Virgin Islands dealing with any part of the subject matter of sections 1408 to 1408e of this title and not inconsistent herewith is ratified and confirmed. (July 18, 1950, ch. 466, title III, § 305, 64 Stat. 347.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408, 1408c, 1408e of this title.

§ 1408e. Same; additional powers.

Powers granted in sections 1408 to 1408e of this title shall be in addition to and not in derogation of any powers granted by other law to or for the benefit or assistance of any public corporate authority of municipality. (July 18, 1950, ch. 466, title III, § 306, 64 Stat. 347.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408, 1408c, 1408d of this title.

INTERNAL DEVELOPMENT

§ 1409. Projects; estimated costs; augmentation of limits; priorities.

In order to assist in the internal development of the Virgin Islands, and for the benefit of the government, municipalities, and inhabitants thereof, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to provide or undertake the following useful projects, including work incidental thereto, on lands owned by the United States, the government of the Virgin Islands, the municipalities of Saint Thomas and Saint John and Saint Croix, or on land acquired for such purpose, at the respective estimated costs indicated: *Provided,* That where found necessary by the Secretary, the funds authorized herein shall be available for the augmentation of limits of cost of projects in an amount not exceeding 25 per centum for any project: *Provided further,* That items 2, 3, 4, 7, 8, 9, 14, 16, and 17 shall have priority over others of the projects on the islands of Saint Thomas and Saint John, and items 19, 20, 22, 27, and 29 shall have priority over others of the projects on the island of Saint Croix: *Provided further,* That funds shall be available for the purposes specified in section 1409a of this title on other projects without regard to the priorities so established.

PROJECTS ON ISLANDS OF SAINT THOMAS AND SAINT JOHN AND ESTIMATED COST THEREOF

1. Hospital facilities, $565,000.
2. Sanitation and fire-protection facilities, including sewer and water system, $563,695.
3. Intercepting sewer system including sewage treatment and disposal, $278,000.
4. Water supply facilities, $883,750.
5. Schools and educational facilities, $566,000.
6. Water-front highway, sea wall, and harbor facilities, $1,097,500.
7. Highways and roads, $1,387,300.
8. Street improvements, including storm-water drainage, $327,200.
9. Engineering surveys, $35,000.
10. Improvements to and construction of public buildings, $630,000.
11. Prison facilities, $105,000.
12. Recreational facilities, $80,000.
13. Telephone and radio communication facilities, $170,000.
14. Malarial control, $31,875.
15. Hospital, electric power plant, and improvements to administration building, Cruz Bay, Saint John, $47,500.
16. Abattoir and cooling plant facilities, $75,000.
17. Public market facilities, $80,000.

PROJECT ON ISLAND OF SAINT CROIX AND ESTIMATED COST THEREOF

18. Hospital facilities, $475,000.
19. Sanitation and fire protection facilities, including sewer and water systems, $244,600.
20. Water supply facilities, $490,000.
21. School and educational facilities, $510,000.
22. Highways and roads, $606,000.
23. Improvements to and construction of public buildings, $73,000.
24. Prison facilities, $113,000.
25. Recreational facilities, $30,000.
26. Telephone and radio communication facilities, $150,000.
27. Malarial control, $50,000.
28. Municipal pier for Christiansted, $190,000.
29. Public market facilities, $174,000. (Dec. 20, 1944, ch. 615, § 1, 58 Stat. 827; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

TRANSFER OF FUNCTIONS

All functions of the Administrator of General Services under sections 1409—1409j of this title, together with so much of any other function of that Administrator or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of those sections, were transferred to the Secretary of the Interior by 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See sections 2 and 3 of that Plan for delegation of functions by the Secretary of the Interior, and for transfer of records, property, personnel, and funds.

"Administrator of General Services" was substituted for "Federal Works Administrator" by act June 30, 1949 which abolished the Federal Works Agency, and the office of Federal Works Administrator, and transferred the functions of that Agency, and of the Federal Works Administrator, to the Administrator of General Services. Section 103 of that act is set out as section 753 of Title 40 Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions from Federal Works Agency and Federal Works Administrator to Administrator of General Services effective July 1, 1949, see note under section 471 of Title 40, Public Buildings, Property, and Works.

ESTIMATES AS NOT CONSTITUTING LIMITATIONS

Act July 31, 1953, ch. 298, title I, § 1, 67 Stat. 275, provided in part that: "The estimated project costs specified in Act of December 20, 1944 [sections 1409—1409j of this title], shall not constitute limitations on amounts that may be expended for such projects."

Similar provisions were contained in acts July 9, 1952, ch. 597, title I, § 101, 66 Stat. 459 and Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 264.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409a. Availability of funds for studies, estimates, plans and specifications.

Not to exceed 5 per centum of the funds herein authorized shall also be available for the purpose of making studies, investigations, estimates, plans and specifications, preliminary and final, of the projects herein authorized in advance of undertaking projects and the cost thereof shall be charged to the projects involved. (Dec. 20, 1944, ch. 615, § 2, 58 Stat. 828.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409b. Acquisition of land; transfer of title upon completion of projects; acquisition and construction without regard to other laws.

The Secretary is authorized to acquire, prior to the approval of title by the Attorney General if necessary (without regard to section 1339 of Title 10, and section 5 of Title 41), improved or unimproved lands or interests in lands by purchase, donation, exchange, or condemnation for any project herein authorized. Upon completion of projects on land acquired under this section the Secretary shall forthwith transfer all rights and title of the United States therein to the government of the Virgin Islands or the municipality of Saint Thomas and Saint John, or the municipality of Saint Croix, except those projects constructed for Federal agencies. Projects authorized by sections 1409 to 1409j of this title may be constructed without regard to the provisions of section 255 of Title 40, and section 1339 of Title 10. (Dec. 20, 1944, ch. 615, § 3, 58 Stat. 829; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267.)

REFERENCES IN TEXT

Section 1339 of Title 10, referred to in the text, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641 and is now covered by sections 4774 and 9774 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

In first sentence, "Secretary", referring to the Secretary of the Interior, was substituted for "Administrator", and, in second sentence, "Secretary" was substituted for "Administrator shall transfer custody thereof to the Secretary of the Interior, who", in view of 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409e, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409c. Acceptance of funds and materials from government and municipalities; deposit of funds.

The Secretary is further authorized to receive and accept funds, materials, supplies, and equipment from the government of the Virgin Islands, the municipalities of Saint Thomas and Saint John, and Saint Croix, and other sources, for use in connection with authorized projects or parts thereof. Any funds so received shall be deposited in a special fund in the Treasury of the United States and shall be expended or utilized as determined by the Secretary of the Interior. (Dec. 20, 1944, ch. 615, § 4, 58 Stat. 829; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R 3176, 64 Stat. 1267.)

TRANSFER OF FUNCTIONS

"Secretary", referring to the Secretary of the Interior, was substituted for "Administrator", and "Secretary of the Interior" was substituted for "Administrator of General Services", in view of 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

"Administrator of General Services" was substituted for "Federal Works Administrator" by act June 30, 1949. Section 103 of that act is set out as section 753 of Title 40, Public Buildings, Property, and Works. See note under section 1409 of this title.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions from Federal Works Agency and Federal Works Administrator to Administrator of General Services effective July 1, 1949, see note under section 471 of Title 40, Public Buildings, Property, and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409d. Construction by contract; employment; wages, hours, and terms.

All construction with respect to projects shall be by contract; *Provided, however,* That repairs or improvements to existing structures or facilities and incidental work in connection with new structures or facilities may be accomplished by the employment of persons without regard to the civil-service and classification laws. The rates of pay, hours of work, and terms of employment for persons engaged on projects shall be fixed by the Secretary. (Dec. 20, 1944, ch. 615, § 5, 58 Stat. 829; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

REFERENCES IN TEXT

The "civil-service and classification laws", referred to in the text, are covered, generally, in Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

"Secretary", referring to the Secretary of the Interior was substituted for "Administrator", in view of 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409e. Procurement, warehousing and distribution of property, facilities, etc.; revolving funds.

The Secretary is authorized to procure (without regard to the authority of the Administrator of General Services, to undertake the performance of such procurement, as regards procurement from sources within Puerto Rico and the Virgin Islands), and to warehouse and distribute property, facilities, structures, improvements, machinery, equipment, stores, and supplies from the funds appropriated pursuant to sections 1409 to 1409j of this title. The Secretary is further authorized to prescribe rules and regulations for the establishment of special funds in the nature of revolving funds for use, during the availability of funds herein authorized, in the purchase,

repair, distribution, or rental of materials, supplies, equipment, and tools. (Dec. 20, 1944, ch. 615, § 6, 58 Stat. 829; June 30, 1949, ch. 288, title I, § 102, 63 Stat. 380; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

CHANGE OF NAME

Effective January 1, 1947, the name of the Procurement Division of the Treasury Department was changed to the Bureau of Federal Supply by regulation § 5.7 of subpart A of Part 5 of Title 41, Public Contracts, 11 F. R. 13638, issued by the Secretary of the Treasury.

TRANSFER OF FUNCTIONS

"Secretary", referring to the Secretary of the Interior was substituted for "Administrator", in view of 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

"Administrator of General Services" was substituted for "Bureau of Federal Supply", in view of act June 30, 1949, which abolished the Bureau of Federal Supply in the Department of the Treasury, and the office of Director thereof, and transferred the functions of that Bureau and of that Director, and of the personnel of that Bureau, along with the functions of the Secretary of the Treasury relating to that Bureau, to the Administrator of General Services. Section 102 of that act is set out as section 752 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions from Bureau of Federal Supply to Administrator of General Services effective July 1, 1949, see note under section 471 of Title 40, Public Buildings, Property, and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409f, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409f. Inapplicability of section 5 of Title 41 to certain purchases and services.

The provisions of section 5 of Title 41 shall not apply to any purchase made or service procured in connection with the funds appropriated pursuant to sections 1409 to 1409j of this title when the aggregate amount involved is less than $500. (Dec. 20, 1944, ch. 615, § 7, 58 Stat. 829.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409g. Disability and death benefits for employees; exceptions.

The provisions of section 796 of Title 5, relating to disability or death compensation and benefits shall apply to persons (except administrative employees qualifying as civil employees of the United States) receiving compensation from funds appropriated pursuant to sections 1409 to 1409j of this title for services rendered as employees of the United States: *Provided,* That this section shall not apply in any case coming within the purview of the workmen's compensation laws of the Virgin Islands, or in any case in which the claimant has received or is entitled to receive similar benefits for injury or death. (Dec. 20, 1944, ch. 615, § 8, 58 Stat. 829.)

REFERENCES IN TEXT

Section 796 of Title 5, referred to in text, was omitted in the general revision of Title 5, Government Organization and Employees, by Pub. L. 89-544, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409h, 1409i, 1409j of this title.

§ 1409h. Consideration and determination of claims for injuries and damages; limitations; conclusiveness of settlement.

The Secretary is authorized to consider, ascertain, adjust, determine, and pay from the funds appropriated pursuant to sections 1409 to 1409j of this title any claim on account of injury to persons, or any claim for damage to or loss of privately owned property, caused by the negligence of any employee of the United States paid from such funds while acting within the scope of his employment. No claim shall be considered hereunder which is in excess of $500 or which is not presented in writing within one year from the date of accrual thereof. Acceptance by a claimant of the amount allowed on account of his claim shall be deemed to be in full settlement thereof and the action upon such claim so accepted by the claimant shall be conclusive. (Dec. 20, 1944, ch. 615, § 9, 58 Stat. 829; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

TRANSFER OF FUNCTIONS

"Secretary", referring to the Secretary of the Interior, was substituted for "Administrator", in view of 1950 Reorg. Plan. No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409g, 1409h, 1409i, 1409j of this title.

§ 1409i. Rules and regulations.

The Secretary is authorized to make such rules and regulations as he may deem necessary to carry out the provisions of sections 1409 to 1409j of this title. (Dec. 20, 1944, ch. 615, § 10, 58 Stat. 830; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

TRANSFER OF FUNCTIONS

"Secretary", referring to the Secretary of the Interior, was substituted for "Administrator", in view of 1950 Reorg. Plan. No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409j of this title.

§ 1409j. Authorization for appropriations for administrative and other expenses; inapplicability of other laws; transportation of personnel; payments.

There is authorized to be appropriated the sum of $10,028,420, $2,028,420 to be available in 1945, and $2,000,000 in each of the following four years, each yearly sum to remain available until expended, for the purpose of carrying out the provisions of sections 1409 to 1409j of this title, administrative and otherwise, including the employment of engineers, architects, and consultants without regard to section 5 of Title 41, and the civil-service and classification laws; personal services and rental in the District of Columbia and elsewhere; supplies and equipment; travel expenses, including transfer of household goods and effects as provided by the Act of October 10, 1940, and, notwithstanding any other provision of law, transportation to the Virgin Islands and return of officers, employees, and other

persons engaged in carrying out the functions prescribed in sections 1409 to 1409j of this title; purchase, repair, operations, and maintenance of motor-propelled passenger-carrying vehicles; and such other expenses as may be necessary for the accomplishment of the objectives of said sections. All payments from funds made available pursuant to said sections shall be made through the Division of Disbursements of the Treasury Department, upon vouchers certified by the Secretary or employees designated by him for such purpose. (Dec. 20, 1944, ch. 615, § 11, 58 Stat. 830; 1950 Reorg. Plan No. 15, § 1, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267.)

REFERENCES IN TEXT

The "civil-service and classification laws", referred to in the text, are contained, generally, in Title 5, Government Organization and Employees.

The act of October 10, 1940, referred to in the text, is act Oct. 10, 1940, ch. 848, 54 Stat. 1105, which was repealed by act Aug. 2, 1946, ch. 744, § 2, 60 Stat. 807, eff. Nov. 1, 1946. Similar provisions are now contained in section 5721 et seq. of Title 5.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Administrator", in view of 1950 Reorg. Plan No. 15, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 1409 of this title.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of that Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The "Division of Disbursements", referred to in this section, probably referring to the Division of Disbursement, is a unit within the Bureau of Accounts, which is a bureau of the Fiscal Service, an agency of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409b, 1409e, 1409f, 1409g, 1409h, 1409i of this title.

AGRICULTURAL PROGRAM

§ 1409m. Establishment and maintenance of an agricultural program.

The Secretary of Agriculture is authorized to establish and maintain in the Virgin Islands of the United States an agricultural research and extension service program. In carrying out the program authorized by sections 1409m to 1409o of this title the Secretary shall utilize the agencies, facilities, and employees of the Department of Agriculture, and may cooperate with the government of the Virgin Islands, and other public and private organizations and individuals in the Virgin Islands and elsewhere. (Oct. 29, 1951, ch. 603, § 1, 65 Stat. 661.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1409o of this title.

§ 1409n. Inter-agency transfer of functions, property, and personnel.

The Secretary of the Interior is authorized to transfer to the United States Department of Agriculture such part of the functions, property, personnel, records, and unexpended balances of appropriations of the agricultural experiment stations in the Virgin Islands as may be agreed upon between the Secretary of the Interior and the Secreary of Agriculture. (Oct. 29, 1951, ch. 603, § 2, 65 Stat. 662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409m, 1409o of this title.

§ 1409o. Authorization of appropriations; use of funds.

There is authorized to be appropriated such amounts as may be necessary to carry out the purposes of sections 1409m to 1409o of this title. The moneys appropriated in pursuance of said sections shall also be available for the purchase and rental of land and the construction or acquisition of buildings, for the equipment and maintenance of such buildings, purchase and rental of passenger-carrying automobiles, employment of persons in the District of Columbia and elsewhere, and for printing and disseminating the results of research, and such other expenditures as may be necessary to carry out the purposes of said sections. Sums appropriated in pursuance of said sections shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture, and may be allocated to such agencies of the Department as are concerned with the administration of the program of the Virgin Islands. (Oct. 29, 1951, ch. 603, § 3, 65 Stat. 662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1409m of this title.

Chapter 8.—GUANO ISLANDS

Sec.
1411. Guano districts; claim by United States.
1412. Same; notice of discovery, and proofs.
1413. Completion of proof on death of discoverer.
1414. Exclusive privileges of discoverer.
1415. Restrictions upon exportation.
1416. Regulation of trade.
1417. Criminal jurisdiction.
1418. Employment of land and naval forces in protection of rights.
1419. Right to abandon islands.

§ 1411. Guano districts; claim by United States.

Whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States. (R. S. § 5570.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 1, 11 Stat. 119.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1415, 1417 of this title.

§ 1412. Same; notice of discovery, and proofs.

The discoverer shall, as soon as practicable, give notice verified by affidavit, to the Department of State, of such discovery, occupation, and possession, describing the island, rock, or key, and the latitude and longitude thereof, as near as may be, and showing that such possession was taken in the name of

the United States; and shall furnish satisfactory evidence to the State Department that such island, rock, or key was not, at the time of the discovery thereof, or of the taking possession and occupation thereof by the claimants, in the possession or occupation of any other government or of the citizens of any other government, before the same shall be considered as appertaining to the United States. (R. S. § 5571.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 1, 11 Stat. 119.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1413 of this title.

§ 1413. Completion of proof on death of discoverer.

If the discoverer dies before perfecting proof of discovery or fully complying with the provisions of section 1412 of this title, his widow, heir, executor, or administrator shall be entitled to the benefits of such discovery, upon complying with the provisions of this chapter. Nothing herein shall be held to impair any rights of discovery or any assignment by a discoverer recognized prior to April 2, 1872, by the United States. (R. S. § 5572.)

DERIVATION

Act Apr. 2, 1872, ch. 81, § 1, 17 Stat. 48.

§ 1414. Exclusive privileges of discoverer.

The discoverer, or his assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying such island, rocks, or keys, for the purpose of obtaining guano, and of selling and delivering the same to citizens of the United States, to be used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding $8 per ton for the best quality, or $4 for every ton taken while in its native place of deposit. (R. S. § 5573.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 2, 11 Stat. 119.

§ 1415. Restrictions upon exportation.

No guano shall be taken from any island, rock, or key mentioned in section 1411 of this title, except for the use of the citizens of the United States or of persons resident therein. The discoverer, or his widow, heir, executor, administrator, or assigns, shall enter into bond, in such penalty and with such sureties as may be required by the President, to deliver the guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price prescribed, and to provide all necessary facilities for that purpose within a time to be fixed in the bond; and any breach of the provisions thereof shall be deemed a forfeiture of all rights accruing under and by virtue of this chapter. (R. S. § 5574.)

DERIVATION

Acts Aug. 18, 1856, ch. 164, § 2, 11 Stat. 119; July 28, 1866, ch. 298, § 3, 14 Stat. 328; Apr. 2, 1872, ch. 81, § 1, 17 Stat. 48.

CODIFICATION

An additional provision of R. S. § 5574 suspending this section for 5 years from and after July 14, 1872, in relation to all persons who had complied with the provisions of that title of the Revised Statutes, omitted as temporary.

§ 1416. Regulation of trade.

The introduction of guano from such islands, rocks, or keys shall be regulated as in the coasting trade between different parts of the United States, and the same laws shall govern the vessels concerned therein. (R. S. § 5575.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 3, 11 Stat. 120.

§ 1417. Criminal jurisdiction.

All acts done, and offenses or crimes committed, on any island, rock, or key mentioned in section 1411 of this title, by persons who may land thereon, or in the waters adjacent thereto, shall be deemed committed on the high seas, on board a merchant ship or vessel belonging to the United States; and shall be punished according to the laws of the United States relating to such ships or vessels and offenses on the high seas, which laws for the purpose aforesaid are extended over such islands, rocks, and keys. (R. S. § 5576.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 6, 11 Stat. 120.

CROSS REFERENCES

Crimes committed on any island, rock, or key, containing deposits of guano, which may be considered as appertaining to the United States, to be punished as crimes under admiralty or maritime jurisdiction, see section 7 (4) of Title 18, Crimes and Criminal Procedure.

§ 1418. Employment of land and naval forces in protection of rights.

The President is authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the discoverer or of his widow, heir, executor, administrator, or assigns. (R. S. § 5577.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 5, 11 Stat. 120.

§ 1419. Right to abandon islands.

Nothing in this chapter contained shall be construed as obliging the United States to retain possession of the islands, rocks, or keys, after the guano shall have been removed from the same. (R. S. § 5578.)

DERIVATION

Act Aug. 18, 1856, ch. 164, § 4, 11 Stat. 120.

Chapter 8A.—GUAM

GENERAL PROVISIONS

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GENERAL PROVISIONS

§ 1421. Territory included under name Guam.

The territory ceded to the United States in accordance with the provisions of the Treaty of Peace between the United States and Spain, signed at Paris, December 10, 1898, and proclaimed April 11, 1899, and known as the island of Guam in the Marianas Islands, shall continue to be known as Guam. (Aug. 1, 1950, ch. 512, § 2, 64 Stat. 384.)

SHORT TITLE

Congress in enacting this chapter provided by section 1 of act Aug. 1, 1950, that it shall be popularly known as the "Organic Act of Guam".

EFFECTIVE DATE; CONTINUATION OF FEDERAL ADMINISTRATION

Section 34 of act Aug. 1, 1950, provided that on the 21st day of July 1950, the authority and powers conferred by this chapter would come into force, and authorized the President, for a period not to exceed one year from Aug. 1, 1950, to continue the administration of Guam in all or in some respects as provided by law, Executive order, or local regulation in force on Aug. 1, 1950. It further authorized the President in his discretion to place in operation all or some of the provisions of this chapter if practicable before the expiration of the period of one year.

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of Guam, see chapter 15 of this title.

EX. ORD. NO. 10077. TRANSFER OF ADMINISTRATION OF GUAM

Ex. Ord. No. 10077, Sept. 7, 1949, 14 F. R. 5523, as amended by Ex. Ord. No. 10137, June 30, 1950, 15 F. R. 4241, provided:

1. The administration of the Island of Guam is hereby transferred from the Secretary of the Navy to the Secretary of the Interior, such transfer to become effective on August 1, 1950.

2. The Department of the Navy and the Department of the Interior shall proceed with the plans for the transfer of the administration of the Island of Guam as embodied

in the above mentioned memorandum of understanding between the two departments.

3. When the transfer of administration made by this order becomes effective, the Secretary of the Interior shall take such action as may be necessary and appropriate, and in harmony with applicable law, for the administration of civil government on the Island of Guam.

4. The executive departments and agencies of the Government are authorized and directed to cooperate with the Departments of the Navy and Interior in the effectuation of the provisions of this order.

5. The said Executive Order No. 108-A of December 23, 1898, is revoked, effective July 1, 1950.

§ 1421a. Unincorporated territory; capital; powers of government; suits against government; type of government; supervision.

Guam is declared to be an unincorporated territory of the United States and the capital and seat of government thereof shall be located at the city of Agana, Guam. The government of Guam shall have the powers set forth in this chapter, shall have power to sue by such name, and, with the consent of the legislature evidenced by enacted law, may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the government of Guam of any of its lawful powers. The government of Guam shall consist of three branches, executive, legislative, and judicial, and its relations with the Federal Government in all matters not the program responsibility of another Federal department or agency, shall be under the general administrative supervision of the Secretary of the Interior (Aug. 1, 1950, ch. 512, §3, 64 Stat. 384; Sept. 21, 1959, Pub. L. 86-316, 73 Stat. 588; Sept. 11, 1968, Pub. L. 90-497, § 12(a), 82 Stat. 847.)

AMENDMENTS

1968—Pub. L. 90-497 substituted provisions that all matters concerning Guam which are not the program responsibility of other Federal departments or agencies be under the general administrative supervision of the Secretary of the Interior for provisions that the general administrative supervision of matters concerning Guam be under the head of such civilian department or agency of the government of the United States as the President might direct.

1959—Pub. L. 86-316 permitted government of Guam, with consent of legislature, to be sued.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90-497, set out as a note under section 1422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1423i of this title.

§ 1421b. Bill of rights.

(a) No law shall be enacted in Guam respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of their grievances.

(b) No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

(c) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

(d) No person shall be subject for the same offense to be twice put in jeopardy of punishment; nor shall he be compelled in any criminal case to be a witness against himself.

(e) No person shall be deprived of life, liberty, or property without due process of law.

(f) Private property shall not be taken for public use without just compensation.

(g) In all criminal prosecutions the accused shall have the right to a speedy and public trial; to be informed of the nature and cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in Guam.

(j) No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be enacted.

(k) No person shall be imprisoned for debt.

(*l*) The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

(m) No qualification with respect to property, income, political opinion, or any other matter apart from citizenship, civil capacity, and residence shall be imposed upon any voter.

(n) No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied.

(o) No person shall be convicted of treason against the United States unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(p) No public money or property shall ever be appropriated, supplied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such.

(q) The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

(r) There shall be compulsory education for all children, between the ages of six and sixteen years.

(s) No religious test shall ever be required as a qualification to any office or public trust under the government of Guam.

(t) No person who advocates, or who aids or belongs to any party, organization, or association

which advocates, the overthrow by force or violence of the government of Guam or of the United States shall be qualified to hold any public office of trust or profit under the government of Guam.

(u) The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam to the extent that they have not been previously extended to that territory and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments.

All laws enacted by Congress with respect to Guam and all laws enacted by the territorial legislature of Guam which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency. (Aug. 1, 1950, ch. 512, § 5, 64 Stat. 385; Sept. 11, 1968, Pub. L. 90–497, § 10, 82 Stat. 847.)

AMENDMENTS

1968—Subsec. (u). Pub. L. 90–497 added subsec. (u).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 10 of Pub. L. 90–497 provided in part that the amendment of this section by section 10 of Pub. L. 90–497 is effective on the date of enactment of Pub L. 90–497, which was approved on Sept. 11, 1968.

CROSS REFERENCES

Advocating overthrow of government, penalty for, see section 2385 of Title 18, Crimes and Criminal Procedure.

§ 1421c. Certain laws continued in force; modification or repeal of laws.

(a) The laws of Guam in force on August 1, 1950, except as amended by this chapter, are continued in force, subject to modification or repeal by the Congress of the United States or the Legislature of Guam, and all laws of Guam inconsistent with the provisions of this chapter are repealed to the extent of such inconsistency.

(b) Repealed. Pub. L. 90–497, § 7, Sept. 11, 1968, 82 Stat. 847.

(Aug. 1, 1950, ch. 512, § 25, 64 Stat. 390; Sept. 11, 1968, Pub. L. 90–497, § 7, 82 Stat. 847.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–497 repealed subsec. (b) which prohibited the application to Guam of laws of the United States not specifically made applicable to Guam and established a commission to determine which laws were applicable to Guam and which were not.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 7 of Pub. L. 90–497 provided in part that the amendment of this section by section 7 of Pub. L. 90–497 is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

CROSS REFERENCES

Acknowledgment of deeds, see section 1421f–1 of this title.

Fair Labor Standards Act, application to Guam, see section 213(f) of Title 29, Labor.

National Bank Act, application to Guam, see section 41 of Title 12, Banks and Banking.

Park programs, state as including Guam, see section 17n of Title 16, Conservation.

§ 1421d. Salaries and allowances of officers and employees.

The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the government of Guam, and the members of the legislature, shall be paid by the government of Guam at rates prescribed by the laws of Guam. (Aug. 1, 1950, ch. 512, § 26, 64 Stat. 391; Aug. 1, 1956, ch. 852, § 21, 70 Stat. 911; July 30, 1965, Pub. L. 89–100, 79 Stat. 424; Sept. 11, 1968, Pub. L. 90–497, § 9, 82 Stat 847.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90–497, § 9(a), repealed subsec. (c) which provided for the payment of transportation expenses by the United States of all officers and employees of the government of Guam if their homes were outside Guam.

Pub. L. 90–497, § 9(b), removed subsection designations and substituted provisions that the government of Guam pay the salaries and travel expenses of the Governor, Liuetenant Governor, heads of executive departments, members of the legislature, and government officers and employees at rates prescribed by the laws of Guam for provisions setting the salary for the Governor and Secretary of Guam and allowing for the payment of transportation expenses and salaries of certain officers and employees by the United States.

1965—Subsec. (e). Pub. L. 89–100 substituted provisions empowering the government of Guam to fix and pay legislative salaries and expenses for provisions which specifically fixed a sum of $15 per day to be paid each member for every day the legislature is in session payable out of Congressional appropriations and which required all other expenses to be paid by the government of Guam.

1956—Subsec. (a). Act Aug. 1, 1956, substituted "the Governor of the Virgin Islands in the Executive Pay Act of 1949, as heretofore or hereafter amended," for "Governors of Territories and possessions in the Executive Pay Act of 1949, but not to exceed $13,125,".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 9(a) of Pub. L. 90–497 provided in part that the repeal of subsec. (c) of this section by section 9(a) of Pub. L. 90–497 is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

Section 9(b) of Pub. L. 90–497 provided in part that the amendment of this section by section 9(d) of Pub. L. 90–497 is effective Jan. 4, 1971.

§ 1421e. Duty on articles.

All articles coming into the United States from Guam shall be subject to or exempt from duty as provided for in section 1301a of Title 19. (Aug. 1, 1950, ch. 512, § 27, 64 Stat. 392; Sept. 1, 1954, ch. 1213, title IV, § 402 (b), 68 Stat. 1140.)

REFERENCES IN TEXT

Section 1301a of Title 19, referred to in text, was repealed by Pub. L. 87–456, title III, § 301(a), May 24, 1962, 76 Stat. 75.

AMENDMENTS

1954—Act Sept. 1, 1954, subjected Guam to the general provision for importations from insular possessions contained in section 1301a of Title 19, Customs Duties.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment of section by act Sept. 1, 1954, effective on and after the thirtieth day following Sept. 1, 1954, see note set out under section 160 of Title 19, Customs Duties.

§ 1421f. Title to property transferred.

(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration

of the civil affairs of the inhabitants of Guam, including automotive and other equipment, tools and machinery, water and sewerage facilities, bus lines and other utilities, hospitals, schools, and other buildings, shall be transferred to the government of Guam within ninety days after August 1, 1950.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after August 1, 1950, is placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this chapter or subsequent Act of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) of this section, or which is not placed under the control of the government of Guam by subsection (b) of this section, is transferred to the administrative supervision of the Secretary of the Interior, except as the President may from time to time otherwise prescribe: *Provided,* That the Secretary of the Interior shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real and personal, of the United States under his administrative supervision in Guam not needed for public purposes. (Aug. 1, 1950, ch. 512, § 28, 64 Stat. 392; Sept. 11, 1968, Pub. L. 90–497, § 12(b), 82 Stat. 848.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90–497 substituted "the Secretary of the Interior" for "the head of the department or agency designated by the President under section 1421a of this title" in the main body of subsec. (c) and "the Secretary of the Interior" for "the head of such department or agency" in the proviso.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90–497, set out as a note under section 1422 of this title.

EX. ORD. NO. 10178. RESERVATION OF PROPERTY IN GUAM FOR USE OF UNITED STATES

Ex Ord. No. 10178, Oct. 30, 1950, 15 F.R. 7313, provided:

Now, therefore, by virtue of the authority vested in me by the said section 28 of the Organic Act of Guam [this section] and as President of the United States, it is ordered as follows:

1. The following-described real and personal property of the United States in Guam is hereby reserved to the United States and placed under the control and jurisdiction of the Secretary of the Navy: *Provided,* That the Secretary of the Navy shall transfer such portions of such property to the Department of the Army, the Department of the Air Force, and the Coast Guard as may be required for their respective purposes:

(a) All of that real property in Guam situated within the perimeter areas defined in the following-designated condemnation proceedings in the Superior Court of Guam, being the same property quitclaimed by the Naval Government of Guam to the United States of America by deed dated July 31, 1950, and filed for record with the Land Registrar of Guam on August 4, 1950 (Presentation No. 22063):

Condemnation proceedings Civil No.	Perimeter area	Facility
	Acres	
2–48	4,566.757	North Field.
5–48	9.372	Mt. Santa Rosa Water Reservoir and Supply Lines.
6–48	5.990	Mt. Santa Rosa-Marbo Water Lines.
7–48	5.990	Tumon Maui Well Site.
2–49	4,803.000	Naval Ammunition Depot.
3–49	44.651	Primary Transmission Line.
4–49	12.169	Mt. Santa Rosa-Marbo Water Line Easement.
5–49	6,332.000	Apra Harbor Reservation.
2–50	6.450	Aceorp Tunnel.
3–50	35.391	Camp Dealy.
4–50	0.637	Tumon Bay Recreation Area Utility Lines.
5–50	24.914	Agana Springs.
6–50	41.360	Asan Point Tank Farm.
7–50	85.032	Asan Point Housing.
8–50	137.393	Medical Center.
9–50	45.630	Agafo Gumas.
10–50	4,798.682	Naval Communication Station.
11–50	11.726	Nimitz Beach.
12–50	800.443	Command Center.
13–50	4,901.100	Tarague Natural Wells.
14–50	5.945	Agana Diesel Electric Generating plant.
15–50	23.708	Mt. Santa Rosa Haul Road, Water Reservoir and Supply Lines, VHF Relay Station, Mt. Santa Rosa-Marbo Water Line.
16–50	4,562.107	Northwest Air Force Base.
18–50	60.480	Marbo Base Command Area—Sewage Disposal.
19–50	21.695	Loran Station, Cocos Island.
20–50	15.322	Av-Gas Tank Farm #12.
21–50	1,820.148	Proposed Boundary of NAS Agana, Housing Area #7.
22–50	37.519	C. A. A. Site (Area #90).
23–50	3.575	Tumon Maui Well (Water Tunnel).
24–50	49.277	Tumon Bay Recreation Area (Road and AV-Gas Fuel Line Parcel #1).
25–50	0.208	Utility Easement from Rt. #1 to Rt. # 6 (Coontz Junction).
26–50	65.300	Tumon Bay Recreation Area (Area #78).
27–50	2,497.400	Marbo Base Command.
28–50	0.918	Mt. Tenjo VHF Station Site.
29–50	285.237	Sasa Valley Tank Farm (Area #26).
30–50	17.793	Sub Transmission System Piti Steam Plant to Command Center.
31–50	28.888	Route #1 (Marine Drive) (Portion).
32–50	94.000	Sub Transmission System (34 KV Line) Piti Steam Plant to Agana Diesel Plant and POL System Sasa Valley Tank Farm to NAS Agana.
33–50	953.000	Harmon Air Force Base.
34–50	2,922.000	Radio Barrigada.
35–50	25.000	AACS Radio Range (Area #30).
36–50	37.000	Water Line Apra Heights Reservoir to Fena Pump Station and Av-Gas Fuel System.
37–50	2,185.000	Fena River Reservoir.

(b) The road system and utilities systems described in the said deed between the Naval Government of Guam and the United States of America dated July 31, 1950.

(c) The following-described areas: Mount Lam Lam Light; Rear Range Light; Mount Aluton Light; Area Number 35 Culverts; Mount Santa Rosa Light; 36 acres of Camp Witek; Adelup Reservoir; Tripartite Seismograph Station Site, Land Unit M, Section 2, Land Square 20; the Power Sub-station located on Lot 266, Municipality of Agat adjacent to Erskine Drive, City of Agat.

(d) Lots 2285–5 and 2306–1 in Barrigada.

(e) All personal property relating to or used in connection with any of the above-described real property.

2. The following-described real property of the United States in Guam is hereby reserved to the United States and transferred to the administrative supervision of the Secretary of the Interior, and shall be available for disposition by the Secretary of the Interior in his discretion under section 28 (c) of the said Organic Act of Guam [subsection (c) of this section]:

All of those lands which have been selected by the Secretary of the Navy for transfer or sale pursuant to the act of November 15, 1945, 59 Stat. 584, to persons in replacement of lands acquired for military or naval purposes in Guam, a list and description of such lands being on file in the Department of the Navy.

3. In addition to the personal property described in paragraph 1 (e) hereof, there is hereby reserved to the United States all personal property of the United States in Guam, except that which is transferred to the government of Guam by or pursuant to section 28 (a) of the Organic Act of Guam, which on the date of this order is in the custody or control of the Department of

the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, or any other department or agency of the United States; and all such personal property shall remain in the custody and control of the department or agency having custody and control thereof on the date of this order.

§ 1421f-1. Acknowledgment of deeds.

Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the island of Guam before any notary public or judge appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: *Provided,* That the certificate by such notary in Guam shall be accompanied by the certificate of the governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since the 1st day of January 1905 and acompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified. (June 28, 1906, ch. 3585, 34 Stat. 552.)

CODIFICATION

Section was not enacted as a part of the Organic Act of Guam, which comprises this chapter.

Similar provisions relating to Samoa are set out as section 1663 of this title.

§ 1421g. Establishment and maintenance of public health services; public school system.

(a) Subject to the laws of Guam, the Governor shall establish, maintain, and operate public-health services in Guam, including hospitals, dispensaries, and quarantine stations, at such places in Guam as may be necessary, and he shall promulgate quarantine and sanitary regulations for the protection of Guam against the importation and spread of disease.

(b) The Governor shall provide an adequate public educational system of Guam, and to that end shall establish, maintain, and operate public schools at such places in Guam as may be necessary. (Aug. 1, 1950, ch. 512, § 29, 64 Stat. 392.)

§ 1421h. Duties and taxes to constitute fund for benefit of Guam.

All customs duties and Federal income taxes derived from Guam, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam, and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the treasury of Guam and held in account for the government of Guam, and shall be expended for the benefit and government of Guam in accordance with the annual budgets; except that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of Title 26. (Aug. 1, 1950, ch. 512, § 30, 64 Stat. 392; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(u), 74 Stat. 941.)

AMENDMENTS

1960—Pub. L. 86-778 inserted clause providing that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of Title 26.

CROSS REFERENCES

Payment to Guam of proceeds of tax collected on coconut and palm oil, see section 7654 of Title 26, Internal Revenue Code, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1422d of this title.

§ 1421i. Income tax.

(a) Applicability of Federal laws.

The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam.

(b) Guam Territorial income tax.

The income-tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial income tax, payable to the government of Guam, which tax is designated the "Guam Territorial income tax".

(c) Enforcement of tax.

The administration and enforcement of the Guam Territorial income tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income-tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

(d) Definition of "income-tax laws"; administration and enforcement; rules and regulations.

(1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial income tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations for enforcement of the Guam Territorial income tax shall be prescribed by the Governor. The Governor or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in Guam pursuant to subsection (a) of this section.

(e) Substitution of terms.

In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to

subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(f) Criminal offenses; prosecution.

Any act or failure to act with respect to the Guam Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954, or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the government of Guam and may be prosecuted in the name of the government of Guam by the appropriate officers thereof.

(g) Liens.

The government of Guam shall have a lien with respect to the Guam Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Guam Territorial income tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income-tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

(h) Jurisdiction of District Court; suits for recovery or collection of taxes; payment of judgment.

(1) Notwithstanding any provision of section 1424 of this title or any other provision of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax.

(2) Suits for the recovery of any Guam Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States income tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the treasury of Guam.

(3) Execution shall not issue against the Governor or any officer or employee of the government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of Guam, in performing his official duties under the income-tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial income tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 1424(a) of this title. (Aug. 1, 1950, ch. 512, § 31, 64 Stat. 392; Aug. 20, 1958, Pub. L. 85–688, § 1, 72 Stat. 681.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in the text, is classified to Title 26, Internal Revenue Code. Subtitle, chapter and section designations in Title 26, correspond with those of the Internal Revenue Code of 1954.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–688 designated existing provisions as subsec. (a).

Subsecs. (b)—(h). Pub. L. 85–688 added subsecs. (b)—(h).

EFFECTIVE DATE

Section became effective January 1, 1951, by provision of Ex. Ord. No. 10211, Feb. 6, 1951, 16 F. R. 1167.

RATIFICATION OF ASSESSMENTS AND COLLECTIONS MADE BEFORE AUG. 20, 1958

Section 2 of Pub. L. 85–688 provided that income taxes assessed prior to Aug. 20, 1958, by the authorities of the government of Guam pursuant to, or under color of, this section, the collection of such taxes, and all acts done to effectuate such assessment and collection were legalized, ratified and confirmed as fully, to all intents and purposes, as if subsecs. (b)—(h) of this section, had then been in full force and effect.

CROSS REFERENCES

All provisions of laws of the United States applicable to assessment and collection of taxes imposed by Internal Revenue Code is applicable to possessions, see section 7651(1) of Title 26, Internal Revenue Code, 1954.

Articles, goods, wares, or merchandise going into Guam as exempt from payment of any tax imposed by the internal revenue laws of the United States, see section 7653(b) of Title 26, Internal Revenue Code, 1954.

§ 1421j. Appropriations.

There are authorized to be appropriated annually by the Congress of the United States such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter. (Aug. 1, 1950, ch. 512, § 32, 64 Stat. 392.)

§ 1421k. Designation of naval or military reservations; closed port.

Nothing contained in this chapter shall be construed as limiting the authority of the President to

designate parts of Guam as naval or military reservations, nor to restrict his authority to treat Guam as a closed port with respect to the vessels and aircraft of foreign nations. (Aug. 1, 1950, ch. 512, § 33, 64 Stat. 393.)

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of Guam, see chapter 15 of this title.

§ 1421l. Citizens by birth in Guam on and after April 11, 1899.

(a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States, if they are residing on August 1, 1950 on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950), subject to the jurisdiction of the United States, are declared to be citizens of the United States: *Provided,* That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall make, within two years of August 1, 1950, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this chapter.

(d) The Commissioner of Immigration and Naturalization, with the approval of the Attorney General, is authorized and empowered to make and prescribe such rules and regulations not in conflict with this Act as he may deem necessary and proper.

(e) Section 804 (c) of Title 8 shall not apply to persons who acquired citizenship under this section. (Aug. 1, 1950, ch. 512, § 4 (a), 64 Stat. 384.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), refers to the Nationality Act of 1940, which was repealed by act June 27, 1952, ch. 477, title 4, § 403(a)(42), 66 Stat. 280, and is now covered by chapter 12 of Title 8, Aliens and Nationality.

Section 804 (c) of Title 8, referred to in subsec. (e), was repealed by act June 27, 1952 and is now covered by subchapter III of chapter 11 of Title 8.

§ 1421m. Repealed. Pub. L. 91-513, title III, § 1101(a)(8), Oct. 27, 1970, 84 Stat. 1292.

Section, act Aug. 1, 1956, ch. 852, § 15, 70 Stat. 910, prohibited the production, manufacture, compounding, possession, sale, dispensation, administration, or transportation of marihuana in Guam. See section 801 et seq. of Title 21, Food and Drugs.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91-513, set out as a note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunction proceedings commenced, prior to the effective date of repeal of this section by section 1101 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

§ 1421n. Applicability of Federal copyright laws.

The laws of the United States relating to copyrights, and to the enforcement of rights arising thereunder, shall have the same force and effect in Guam as in the continental United States. (Aug. 1, 1956, ch. 852, § 24, 70 Stat. 911.)

CROSS REFERENCES

Federal copyright laws generally, see section 1 et seq. of Title 17, Copyrights.

THE EXECUTIVE BRANCH

§ 1422. Governor and Lieutenant Governor; term of office; qualifications; powers and duties; annual report to Congress.

The executive power of Guam shall be vested in an executive officer whose official title shall be the "Governor of Guam". The Governor of Guam, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of Guam. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices. If no candidates receive a majority of the votes cast in any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 3, 1970. Thereafter, beginning with the year 1974, the Governor and Lieutenant Governor shall be elected every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years and until their successors are elected and qualified.

No person who has been elected Governor for two full successive terms shall again be eligible to hold that office until one full term has intervened.

The term of the elected Governor and Lieutenant Governor shall commence on the first Monday of January following the date of election.

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is an eligible voter and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of Guam and

will be, at the time of taking office, at least thirty years of age. The Governor shall maintain his official residence in Guam during his incumbency.

The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this chapter. He shall appoint, and may remove, all officers and employees of the executive branch of the government of Guam, except as otherwise provided in this or any other Act of Congress, or under the laws of Guam, and shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable in Guam. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the militia or request assistance of the senior military or naval commander of the Armed Forces of the United States in Guam, which may be given at the discretion of such commander if not disruptive of, or inconsistent with, his Federal responsibilities. He may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, proclaim the island, insofar as it is under the jurisdiction of the government of Guam, to be under martial law. The members of the legislature shall meet forthwith on their own initiative and may, by a two-thirds vote, revoke such proclamation.

The Governor shall make to the Secretary of the Interior an annual report of the transactions of the government of Guam for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body.

There is hereby established the office of Lieutenant Governor of Guam. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this chapter or under the laws of Guam. (Aug. 1, 1950, ch. 512, § 6, 64 Stat. 386; Sept. 11, 1968, Pub. L. 90–497, § 1, 82 Stat. 842.)

AMENDMENTS

1968—Pub. L. 90–497 established the office of Lieutenant Governor of Guam, provided for the popular election of the Governor and Lieutenant Governor, declared persons elected for two full successive terms as Governor ineligible to serve again until the lapse of a full intervening term, set out the qualifications of eligibility for Governor and Lieutenant Governor, and restated the powers and duties of the office of Governor.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 13 of Pub. L. 90–497 provided that: "Those provisions necessary to authorize the holding of an election for Governor and Lieutenant Governor on November 3, 1970, shall be effective on January 1, 1970. All other provisions of this Act [see Short Title note under this section], unless otherwise expressly provided herein, shall be effective January 4, 1971."

SHORT TITLE

Section 14 of Pub. L. 90–497 provided that: "This Act [enacting section 1422d of this title and section 335 of Title 10, Armed Forces, amending this section and sections 1421a, 1421b, 1421c, 1421d, 1421f, 1422a, 1422b, 1422c, 1423b, 1423h, and 1423i of this title, and enacting provisions set out as notes under this section] may be cited as the 'Guam Elective Governor Act'."

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of Guam, see chapter 15 of this title.

§ 1422a. Removal of Governor; referendum election.

Any Governor of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for Governor in the last preceding general election at which a Governor was elected, vote in favor of recall and in which those so voting constitute a majority of all those participating in the referendum election. The referendum election shall be initiated by the legislature of Guam following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) a petition for such a referendum to the legislature by registered voters equal the number to at least 50 per centum of the whole number of votes cast for Governor at the last general election at which a Governor was elected preceding the filing of the petition. (Aug. 1, 1950, ch. 512, § 7, 64 Stat. 387; Sept. 11, 1968, Pub. L. 90–497, $ 2, 82 Stat. 844.)

AMENDMENTS

1968—Pub. L. 90–497 substituted provisions for the removal of the Governor of Guam through a referendum election for provisions for the appointment, tenure, powers, and duties of the Secretary of Guam.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90–497, set out as a note under section 1422 of this title.

§ 1422b. Vacancy in office of Governor or Lieutenant Governor.

(a) Temporary disability or temporary absence of Governor.

In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

(b) Permanent vacancy in office of Governor.

In case of a permanent vacancy in the office of Governor, arising by reason of the death, resignation, removal by recall, or permanent disability of the Governor, or the death, resignation, or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Governor.

(c) Temporary disability or temporary absence of Lieutenant Governor.

In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the speaker of the Guam Legislature shall act as Lieutenant Governor.

(d) Permanent vacancy in office of Lieutenant Governor.

In case of a permanent vacancy in the office of Lieutenant Governor, arising by reason of the death, resignation, or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the legislature, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

(e) Temporary disability or temporary absence of both Governor and Lieutenant Governor.

In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of Guam may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of Guam.

(f) Additional compensation.

No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the office of Governor or Lieutenant Governor under the provisions of this chapter. (Aug. 1, 1950, ch. 512, § 8, 64 Stat. 387; Mar. 16, 1962, Pub. L. 87–419, § 1, 76 Stat. 34; Sept. 11, 1968, Pub. L. 90–497, § 3, 82 Stat. 844.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–497 designated existing provisions as subsec. (a) and in subsec. (a) as so designated, substituted provisions that the Lieutenant Governor have the powers of the Governor in the event of the temporary disability or temporary absence of the Governor for provisions authorizing the appointed department head to designate an acting Governor in the case of a vacancy or temporary absence of both the Governor and the Secretary of Guam.

Subsec. (b)—(f). Pub. L. 90–497 added subsecs. (b)—(f).

1962—Pub. L. 87–419 provided for appointment of an acting secretary under certain conditions, prescribed the powers of such secretary and proscribed additional compensation for an acting Governor or acting secretary.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90–497, set out as a note under section 1422 of this title.

§ 1422c. Executive agencies and instrumentalities.

(a) Appointment of heads; establishment of merit system.

The Governor shall, except as otherwise provided in this chapter or the laws of Guam, appoint, by and with the advice and consent of the legislature, all heads of executive agencies and instrumentalities. The legislature shall establish a merit system and, as far as practicable, appointments and promotions shall be made in accordance with such merit system.

(b) Powers and duties of officer.

All officers shall have such powers and duties as may be conferred or imposed on them by law or by executive regulation of the Governor not inconsistent with any law.

(c) Reorganization.

The Governor shall, from time to time, examine the organization of the executive branch of the government of Guam, and shall determine and carry out such changes therein as are necessary to promote effective management and to execute faithfully the purposes of this chapter and the laws of Guam.

(d) Continuation in office of incumbents.

All persons holding office in Guam on August 1, 1950 may, except as otherwise provided in this chapter, continue to hold their respective offices until their successors are appointed and qualified. (Aug. 1, 1950, ch. 512, § 9, 64 Stat. 387; Sept. 11, 1968, Pub. L. 90–497, § 4, 82 Stat. 845.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–497, § 4(a), struck out requirement that, in making appointments, preference be given persons of Guamanian ancestry and that opportunities for higher education and use of service training facilities be provided to qualified persons of Guamanian ancestry.

Subsec. (b). Pub. L. 90–497, § 4(b), struck out provision authorizing the Governor to appoint or remove any officer whose appointment or removal is not otherwise provided for.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 4(a) of Pub. L 90–497 provided in part that the amendment of subsec. (a) of this section by section 4(a) of Pub. L. 90–497 was effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

Amendment of section by Pub. L. 90–497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90–497, set out as a note under section 1422 of this title.

§ 1422d. Government comptroller.

(a) Creation of office; appointment, transfer, and removal.

The Secretary of the Interior shall appoint in the Department of the Interior a government comptroller for Guam who shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of Guam, and whose salary and expenses of office shall be paid by the United States from funds otherwise to be covered into the treasury of Guam pursuant to section 1421h of this title. Sixty days prior to the effective date of transfer or removal of the government comptroller, the Secretary shall communicate to the President of the Senate and the Speaker of the House of Representatives his intention to so transfer or remove the government comptroller and his reasons therefor.

(b) Auditing function.

The government comptroller shall audit all accounts and review and recommend adjudication of claims pertaining to the revenue and receipts of the government of Guam and of funds derived from bond issues; and he shall audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

(c) Reporting function.

It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law. The audit activities of the government comptroller shall be directed so as to (1) improve the efficiency and economy of programs of the government of Guam, and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial Federal revenues which are covered into the treasury of the government of Guam are properly accounted for and audited.

(d) Administrative review of decisions of government comptroller.

The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the Governor, be taken by the party aggrieved or the head of the department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

(e) Judicial review.

If the Governor does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of Guam if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the Governor, on behalf of the head of the department concerned, may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction.

(f) Official communications; witnesses and oaths.

The government comptroller is authorized to communicate directly with any person or with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

(g) Annual report to Congress.

As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of Guam and the Secretary of the Interior an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government. The Secretary of the Interior shall submit such report along with his comments and recommendations to the President of the Senate and the Speaker of the House of Representatives.

(h) Miscellaneous reports.

The government comptroller shall make such other reports as may be required by the Governor of Guam, the Comptroller General of the United States, or the Secretary of the Interior.

(i) Office and activities subject to review by Comptroller General of the United States.

The office and activities of the government comptroller of Guam shall be subject to review by the Comptroller General of the United States, and reports thereon shall be made by him to the Governor, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives.

(j) Collection of data; access to government records.

All departments, agencies, and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees; when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency, or establishment. (Aug. 1, 1950, ch. 512, § 9–A, as added Sept. 11, 1968, Pub. L. 90–497, § 5, 82 Stat. 845.)

EFFECTIVE DATE

Section 5 of Pub. L. 90–497 provided in part that this section is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

THE LEGISLATURE

§ 1423. Legislature of Guam.

(a) Unicameral nature; power.

The legislative power and authority of Guam shall be vested in a legislature, consisting of a single house, to be designated the "Legislature of Guam", herein referred to as the legislature.

(b) Size of legislature; prohibition against denial of equal protection; at-large and district representation.

The legislature shall be composed of not to exceed twenty-one members, to be known as senators, elected at large, or elected from legislative districts, or elected in part at large and in part from legislative districts, as the laws of Guam may direct: *Provided,* That any districting and any apportionment pursuant to this authorization and provided for by the laws of Guam shall not deny to any person in Guam the equal protection of the laws: *And provided further,* That in any elections to the legislature, every elector shall be permitted to vote for the whole number of at-large candidates to be elected, and every elector residing in a legislative district shall be permitted to vote for the whole number of candidates to be elected within that district.

(c) Reapportionment; Federal census base.

The laws of Guam shall not alter the manner in which members of the legislature are to be elected as provided in subsection (b) of this section more often than at ten-year intervals: *Provided,* That any districting and related apportionment pursuant to this section shall be based upon the then most recent Federal population census of Guam, and any such districting and apportionment shall be reexamined following each successive Federal population census of Guam and shall be modified, if necessary, to be consistent with that census.

(d) Timing of biennial elections.

General elections to the legislature shall be held on the Tuesday next after the first Monday in

November, biennially in even-numbered years. The legislature in all respects shall be organized and shall sit according to the laws of Guam. (Aug. 1, 1950, ch. 512, § 10, 64 Stat. 387; Sept. 2, 1966, Pub. L. 89–552, § 1, 80 Stat. 375.)

AMENDMENTS

1966—Pub. L. 89–552 authorized the election of senators in whole or in part from legislative districts if the laws of Guam so directed, provided that the legislators be called senators, prohibited any districting or apportionment which denied equal protection of the laws to any person in Guam, required that electors be permitted to vote for the whole number of candidates to be elected both within his district and at large, prohibited reapportionment oftener than at 10-year intervals, and required that any redistricting be based upon the latest federal census.

AMENDMENT OF LAWS OF GUAM TO CONFORM TO CHANGES MADE BY PUB. L. 89–552

Section 2 of Pub. L. 89–552 provided that: "As soon as practicable after enactment of this Act [Sept. 2, 1966], and subject to the conditions and requirements of section 10 of the Organic Act of Guam, as amended by section 1 hereof [this section], the laws of Guam shall be amended to make provision for the manner of the election of members of the legislature. Until the laws of Guam shall make such provision, the method of electing the legislature shall remain as it is upon the date of enactment of this Act [Sept. 2, 1966]."

§ 1423a. Power of Legislature; limitation on indebtedness of Guam; bond issues.

The legislative power of Guam shall extend to all subjects of legislation of local application not inconsistent with the provisions of this chapter and the laws of the United States applicable to Guam. Taxes and assessments on property, internal revenues, sales, license fees, and royalties for franchises, privileges, and concessions may be imposed for purposes of the government of Guam as may be uniformly provided by the Legislature of Guam, and when necessary to anticipate taxes and revenues, bonds and other obligations may be issued by the government of Guam: *Provided, however,* That no public indebtedness of Guam shall be authorized or allowed in excess of 10 per centum of the aggregate tax valuation of the property in Guam. Bonds or other obligations of the government of Guam payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Guam within the meaning of this section. All bonds issued by the government of Guam or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States or by the government of Guam, or by any State or Territory or any political subdivision thereof, or by the District of Columbia. (Aug. 1, 1950, ch. 512, § 11, 64 Stat. 387.)

§ 1423b. Selection and qualification of members; officers; rules and regulations; quorum.

The legislature shall be the judge of the selection and qualification of its own members. It shall choose from its members its own officers, determine its rules and procedure, not inconsistent with this chapter, and keep a journal. The quorum of the legislature shall consist of eleven of its members. No bill shall become a law unless it shall have been passed at a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays. (Aug. 1, 1950, ch. 512, § 12, 64 Stat. 388; Sept. 11, 1968, Pub. L. 90–497, § 6(b), 82 Stat. 846.)

AMENDMENTS

1968—Pub. L. 90–497 added a quorum requirement, provided that a quorum of the legislature consist of eleven of its members, and made the presence of a quorum requisite to the passage of a law.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(b) of Pub. L. 90–497 provided in part that the amendment of this section by section 6(b) of Pub. L. 90–497 is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

§ 1423c. Privileges of members.

(a) The members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the legislature and in going to and returning from the same.

(b) No member of the legislature shall be held to answer before any tribunal other than the legislature itself for any speech or debate in the legislature. (Aug. 1, 1950, ch. 512, § 13, 64 Stat. 388.)

§ 1423d. Oath of office.

Every member of the legislature and all officers of the government of Guam shall take the following oath or affirmation:

"I solemnly swear (or affirm) in the presence of Almighty God that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a member of the Guam Legislature (or as an officer of the government of Guam)." (Aug. 1, 1950, ch. 512, § 14, 64 Stat. 388.)

§ 1423e. Prohibition against acceptance of salary increases or newly created offices.

No member of the legislature shall, during the term for which he was elected or during the year following the expiration of such term, be appointed to any office which has been created, or the salary or emoluments of which have been increased during such term. (Aug. 1, 1950, ch. 512, § 15, 64 Stat. 388.)

§ 1423f. Qualifications of members.

No person shall sit in the legislature who is not a citizen of the United States, who has not attained the age of twenty-five years and who has not been domiciled in Guam for at least five years immediately preceding the sitting of the legislature in which he seeks to qualify as a member, or who has been convicted of a felony or of a crime involving moral turpitude and has not received a pardon restoring his civil rights. (Aug. 1, 1950, ch. 512, § 16, 64 Stat. 388.)

§ 1423g. Vacancies.

Vacancies occurring in the legislature shall be filled as the legislature shall provide, except that no person filling a vacancy shall hold office longer than for the remainder of the term for which his predecessor was elected. (Aug. 1, 1950, ch. 512, § 17, 64 Stat. 388.)

§ 1423h. Regular and special sessions.

Regular sessions of the legislature shall be held annually, commencing on the second Monday in January (unless the legislature shall by law fix a different date), and shall continue for such term as the legislature may provide. The Governor may call special sessions of the legislature at any time when, in his opinion, the public interest may require it. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the legislature while in such session. All sessions of the legislatured shall be open to the public. (Aug. 1, 1950, ch. 512, § 18, 64 Stat. 388; Sept. 11, 1968, Pub. L. 90–497, § 6(a), 82 Stat. 846.)

AMENDMENTS

1968—Pub. L. 90–497 removed 60-day limitation on the length of regular sessions and 14-day limitation on the length of special sessions of the legislature.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(a) of Pub. L. 90–497 provided in part that the amendment of this section by section 6(a) of Pub. L. 90–497 is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

§ 1423i. Approval of bills.

Every bill passed by the legislature shall, before it becomes a law, be entered upon the journal and presented to the Governor. If he approves it, he shall sign it, but if not he shall, except as hereinafter provided, return it, with his objections, to the legislature within ten days (Sundays excepted) after it shall have been presented to him. If he does not return it within such period, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the Governer within thirty days after it shall have been presented to him; otherwise it shall not be a law. When a bill is returned by the Governor to the legislature with his objections, the legislature shall enter his objections at large on its journal and, upon motion of a member of the legislature, proceed to reconsider the bill. If, after such reconsideration, two-thirds of all the members of the legislature pass the bill, it shall be a law. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect. All laws enacted by the legislature shall be reported by the Governor to the head of the department or agency designated by the President under section 1421a of this title, and by him to the Congress of the United States, which reserves the power and authority to annul the same. (Aug. 1, 1950, ch. 512, § 19, 64 Stat. 389; Sept. 11, 1968, Pub. L. 90–497, § 8, 82 Stat. 847.)

AMENDMENTS

1968—Pub. L. 90–497, § 8(a), eliminated the President's authority to veto territorial legislation referred by the Governor after such legislation had been passed by the legislature over the Governor's veto.

Pub. L. 90–497, § 8(b), eliminated the provision that, if Congress did not annul laws passed by the legislature and reported to Congress within one year of the date of its receipt by Congress, such laws were deemed to have been approved by Congress.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 8(b) of Pub. L. 90–497 provided in part that the amendment of this section by section 8(b) of Pub. L. 90–497 is effective on the date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

Amendment of section by Pub. L. 90–497 necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other amendments unless otherwise provided effective Jan. 4, 1971, see section 13 of Pub. L. 90–497, set out as a note under section 1422 of this title.

§ 1423j. Appropriations.

(a) Appropriations, except as otherwise provided in this chapter, and except such appropriations as shall be made from time to time by the Congress of the United States, shall be made by the legislature.

(b) If at the termination of any fiscal year the legislature shall have failed to pass appropriation bills providing for payments of the necessary current expenses of the government and meeting its legal obligations for the ensuing fiscal year, then the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be applicable, shall be deemed to be reappropriated, item by item.

(c) All appropriations made prior to August 1, 1950 shall be available to the government of Guam. (Aug. 1, 1950, ch. 512, § 20, 64 Stat. 389.)

§ 1423k. Right of petition.

The legislature or any person or group of persons in Guam shall have the unrestricted right of petition. It shall be the duty of all officers of the government to receive and without delay to act upon or forward, as the case may require, any such petition. (Aug. 1, 1950, ch. 512, § 21, 64 Stat. 389.)

CROSS REFERENCES

Petition for redress of grievances, see Const. Amend. 1.

§ 1423*l*. Purchases.

The Territorial and local governments of Guam are authorized to make purchases through the General Services Administration. (Pub. L. 91–361, title I, § 100, July 31, 1970, 84 Stat. 673.)

CODIFICATION

Section was enacted as a part of the Department of the Interior and Related Agencies Appropriation Act, 1971, and not as a part of the Organic Act of Guam, which comprises this chapter,

Section, as it relates to the Virgin Islands, American Samoa, and the Trust Territory of the Pacific, is set out as sections 1401f, 1655, and 1682, respectively, of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91–98, title I, § 100, 83 Stat. 151.

1968—July 26, 1968, Pub. L. 90–425, title I, § 100, 82 Stat. 430.

1967—June 24, 1967, Pub. L. 90–28, title I, § 100, 81 Stat. 63.

1966—May 31, 1966, Pub. L. 89–435, title I, § 100, 80 Stat. 174.

1965—June 28, 1965, Pub. L. 89–52, title I, § 100, 79 Stat. 179.

1964—July 7, 1964, Pub. L. 88–356, title I, § 100, 78 Stat. 278.

1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 339.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 250.
1960—May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85-439, title I, § 100, 72 Stat. 163.
1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 265.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 264.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 372.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 273.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 457.
1951—Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 263.
1950—Sept. 6, 1950, ch. 896, ch. VII, title I, § 101, 64 Stat. 694.

THE JUDICIARY

§ 1424. District Court of Guam; jurisdiction; appellate division; rules of procedure.

(a) There is created a court of record to be designated the "District Court of Guam", and the judicial authority of Guam shall be vested in the District Court of Guam and in such court or courts as may have been or may hereafter be established by the laws of Guam. The District Court of Guam shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value of the matter in controversy, shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been transferred by the legislature to other court or courts established by it, and shall have such appellate jurisdiction as the legislature may determine. The jurisdiction of and the procedure in the courts of Guam other than the District Court of Guam shall be prescribed by the laws of Guam.

Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1424b(a) of this title. The concurrence of two judges shall be necessary to any decision by the District Court of Guam on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

(b) The rules heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to section 2072 of Title 28, in civil cases; section 2073 of Title 28, in admiralty cases; sections 3771 and 3772 of Title 18, in criminal cases; and section 53 of Title 11, in bankruptcy cases; shall apply to the District Court of Guam and to appeals therefrom; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further that the terms "attorney for the government" and "United States attorney", as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein. (Aug. 1, 1950, ch. 512, § 22, 64 Stat. 389; Aug. 27, 1954, ch. 1017, § 1, 68 Stat. 882; June 4, 1958, Pub. L. 85-444, §§ 1, 2, 72 Stat. 178, 179.)

References in Text

Section 2073 of Title 28, referred to in text, was repealed by Pub. L. 89-773, § 2, Nov. 6, 1966, 80 Stat. 1323.

Amendments

1958—Subsec. (a). Pub. L. 85-444 provided that the District Court of Guam shall have jurisdiction in all causes arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value of the matter in controversy, and to insert the paragraph requiring appeals to the District Court to be heard and determined by an appellate division.

1954—Subsec. (b). Act Aug. 27, 1954, added provisions making it clear that trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall not be required in the District Court of Guam until so required by laws enacted by the Legislature of Guam; and defining the terms "attorney for the government", and "United States attorney", as used in the Federal Rules of Criminal Procedure, when applicable to cases arising under the laws of Guam.

Effective Date of 1954 Amendment

Section 2 of act Aug. 27, 1954, provided that the amendment of subsec. (b) of this section by section 1 of that act shall be deemed to be in effect August 1, 1950.

Separability of Provisions

Section 4 of act Aug. 27, 1954, provided: "If any particular provision of this Act [which amended this section and which enacted other provisions set out as notes under this section], or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

Nonreversal of Convictions Prior to August 27, 1954

Section 3 of act Aug. 27, 1954, provided: "No conviction of a defendant in a criminal proceeding in the District Court of Guam heretofore had shall be reversed or set aside on the ground that the defendant was not indicted by a grand jury or tried by a petit jury."

Section Referred to in Other Sections

This section is referred to in sections 1421i, 1424 of this title and in title 28, section 1869.

§ 1424a. Repealed. Oct. 31, 1951, ch. 655, § 56 (e), 65 Stat. 729.

Section, act Aug. 1, 1950, ch. 512, § 23, 64 Stat. 390, related to appeals from the District Court of Guam to the United States Court of Appeals for the Ninth Circuit, and to the United States Supreme Court, and is now covered by sections 41, 1252, 1291, 1292 and 1294 of Title 28, Judiciary and Judicial Procedure.

Savings Clause

Subsec. (*l*) of section 56 of act Oct. 31, 1951, provided that the repeal of that section shall not affect any rights or liabilities existing hereunder on the effective date of that repeal (Oct. 31, 1951).

§ 1424b. Judge of District Court; appointment, tenure, and compensation; appointment of United States attorney and marshal; applicability of laws.

(a) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court of Guam who shall hold office for the term of eight years and until his successor is chosen and qualified unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

The Chief Judge of the Ninth Judicial Circuit of the United States may assign a judge of the Island Court of Guam or a judge of the High Court of the Trust Territory of the Pacific Islands or a circuit or district judge of the ninth circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge in the District Court of Guam whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the court.

(b) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for Guam to whose offices the provisions of chapters 31 and 33 of Title 28, respectively, shall apply.

(c) The provisions of chapters 43 and 49 of Title 28 shall apply to the District Court of Guam. (Aug. 1, 1950, ch. 512, § 24, 64 Stat. 390; Oct. 31, 1951, ch. 655, § 55 (a), 65 Stat. 728; June 4, 1958, Pub. L. 85-444, § 3, 72 Stat. 179.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-444 increased the term of office from four to eight years, substituted provisions requiring the salary of the judge to be at the rate prescribed for judges of the United States district courts for provisions which required the salary of the judge to be the same as salary of the Governor of Guam, and inserted provisions permitting the Chief Judge of the Ninth Circuit to make temporary assignments.

1951—Subsec. (a). Act Oct. 31, 1951, in second sentence, struck out ", and shall be entitled to the benefits of retirement provided in section 373 of Title 28".

Subsec. (c). Act Oct. 31, 1951, struck out references to chapters 21, 41 and 57 of Title 28.

CROSS REFERENCES

Compensation of district court judges, see section 135 of Title 28, Judiciary and Judicial Procedure.

Court officers and employees, general provisions applicable to, see chapter 57 of Title 28.

General provisions applicable to courts and judges, see chapter 21 of Title 28.

Provisions relating to Administrative Office of the United States Courts, applicability to District Court of Guam, see section 610 of Title 28.

PUBLIC HOUSING AND URBAN RENEWAL

§ 1425. Mortgage insurance on housing projects or property; conditions and limitations.

If the Federal Housing Commissioner finds that, because of higher costs prevailing in Guam, it is not feasible to construct dwellings on property located in Guam without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided in chapter 13 of Title 12, the Commissioner may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum for the principal cbligation of mortgages insured under chapter 13 of Title 12 covering property located in Guam, in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable by more than one-third thereof. No mortgage with respect to a project or property in Guam shall be accepted for insurance under chapter 13 of Title 12 unless the Commissioner finds that the project or property is an acceptable risk, giving consideration to the acute housing shortage in Guam: *Provided*, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of chapter 13 of Title 12 that the Commissioner find the project or property to be economically sound or an acceptable risk. Nowithstanding[1] any of the provisions of chapter 13 of Title 12 or any other law, the Government of Guam or any agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of chapter 13 of Title 12. Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2) where the Government of Guam or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of chapter 13 of Title 12, the Commissioner is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgages prior to the date of their execution or disbursement thereon, under such provisions (and this section) without regard to any requirement that the mortgagor shall be the owner and occupant of the property or shall have paid a prescribed amount on account of such property. Without limiting the authority of the Commissioner under any other provision of law, the Commissioner is authorized, with respect to any mortgagor in such case (except where the Alaska Housing Authority is the mortgagor or mortgagee), to require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment. (June 27, 1934, ch. 847, § 214, as added Apr. 23, 1949, ch. 89, § 2 (a), 63 Stat. 67, and amended July 14, 1952, ch. 723, § 10 (a) (3), 66 Stat. 603; June 30, 1953, ch. 170, § 25 (c), 67 Stat. 128.)

CODIFICATION

Section is comprised of section 214 of act June 27, 1934, as added by section 2 (a) of act Apr. 23, 1949. Similar provisions relating to Alaska and Hawaii are set out as sections 484d and 723 of this title, and the section, in its complete form, embracing Alaska, Guam, and Hawaii, is set out as section 1715d of Title 12, Banks and Banking. See Codification note under section 484d of this title.

AMENDMENTS

1953—Act June 30, 1953, substituted, in fourth sentence, "Upon application by the mortgagee (1) where

[1] So in original. Probably should read "Notwithstanding".

the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2)" for "Upon application by the mortgagee,"; and added sentence beginning "Without limiting the authority".

1952—Act July 14, 1952, made the provisions applicable to Guam (see Codification note above), and inserted "or maxima" following "maximum".

§ 1425a. Legislative authority to create authorities; appointment of members; powers of authorities.

The Legislature of Guam may by law grant to a public corporate authority, existing or to be created by or under such law, powers to undertake urban renewal and housing activities in Guam. Such legislature may by law provide for the appointment, terms of office, or removal of the members of such authority and for the powers of such authority, including authority to accept whatever benefits the Federal Government may make available, and to do all things, to exercise any and all powers, and to assume and fulfill any and all obligations, duties, responsibilities, and requirements, including but not limited to those relating to planning or zoning, necessary or desirable for receiving such Federal assistance, except that such authority shall not be given any power of taxation, nor any power to pledge the faith and credit of the territory of Guam for any loan whatever. (Pub. L. 88–171, § 1, Nov. 4, 1963, 77 Stat. 304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425d of this title.

§ 1425b. Issuance of notes, bonds, and obligations.

The Legislature of Guam may by law authorize such authority, any provision of the Organic Act of Guam, or any other Act of Congress to the contrary notwithstanding, to borrow money and to issue notes, bonds, and other obligations of such character and maturity, with such security, and in such manner as the legislature may provide. Such notes, bonds, and other obligations shall not be a debt of the United States, or of Guam other than such authority, nor constitute a debt, indebtedness, or the borrowing of money within the meaning of any limitation or restriction on the issuance of notes, bonds, or other obligations contained in any laws of the United States applicable to Guam or to any agency thereof. (Pub. L. 88–171, § 2, Nov. 4, 1963, 77 Stat. 304.)

REFERENCES IN TEXT

The Organic Act of Guam, referred to in the text, is classified to sections 1421—1421f, 1421g—1421*l*, 1422—1423k, 1424 and 1424b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425d of this title.

§ 1425c. Authorization of loans, conveyances, etc.

The Legislature of Guam may by law assist such authority by furnishing, or authorizing the furnishing of, cash donations, loans, conveyances of real and personal property, facilities, and services, and otherwise, and may by law take other action in aid of urban renewal or housing or related activities. (Pub. L. 88–171, § 3, Nov. 4, 1963, 77 Stat. 304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425d of this title.

§ 1425d. Ratification of prior act.

Each and every part of Public Law 6–135, approved December 18, 1962, heretofore enacted by the Legislature of Guam dealing with any part of the subject matter of sections 1425a to 1425e of this title and not inconsistent therewith is ratified and confirmed. (Pub. L. 88–171, § 4, Nov. 4, 1963, 77 Stat. 304.)

§ 1425e. Additional powers.

Powers granted herein shall be in addition to, and not in derogation of, any powers granted by other law to, or for the benefit or assistance of, any public corporate authority. (Pub. L. 88–171, § 5, Nov. 4, 1963, 77 Stat. 304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425d of this title.

§ 1426. Repealed. Aug. 2, 1954, ch. 649, title II, § 205, 68 Stat. 622.

Section, acts Apr. 23, 1949, ch. 89, § 2 (b), 63 Stat. 58; June 30, 1953, ch. 170, § 25 (b), 67 Stat. 128, related to purchase of insured mortgage loans by the Federal National Mortgage Association, with respect to property in Guam.

GUAM DEVELOPMENT FUND

§ 1428. Authorization of appropriations.

For the purpose of promoting economic development in the territory of Guam, there is hereby authorized to be appropriated to the Secretary of the Interior to be paid to the government of Guam for the purposes of sections 1428 to 1428e of this title the sum of $5,000,000. (Pub. L. 90–601, § 2, Oct. 17, 1968, 82 Stat. 1172.)

SHORT TITLE

Section 1 of Pub. L. 90–601 provided that: "This Act [enacting sections 1428—1428e of this title] may be cited as the 'Guam Development Fund Act of 1968'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428a, 1428b, 1428d, 1428e, of this title.

§ 1428a. Submission of plan for use of funds; contents of plan; term, interest rate, and premium charge of loan.

Prior to receiving any funds pursuant to sections 1428 to 1428e of this title the government of Guam shall submit to the Secretary of the Interior a plan for the use of such funds which meets the requirements of this section and is approved by the Secretary. The plan shall designate an agency or agencies of such government as the agency or agencies for the administration of the plan and shall set forth the policies and procedures to be followed in furthering the economic development of Guam through a program which shall include and make provision for loans and loan guarantees to promote the development of private enterprise and private industry in Guam through a revolving fund for such purposes: *Provided*, That the term of any loan made pursuant to the plan shall not exceed twenty-five years; that such loans shall bear interest (exclusive of premium charges for insurance, and service charges, if any) at such rate per annum as is determined to be reasonable and as approved by the Secretary, but in no event less than a rate equal to

the average yield on outstanding marketable obligations of the United States as of the last day of the month preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum, which rate shall be determined by the Secretary of the Treasury upon the request of the authorized agency or agencies of the government of Guam; and that premium charges for the insurance and guarantee of loans shall be commensurate, in the judgment of the agency or agencies administering the fund, with expenses and risks covered. (Pub. L. 90–601, § 3, Oct. 17, 1968, 82 Stat. 1172.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1428b–1428e of this title.

§ 1428b. Prerequisite for loan or loan guarantee; maximum participation in available funds; reserves for loan guarantees.

No loan or loan guarantee shall be made under sections 1428 to 1428e of this title to any applicant who does not satisfy the agency or agencies administering the plan that financing is otherwise unavailable on reasonable terms and conditions. The maximum participation in the funds made available under section 1428 of this title shall be limited (a) so that not more than 25 per centum of the funds actually appropriated by the Congress may be devoted to any single project (b) to 90 per centum of loan guarantee, and (c) with respect to all loans, to that decree of participation prudent under the circumstances of individual loans but directly related to the minimum essential participation necessary to accomplish the purposes of sections 1428 to 1428e of this title: *Provided,* That, with respect to loan guarantees, the reserves maintained by the agency or agencies for the guarantees shall not be less than 25 per centum of the guarantee. (Pub. L. 90–601, § 4, Oct. 17, 1968, 82 Stat. 1172.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1428a, 1428d, 1428e of this title.

§ 1428c. Accounting procedures.

The plan provided for in section 1428a of this title shall set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement, repayment, and accounting for such funds. (Pub. L. 90–601, § 5, Oct. 17, 1968, 82 Stat. 1172.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1428a, 1428b, 1428d, 1428e of this title.

§ 1428d. Annual report by Governor.

The Governor of Guam shall make an annual report to the Secretary of the Interior on the administration of sections 1428 to 1428e of this title who shall then forward copies of such reports to the Speaker of the House of Representatives and the President of the Senate. (Pub. L. 90–601, § 6, Oct. 17, 1968, 82 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1428a, 1428b, 1428e of this title.

§1428e. Audit of books and records of agency, or agencies, administering loan funds.

The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to the books, documents, papers, and records of the agency, or agencies, of the government of Guam administering the plan that are pertinent to the funds received under sections 1428 to 1428e of this title. (Pub. L. 90–601, § 7, Oct. 17, 1968, 82 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428–1428b, 1428d of this title.

Chapter 9.—SAMOA, TUTUILA, MANUA, SWAINS ISLAND, AND TRUST TERRITORY OF THE PACIFIC ISLANDS

§§ 1431 to 1440. Transferred.

Section 1431, act Mar. 4, 1925, ch. 563, 43 Stat. 1357, related to sovereignty of United States extended over Swains Island, and is now set out as section 1662 of this title.

Section 1431a, acts Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4, related to islands of Tutuila, Manua, and Eastern Samoa, and is now set out as section 1661 of this title.

Section 1432, act June 28, 1906, ch. 3585, 34 Stat. 552, related to acknowledgment of deeds in the islands of Somoa, and is now set out as section 1663 of this title.

Section 1433, act June 14, 1934, ch. 523, 48 Stat. 963, related to inapplicability of coastwise shipping laws to Samoa, and is now set out as section 1664 of this title.

Section 1434, act July 9, 1952, ch. 597, title I, § 101, 66 Stat. 457, related to purchases by governments of Samoa, and is now set out as section 1665 of this title.

Section 1435, act July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458, related to purchases by governments of Pacific Trust Territory, and is now set out as section 1682 of this title. Act June 31, 1954, ch. 423, § 1, set out as a note under this section, and which related to continuance of civil government for the Trust Territory, is now set out as section 1681 of this title. Section 2 of that act, which provided for annual appropriation authorization, is set out as a note under section 1681 of this title.

Section 1436, act July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458, related to auditing transactions of Pacific Trust Territory, and is now set out as section 1683 of this title.

Section 1437, act July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458, related to expenditure of funds for administration of Pacific Trust Territory, and is now set out as section 1684 of this title.

Section 1438, act July 9, 1952, ch. 597, title I, § 108, 66 Stat. 460, related to transfer of property or money for administration of Pacific Trust Territory, and is now set out as section 1685 of this title.

Section 1439, act July 31, 1953, ch. 298, title I, § 1, 67 Stat. 274, related to approval by Congress of new activity in Pacific Trust Territory, and is now set out as section 1686 of this title.

Section 1440, Pub. L. 85–77, title I, § 1, July 1, 1957, 71 Stat. 266, related to expenditure of appropriations for Pacific Trust Territory for aircraft and surface vessels, and is now set out as section 1687 of this title.

Chapter 10.—TERRITORIAL PROVISIONS OF A GENERAL NATURE

Sec.
1451. Rights of Indians not impaired; boundaries.
1452. Regulation of Indians.
1453. Executive power.
1453a. Same; establish temporarily judicial districts and assign judges.
1454. Secretary.
1455. Same; duties.
1456. Repealed.

Sec.
1457. Extra compensation to officers.
1458. Other officers.
1459. Vacancies, how filled.
1460. Qualification of voters; holding office.
1460a. Members of legislature; restrictions.
1461. Same; bigamist.
1462. Subordinate officers of legislature.
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1463a. Supreme Court; justices; appointment and tenure of office.
1464. Same; exercise under codes.
1465. Oath of office.
1466. Commencement of salaries of officers.
1467. Fees.
1468. Salary not paid when officer absent.
1469. Accounts and disbursements of Territories.
1470. Annual expense appropriation not to be exceeded.
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1471. Local or special laws.
1472. Indebtedness of municipal corporations.
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1474. Creating new counties and locating county seats.
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1480b. Same; application to Alaska.
1481. Convicts; care and custody.
1482. Penitentiaries.
1483. Same; rules and regulations.
1484. Same; expenses.
1485. Same; imprisonment.
1486. Repealed.
1487. Extraordinary sessions.
1488. Vacancy in office of justice of the peace.
1489. Loss of title of United States to lands in territories through adverse possession or prescription forbidden.
1490. Repealed.

CODIFICATION

The source of most sections of this chapter is the Revised Statutes enacted in 1873 and other early statutes. The Revised Statutes can no longer apply to contiguous territory because no such territory now exists. As to noncontiguous territory, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands each has its own organic act, providing a complete system of government, legislative, executive, and judicial. The Canal Zone has its own code of laws. The independence of the Philippine Islands was recognized by 1946 Proc. No. 2695, July 4, 1946, set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse. The other possessions, such as Samoa, are covered by special provisions set out elsewhere in this title.

§ 1451. Rights of Indians not impaired; boundaries.

Nothing in this chapter shall be construed to impair the rights of person or property pertaining to the Indians in any Territory, so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any Territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of any Territory now or hereafter organized until such tribe signifies its assent to the President to be embraced within a particular Territory. (R. S. § 1839.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 2, 9 Stat. 447. Utah, act Sept. 9, 1850, ch. 51, § 1, 9 Stat. 453. Wash., act Mar. 2, 1853, ch. 90, § 1, 10 Stat. 172. Colo., act Feb. 28, 1861, ch. 59, § 1, 12 Stat. 172. Dak., act Mar. 2, 1861, ch. 86, § 1, 12 Stat. 239. Ariz., act Feb. 24, 1863, ch. 56, § 1, 12 Stat. 664. Idaho, act Mar. 3, 1863, ch. 117, § 1, 12 Stat. 808. Mont., act May 26, 1864, ch. 95, § 1, 13 Stat. 85. Wyo., act July 25, 1868, ch. 235, § 1, 15 Stat. 178.

REFERENCES IN TEXT

In the original "this chapter" referred to chapter one of Title XXIII of the Revised Statutes. Said chapter (R. S. §§ 1839—1895) is classified to sections 1451—1455, 1457—1460a, 1463, 1463a, 1465, 1467—1470, 1480, and 1482—1485 of this title.

§ 1452. Regulation of Indians.

Nor shall anything in this chapter be construed to affect the authority of the United States to make any regulations respecting the Indians of any Territory, their lands, property, or rights, by treaty, law, or otherwise, in the same manner as might be made if no temporary government existed, or is hereafter established, in any such Territory. (R. S. § 1840.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 2, 9 Stat. 447. Utah, act Sept. 9, 1850, ch. 51, § 1, 9 Stat. 453. Wash., act Mar. 2, 1853, ch. 90, § 1, 10 Stat. 172. Colo., act Feb. 28, 1861, ch. 59, § 1, 12 Stat. 172. Dak., act Mar. 2, 1861, ch. 86, § 1, 12 Stat. 239. Ariz., act Feb. 24, 1863, ch. 56, § 1, 12 Stat. 664. Idaho, act Mar. 3, 1863, ch. 117, § 1, 12 Stat. 808. Mont. act May 26, 1864, ch. 95, § 1, 13 Stat. 85. Wyo., act July 25 1868, ch. 235, § 1, 15 Stat. 178.

REFERENCES IN TEXT

In the original "this chapter" referred to chapter one of Title XXIII of the Revised Statutes. For distribution of that chapter in this Code see note under section 1451 of this title.

§ 1453. Executive power.

The executive power of each Territory shall be vested in a governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President. He shall reside in the Territory for which he is appointed, and shall be commander in chief of the militia thereof. He may grant pardons and reprieves, and remit fines and forfeitures, for offenses against the laws of the Territory for which he is appointed, and respites for offenses against the laws of the United States till the decision of the President can be made known thereon. He shall commission all officers who are appointed under the laws of such Territory, and shall take care that the laws thereof be faithfully executed. (R. S. § 1841.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 3, 9 Stat. 447. Utah, act Sept. 9, 1850, ch. 51, § 2, 9 Stat. 453. Wash., act Mar. 2, 1853, ch. 90, § 2, 10 Stat. 173. Colo., act Feb. 28, 1861, ch. 59, § 2, 12 Stat. 172. Dak., act Mar. 2, 1861, ch. 86, § 2, 12 Stat. 239. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 2, 12 Stat. 809. Mont., act May 26, 1864, ch. 95, § 2, 13 Stat. 86. Wyo., act July 25, 1868, ch. 235, § 2, 15 Stat. 178; act July 19, 1876, ch. 212, 19 Stat. 91.

§ 1453a. Same; establish temporarily judicial districts and assign judges.

Temporarily, and until otherwise provided by law, the governor of every Territory which may be hereafter established shall define, by proclamation, the judicial districts of such Territory, and assign the

judges appointed for such Territory to the several districts as well as fix the times and places for holding courts in the respective counties or subdivisions of each judicial district. (R. S. § 1873.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 16, 9 Stat. 452. Utah, act Sept. 9, 1850, ch. 51, § 16, 9 Stat. 458. Wash., act Mar. 2, 1853, ch. 90, § 18, 10 Stat. 179. Colo., act Feb. 28, 1861, ch. 59, § 15, 12 Stat. 176. Dak., act Mar. 2, 1861, ch. 86, § 15, 12 Stat. 243. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 15, 12 Stat. 814. Mont., act May 26, 1864, ch. 95, § 15, 13 Stat. 91. Wyo., act July 25, 1868, ch. 235, § 15, 15 Stat. 183.

§ 1454. Secretary.

There shall be appointed a secretary for each Territory, who shall reside within the Territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President. In case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall execute all the powers and perform all the duties of governor during such vacancy or absence or until another governor is appointed and qualified. (R. S. § 1843.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 4, 9 Stat. 448. Utah, act Sept. 9, 1850, ch. 51, § 3, 9 Stat. 452. Wash., act Mar. 2, 1853, ch. 90, § 3, 10 Stat. 173. Colo., act Feb. 28, 1861, ch. 59, § 3, 12 Stat. 172. Dak., act Mar. 2, 1861, ch. 86, § 3, 12 Stat. 240. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 3, 12 Stat. 809. Mont., act May 26, 1864, ch. 95, § 3, 13 Stat. 86. Wyo., act July 25, 1868, ch. 235, § 3, 15 Stat. 179.

§ 1455. Same; duties.

The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the President, and two copies of the laws, within like time, to the President of the Senate, and to the Speaker of the House of Representatives, for the use of Congress. He shall transmit one copy of the executive proceedings and official correspondence semiannually, on the 1st day of January and July in each year, to the President. He shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the Territory, within ten days after the passage of each act. (R. S. § 1844.)

DERIVATION

Act Aug. 29, 1842, ch. 259, § 2, 5 Stat. 541. N. M., act Sept. 9, 1850, ch. 49, § 4, 9 Stat. 448. Utah, act Sept. 9, 1850, ch. 51, § 3, 9 Stat. 452. Wash., act Mar. 2, 1853, ch. 90, § 3, 10 Stat. 173. Colo., act Feb. 28, 1861, ch. 59, § 3, 12 Stat. 172. Dak., act Mar. 2, 1861, ch. 86, § 3, 12 Stat. 240. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 3, 12 Stat. 809. Mont., act May 26, 1864, ch. 95, § 3, 13 Stat. 86. Wyo., act July 25, 1868, ch. 235, § 3, 15 Stat. 179; act June 20, 1874, ch. 328, 18 Stat. 99.

COPIES TO SURVEYOR-GENERAL

The Secretary of each Territory was required to furnish to the Surveyor-General a copy of every act of the legislature incorporating any city or town, by a provision of act Mar. 3, 1877, ch. 113, § 3, 19 Stat. 392, which provision was superseded by the prohibition of the passage by the legislatures of the Territories of special acts incorporating cities or towns, by section 1471 of this title.

§ 1456. Repealed. Sept. 12, 1950, ch. 946, title III, § 301 (106), 64 Stat. 844.

Section, acts June 20, 1874, ch. 328, § 1, 18 Stat. 99; June 10, 1921, ch. 18, § 215, 42 Stat. 23, made it the duty of the secretary of each Territory to furnish annual estimates for expenses to the Secretary of the Treasury.

§ 1457. Extra compensation to officers.

No law of any Territorial legislature shall be made or enforced by which the governor or secretary of a Territory, or the members or officers of any Territorial legislature are paid any compensation other than that provided by the laws of the United States. (R. S. § 1855.)

DERIVATION

Act Jan. 23, 1873, ch. 48, § 4, 17 Stat. 416.

§ 1458. Other officers.

All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each Territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each Territory, shall appoint; but, in the first instance, where a new Territory is hereafter created by Congress, the governor alone may appoint all the officers referred to in this section and assign them to their respective townships, districts, and counties; and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly. (R. S. § 1857.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 8, 9 Stat. 449; Utah, act Sept. 9, 1850, ch. 51, § 7, 9 Stat. 455; Wash., act Mar. 2, 1853, ch. 90, § 7, 10 Stat. 175; Colo., act Feb. 28, 1861, ch. 59, § 7, 12 Stat. 174; Dak., act Mar. 2, 1861, ch. 86, § 7, 12 Stat 241; Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665; Idaho, act Mar. 3, 1863, ch. 117, § 7, 12 Stat. 811; Mont., act May 26, 1864, ch. 95, § 7, 13 Stat. 88; Wyo., act July 25, 1868, ch. 235, § 7, 15 Stat. 180.

SECTION AS A GENERAL STATUTE

The Attorney General of Alaska, commenting on this section under date of June 9, 1927, doubts whether R. S. § 1857, constituting the section is a general statute. He says:

"This section is an exact copy of section 1857 R. S. But in the Revised Statutes it erroneously appears as a general statute, whereas in fact it was only a special statute in this that it was made a part of the Organic Act of each Territory separately and successively organized. While thus the provisions of this section were a part of the law governing each Territory, it could not be said to be such a general law as would govern the future Territories unless embodied in the Organic Act of the Territories thereafter created. It was not embodied in the Organic Act of Alaska and has been treated as not applicable to this Territory for the reasons above stated and it would not seem to me that at present it applies to this or any other Territory.

"Not only on account of the fact that this statute is a special enactment for the Territories severally, but on account of the fact that it refers to a legislative 'Council' does it seem to be inapplicable to the present Territories. The legislative assembly of the present Territories is divided into a 'Senate' and 'House of Representatives.' The 'Council' of the earlier Territories cannot be said to be tantamount to or identical with a 'Senate' of the modern Territories. The present Senates are continuous bodies one-half of the membership of which is elected every two years for a term of four years, while the members of the Council of the old Territories were elected every two years for a term of two years the same as were the members of the House of Representatives."

§ 1459. Vacancies, how filled.

In any of the Territories, whenever a vacancy happens from resignation or death, during the recess of the legislative council, in any office which, under the organic act of any Territory, is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council. (R. S. § 1858.)

DERIVATION

Act June 8, 1872, ch. 344, 17 Stat. 335.

§ 1460. Qualification of voters; holding office.

At all elections subsequent to the first election, in any Territory hereafter organized by Congress, as well as at all elections in Territories already organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each Territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such and have taken an oath to support the Constitution and Government of the United States.

Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude.

Third. No officer, soldier, seaman, mariner, or other person in the Army or Navy, or attached to troops in the service of the United States, shall be allowed to vote in any Territory, by reason of being on service therein, unless such Territory is, and has been for the period of six months, his permanent domicile.

Fourth. No person belonging to the Army, Navy, Marine Corps, or Coast Guard shall be elected to or hold any civil office or appointment in any Territory, except officers and enlisted men of the Army, the Navy, the Marine Corps, or the Coast Guard on the retired list, and except officers of the Coast Guard who heretofore have been, or hereafter may be, appointed as United States Commissioners or United States Deputy Marshals in and for the Territory of Alaska. (R. S. § 1860; Mar. 3, 1883, ch. 134, 22 Stat. 567; July 31, 1939, ch. 399, 53 Stat. 1143.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 9, 9 Stat. 449; Utah, act Sept. 9, 1850, ch. 51, § 8, 9 Stat. 455; Wash., act Mar. 2, 1853, ch. 90, § 8, 10 Stat. 175; Colo., act Feb. 28, 1861, ch. 59, § 8, 12 Stat. 174; Dak., act Mar. 2, 1861, ch. 86, § 8, 12 Stat. 241; Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665; Idaho, act Mar. 3, 1863, ch. 117, § 8, 12 Stat. 811; Mont., act May 26, 1864, ch. 95, § 8, 13 Stat. 88; Wyo., act July 25, 1868, ch. 235, § 8, 15 Stat. 180.

AMENDMENTS

1939—Act July 31, 1939, added the references to the Marine Corps and the Coast Guard and the second "except" clause in cl. fourth.

1883—Act Mar. 3, 1883, added the exception as to officers of the Army on the retired list in cl. fourth.

CHANGE OF NAME

References to United States commissioners to be deemed references to United States magistrates, see Pub. L. 90–578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States manistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees, the Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

§ 1460a. Members of legislature; restrictions.

No member of the legislative assembly of any Territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly in any Territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of any Territory. (R. S. § 1854; Feb. 22, 1889, ch. 180, 25 Stat. 676; Nov. 11, 1889, No. 8, 26 Stat. 1552, 1553.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 9, 9 Stat. 449; Utah, act Sept. 9, 1850, ch. 51, § 8, 9 Stat. 455; Wash., act Mar. 2, 1853, ch. 90, § 8, 10 Stat. 175; Colo., act Feb. 28, 1861, ch. 59, § 8, 12 Stat. 174; Dak., act Mar. 2, 1861, ch. 86, § 8, 12 Stat. 241; Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665; Idaho, act Mar. 3, 1863, ch. 117, § 8, 12 Stat. 811; Mont., act May 26, 1864, ch. 95, § 8, 13 Stat. 88; Wyo., act July 25, 1868, ch. 235, § 8, 15 Stat. 180.

CODIFICATION

As originally enacted this section contained an additional sentence which provided that the exception of postmasters should not apply in the Territory of Washington. The sentence was omitted in view of act Feb. 22, 1889, which provided for creation of the State of Washington, and of 1889 Proc. No. 8, which provided for the admission of that State into the Union.

§ 1461. Same; bigamist.

No polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States has exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory, or other place, or be eligible

for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States. (Mar. 22, 1882, ch. 47, § 8, 22 Stat. 31.)

§ 1462. Subordinate officers of legislature.

The subordinate officers of each branch of said Territorial legislatures shall consist of one chief clerk, who shall receive a compensation of $6 per day; one enrolling and engrossing clerk at $5 per day; sergeant at arms and doorkeeper, at $5 per day; one messenger and watchman, at $4 per day each; and one chaplain, at $1.50 per day. Said sums shall be paid only during the sessions of said legislatures; and no greater number of officers or charges per diem shall be paid or allowed by the United States to any Territory. (June 19, 1878, ch. 329, § 1, 20 Stat. 193.)

CODIFICATION

Section, as originally enacted, contained an additional sentence, reciting the repeal of R. S. § 1861, and the substitution of this section in lieu thereof, which has been omitted as executed.

§ 1463. Chancery and common-law jurisdiction.

The supreme court and the district courts, respectively, of every Territory, shall possess chancery as well as common-law jurisdiction. (R. S. § 1868.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 10, 9 Stat. 449. Utah, act Sept. 9, 1850, ch. 51, § 9, 9 Stat. 455. Wash., act Mar. 2, 1853, ch. 90, § 9, 10 Stat. 175. Colo., act Feb. 28, 1861, ch. 59, § 9, 12 Stat. 174. Dak., act Mar. 2. 1861, ch. 86, § 9, 12 Stat. 241. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 9, 12 Stat. 811. Mont., act May 26, 1864, ch. 95, § 9, 13 Stat. 88. Wyo., act July 25, 1860, ch. 235, § 9, 15 Stat. 180; act Apr. 7, 1874, ch. 80, 18 Stat. 27.

§ 1463a. Supreme Court; justices; appointment and tenure of office.

The supreme court of every Territory shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and they shall hold their offices for four years, and until their successors are appointed and qualified. They shall hold a term annually at the seat of government of the Territory for which they are respectively appointed. (R. S. § 1864.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 10, 9 Stat. 449. Utah, act Sept. 9, 1850, ch. 51, § 9, 9 Stat. 455. Wash., act Mar. 2, 1853, ch. 90, § 9, 10 Stat. 175. Colo., act Feb. 28, 1861, ch. 59, § 9, 12 Stat. 174. Dak., act Mar. 2, 1861, ch. 86, § 9, 12 Stat. 241. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 9, 12 Stat. 811. Mont., act May 26, 1864, ch. 95, § 9, 13 Stat. 88. Wyo., act July 25, 1868, ch. 235, § 9, 15 Stat. 180.

§ 1464. Same; exercise under codes.

It shall not be necessary in any of the courts of the several Territories of the United States to exercise separately the common-law and chancery jurisdictions vested in said courts; and the several codes and rules of practice adopted in said Territories respectively, insofar as they authorize a mingling of said jurisdictions or a uniform course of proceeding in all cases whether legal or equitable, are confirmed; and all proceedings heretofore had or taken in said courts in conformity with said respective codes and rules of practice, so far as relates to the form and mode of proceeding, are hereby validated and confirmed: *Provided*, That no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law. (Apr. 7, 1874, ch. 80, § 1, 18 Stat. 27.)

§ 1465. Oath of office.

The governor and secretary for each Territory shall, before they act as such, respectively take an oath before the district judge, or some justice of the peace in the limits of the Territory for which they are appointed, duly authorized to administer oaths by the laws in force therein, or before the Chief Justice or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States and faithfully to discnarge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers appointed for any Territory, before they act as such, shall take a like oath before the governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new Territory, as well as in all organized Territories, the like oath shall be taken, certified, and recorded in such manner and form as may be prescribed by the law of each Territory. (R. S. § 1878.)

DERIVATION

N. M., act Sept. 9, 1850, ch. 49, § 12, 9 Stat. 450. Utah, act Sept. 9, 1850, ch. 51, § 11, 9 Stat. 456. Wash., act Mar. 2, 1853, ch. 90, § 11, 10 Stat. 176. Colo., act Feb. 28, 1861, ch. 59, § 11, 12 Stat. 175. Dak., act Mar. 2, 1861, ch. 86, § 11, 12 Stat. 242. Ariz., act Feb. 24, 1863, ch. 56, § 2, 12 Stat. 665. Idaho, act Mar. 3, 1863, ch. 117, § 11, 12 Stat. 812. Mont., act May 26, 1864, ch. 95, § 11, 13 Stat. 90. Wyo., act July 25, 1868, ch. 235, § 11, 15 Stat. 181; act May 1, 1876, ch. 88, 19 Stat. 43.

CROSS REFERENCES

Oaths to be administered by notaries public appointed in any Territory, by clerks and prothonotaries of courts of record of any Territory and their deputies, and by all magistrates authorized by laws of that Territory, see section 2903 of Title 5, Government Organization and Employees.

§ 1466. Commencement of salaries of officers.

Payment of salaries of all officers of the Territories of the United States appointed by the President shall commence only when the person appointed to any such office shall take the proper oath, and shall enter upon the duties of such office in such Territory; and said oath shall hereafter be administered in the Territory in which such office is held. (May 1, 1876, ch. 88, 19 Stat. 43.)

CODIFICATION

This was a provision of the deficiency appropriation act for the fiscal year 1876.

§ 1467. Fees.

The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses,

commissioners, and printers, in the Territories of the United States shall be the same for similar services by such persons as prescribed in chapter sixteen, Title "The Judiciary," and no other compensations shall be taxed or allowed. (R. S. § 1883.)

DERIVATION

Act June 23, 1874, ch. 469, § 7, 18 Stat. 256.

REFERENCES IN TEXT

The reference to chapter sixteen, Title "The Judiciary", means chapter sixteen of Title XIII of the Revised Statutes. That chapter was composed of sections 832—857 of those statutes. Of these, sections 823, 824, 828, 829, 832—834, 838, 846, 848—855 and 857 were classified to former Title 28 of the Code. In the revision of that Title 28, they were all repealed, except sections 853 and 854. The provisions of those repealed sections, with the exception of those contained in sections 832, 851 and 857, were incorporated in sections 507, 509, 550, 551, 553, 751, 1821, 1823, 1825, 1871, 1914, 1921, 1923 and 1929 of present Title 28, Judiciary and Judicial Procedure. Sections 853 and 854 of the Revised Statutes are now covered by section 3703 of Title 44, Public Printing and Documents.

§ 1468. Salary not paid when officer absent.

When any officer of a Territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the President, who shall officially certify his opinion of such cause to the Comptroller General, to be filed in his office. (R. S. § 1884; June 10, 1921, ch. 18, § 304, 42 Stat. 24.)

DERIVATION

Act June 15, 1852, ch. 49, § 1, 10 Stat. 10.

AMENDMENTS

1921—Act June 10, 1921, substituted "Comptroller General" for "proper accounting officer of the Treasury." That Act, transferring to the General Accounting Office, all powers and duties of Comptroller of Treasury and other officers is set out as section 44 of Title 31, Money and Finance.

§ 1469. Accounts and disbursements of Territories.

All accounts for disbursements, in the Territories of the United States, of money appropriated by Congress for the support of government therein, shall be settled and adjusted at the General Accounting Office; and no act, resolution, or order of the legislature of any Territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the Comptroller General. No payment shall be made or allowed, unless the Secretary of the Treasury has estimated therefor and the object been approved by Congress. No session of the legislature of a Territory shall be held until the appropriation for its expenses has been made. (R. S. § 1886; June 10, 1921, ch. 18, § 304, 42 Stat. 24.)

DERIVATION

Act Aug. 29, 1842, ch. 259, § 2, 5 Stat. 541.

AMENDMENTS

1921—Act June 10, 1921, substituted "General Accounting Office" for "Treasury Department" and "Comptroller General" for "accounting officers of the Treasury."

§ 1470. Annual expense appropriation not to be exceeded.

No legislative assembly of a Territory shall, in any instance or under any pretext, exceed the amount appropriated by Congress for its annual expenses (R. S. § 1888.)

DERIVATION

Act May 18, 1842, ch. 29, No. 117, 5 Stat. 480.

§ 1470a. Availability of appropriations for aircraft and surface vessels.

Appropriations available for the administration of Territories may be expended for the purchase, charter, maintenance, and operation of aircraft and surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 673.)

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91-98, title I, § 100, 83 Stat. 151.
1968—July 26, 1968, Pub. L. 90-425, title I, § 100, 82 Stat. 430.
1967—June 24, 1967, Pub. L. 90-28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89-435, title I § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89-52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88-356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 339.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 250.
1960—May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85-439, title I, § 100, 72 Stat. 163.
1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 265.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 264.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 1, 68 Stat. 372.

§ 1471. Local or special laws.

The legislatures of the Territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say:

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town plats, streets, alleys, and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village.

For the punishment of crimes or misdemeanors.

For the assessment and collection of taxes for Territorial, county, township, or road purposes.

Summoning and impaneling grand or petit jurors.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof. (July 30, 1886, ch. 818, § 1, 24 Stat. 170.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1473, 1474, 1476, 1477 of this title.

§ 1472. Indebtedness of municipal corporations.

No political or municipal corporation, county, or other subdivision in any of the Territories of the United States shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding 4 per centum on the value of the taxable property within such corporation, county, or subdivision, to be ascertained by the last assessment for Territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void, but nothing in sections 1471 to 1473, 1475, 1478, or 1479 of this title contained shall be so construed as to affect the validity of any act of any Territorial legislature enacted prior to July 30, 1886, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds contracted for in pursuance of express provisions of law prior to such date; nor to prevent any Territorial legislature from legalizing the acts of any county, municipal corporation, or subdivision of any Territory as to any bonds theretofore issued or contracted to be issued.

The prohibitions and limitations contained in this section shall not be construed to apply to irrigation districts organized in accordance with Territorial laws. (July 30, 1886, ch. 818, § 4, 24 Stat. 171; Aug. 22, 1911, ch. 43, 37 Stat. 33.)

AMENDMENTS

1911—Act Aug. 22, 1911, added the provisions constituting the second paragraph of this section.

CROSS REFERENCES

Provisions of this section not to affect certain municipal corporations, see sections 1476 and 1477 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1473, 1474, 1476, 1477 of this title.

§ 1473. Authorizing debt; limitation of total indebtedness.

No law of any Territorial legislature shall authorize any debt to be contracted by or on behalf of such Territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the Territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable, or educational institutions for such Territory, if the final indebtedness of the Territory is not thereby made to exceed 1 per centum upon the assessed value of the taxable property in such Territory as shown by the last general assessment for taxation. And nothing in sections 1471 to 1473, 1475, 1478, or 1479 of this title shall be construed to prohibit the refunding of any existing indebtedness of such Territory or of any political or municipal corporation, county, or other subdivision therein. (July 30, 1886, ch. 818, § 3, 24 Stat. 171.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1474, 1476, 1477, 1479 of this title.

§ 1474. Creating new counties and locating county seats.

Nothing in sections 1471 to 1473, 1475, 1478, or 1479 of this title shall be construed to prohibit the creation by Territorial legislatures of new counties and the location of the county seats thereof. (July 19, 1888, ch. 679, § 2, 25 Stat. 336.)

§ 1475. Subscribing to stock of corporation.

No Territory of the United States now or hereafter to be organized, or any political or municipal corporation or subdivision of any such Territory, shall make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association. (July 30, 1886, ch. 818, § 2, 24 Stat. 171.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1473, 1474, 1476, 1477, 1479 of this title.

§ 1476. Bonds of municipal corporations for sanitary purposes.

The issuance of bonds by chartered municipal corporations having a bona fide population of not less than one thousand persons, as shown by the last school census taken before any election to be held under the provisions of this section, in any Territory of the United States, for sanitary and health purposes, the construction of sewers, waterworks, and the improvement of streets is permitted, authorized, and legalized. The limitations of sections 1471 to 1473, 1475, 1478, and 1479 of this title shall not apply to such municipal corporations: *Provided,* That before any bonds shall be issued the mayor and common council of said chartered municipal corporations shall cause an election to be held in such city or town, and the mayor and common council of such municipal corporation shall cause to be published, in a newspaper of general circulation published in such city or town, a notice of the time

and place or places of holding such election. Such notice shall be given at least thirty days before such election. On the question of the issuance of said bonds no person shall be qualified to vote except he be in all respects a qualified elector and owner of real or personal property subject to taxation within the municipality. In case two-thirds of the qualified voters, as above described, shall vote affirmatively for the issuance of said bonds, then the mayor and common council shall issue the same, and not otherwise. Said bonds shall contain all necessary provisions as to form, and such municipality shall provide a proper sinking fund for the redemption of said bonds. Said bonds shall not bear a rate of interest exceeding 6 per centum per annum, and the interest shall be paid semiannually, and none of said bonds shall be sold at less than their par value. (Mar. 4, 1898, ch. 35, 30 Stat. 252.)

§ 1477. Same; erection of city buildings and purchase of sites.

The issuance of bonds by chartered municipal corporations having a bona fide population of not less than ten thousand persons, in any Territory of the United States, for erecting a city building and purchasing the ground for the same is permitted, authorized, and legalized. The limitations of sections 1471 to 1473, 1475, 1478, and 1479 of this title shall not apply to such municipal corporations: *Provided,* That before any bonds shall be issued the mayor and common council of such municipal corporation shall cause an election to be held in such city or town, and the mayor and common council of such municipal corporation shall cause to be published in a newspaper of general circulation published in said city or town a notice of the time and place or places of holding such election. Such notice shall be given not more than sixty nor less than thirty days before such election. On the question of the issuance of said bonds no person shall be qualified to vote except he be in all respects a qualified elector and owner of real or personal property subject to taxation within the municipality. In case two-thirds of the qualified voters, as above described, shall vote affirmatively for the issuance of said bonds, then the mayor and common council shall issue the same, and not otherwise. Said bonds shall contain all necessary provisions as to form, and such municipality shall provide a proper sinking fund for the redemption of said bonds. Said bonds shall not bear a rate of interest exceeding 5 per centum, and the interest shall be paid semiannually, and none of said bonds shall be sold at less than their par value: *Provided further,* That no city under this section shall issue bonds in excess of $30,000. (June 6, 1900, ch. 820, 31 Stat. 683.)

§ 1478. Power of Congress to annul laws of legislatures.

Nothing in sections 1471 to 1473, 1475, 1478, and 1479 of this title contained shall be construed to abridge the power of Congress to annul any law passed by a Territorial legislature, or to modify any existing law of Congress requiring in any case that the laws of any Territory shall be submitted to Congress. (July 30, 1886, ch. 818, § 6, 24 Stat. 171.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1473, 1474, 1476, 1477, 1479 of this title.

§ 1479. Subsequent acts of legislatures in conflict with certain sections void.

Except as otherwise provided by law all acts and parts of acts passed by any Territorial legislature subsequent to July 30, 1886, in conflict with the provisions of this section and sections 1473, 1475, and 1478 of this title shall be null and void. (July 30, 1886, ch. 818, § 7, 24 Stat. 171.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1473, 1474, 1476, 1477 of this title.

§ 1480. Right of religious corporations to hold real estate.

No corporation or association for religious or charitable purposes shall acquire or hold real estate in any Territory, during the existence of the Territorial government, of a greater value than $50,000; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section. (R. S. § 1890.)

DERIVATION

Act July 1, 1862, ch. 126, § 3, 12 Stat. 501.

CROSS REFERENCES

Religious corporations to hold only such real estate as is necessary for use of the congregations, see section 1480a of this title.

§ 1480a. Same; real estate necessary for use of congregations.

All religious societies, sects, and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a Territory, only on the nomination of the authorities of such society, sect, or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect, or congregation. (Mar. 3, 1887, ch. 397, § 26, 24 Stat. 641.)

§ 1480b. Same; application to Alaska.

CODIFICATION

Section, act Sept. 22, 1950, ch. 986, 64 Stat. 905, provided that sections 1480 and 1480a of this title shall not apply to the Territory of Alaska after September 22, 1950, and is omitted since Alaska was admitted into the Union as a State on January 3, 1959.

§ 1481. Convicts; care and custody.

The legislative assemblies of the several Territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such Territory as they shall deem proper, and for that purpose may authorize and contract for the care and custody of such convicts in any other Territory or State, and provide that such person or persons may be sentenced to confinement accordingly in such other Territory or State, and all existing legislative enactments of any of the Territories for that purpose are legalized: *Provided,* That the expense of keeping

such prisoners shall be borne by the respective Territories, and no part thereof shall be borne by the United States. (June 16, 1880, ch. 235, 21 Stat. 277.)

§ 1482. Penitentiaries.

Any penitentiary which has been, or may hereafter be, erected by the United States in an organized Territory shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States for the Territory or District in which such penitentiary is situated. (R. S. § 1892.)

DERIVATION

Act Jan. 10, 1871, ch. 15, § 1, 16 Stat. 398.

CODIFICATION

A further clause of R. S. § 1892, excepting therefrom the penitentiaries in Montana, Idaho, Wyoming, and Colorado, was superseded by the admission of those Territories into the Union as states, and has therefore been omitted.

§ 1483. Same; rules and regulations.

The Attorney General of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and his deputies for their services under such regulations shall be fixed by the Attorney General. (R. S. § 1893.)

DERIVATION

Act Jan. 10, 1871, ch. 15, § 2, 16 Stat. 398.

§ 1484. Same; expenses.

The compensation as well as the expense incident to the subsistence and employment of offenders against the laws of the United States who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the funds for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation allowed by law to those officers. (R. S. § 1894.)

DERIVATION

Act Jan. 10, 1871, ch. 15, § 2, 16 Stat. 398.

§ 1485. Same; imprisonment.

Any person convicted by a court of competent jurisdiction in a Territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at the cost of such Territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offense against the laws of the United States. (R. S. § 1895.)

DERIVATION

Act Jan. 10, 1871, ch. 15, § 3, 16 Stat. 398.

CROSS REFERENCES

Employment of prisoners, see chapter 307 of Title 18, Crimes and Criminal Procedure.

§ 1486. Repealed. Pub. L. 87-826, § 3, Oct. 15, 1962, 76 Stat. 953.

Section, acts Apr. 29, 1902, ch. 637, 32 Stat. 172; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; May 17, 1932, ch. 190, 47 Stat. 158; 1946 Proc. No. 2695 eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1097; Apr. 7, 1948, ch. 177, 62 Stat. 161, provided that the law as to clearance and entry of vessels was applicable to trade between the United States and noncontiguous Territories, etc.

EFFECTIVE DATE OF REPEAL

Repeal of section effective 180 days after Oct. 15, 1962.

§ 1487. Extraordinary sessions.

No extraordinary session of the legislature of any Territory, wherever the same is now authorized by law, shall be called until the reasons for the same have been presented to the President of the United States, and his approval thereof has been duly given. (June 22, 1874, ch. 388, 18 Stat. 135.)

§ 1488. Vacancy in office of justice of the peace.

When from any cause there shall be a vacancy in the office of justice of the peace in any of the Territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such Territory: *Provided,* That such appointee, or person elected to fill such vacancy, shall hold office only until his successor shall be regularly elected and qualified as provided by law. (Apr. 16, 1880, ch. 56, 21 Stat. 74.)

§ 1489. Loss of title of United States to lands in territories through adverse possession or prescription forbidden.

No prescription or statute of limitations shall run, or continue to run, against the title of the United States to lands in any territory or possession or place or territory under the jurisdiction or control of the United States; and no title to any such lands of the United States or any right therein shall be acquired by adverse possession or prescription, or otherwise than by conveyance from the United States. (Mar. 27, 1934, ch. 99, 48 Stat. 507; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352.)

CODIFICATION

A former reference to the Philippine Islands was omitted as obsolete in view of the independence of the Philippines proclaimed by the President of the United States in 1946 Proc. No. 2695, set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and issued pursuant to section 1394.

§ 1490. Repealed. Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1428.

Section, R. S. § 1891, related to application of United States Constitution and laws to all the organized Territories and in every Territory subsequently organized. Insofar as the Territories of Alaska and Hawaii are concerned, it is covered by sections 23 and 495 of this title.

Act July 1, 1902, ch. 1369, § 1, 32 Stat. 691, which was also cited to the credit of this section, and which was not repealed by the act of Mar. 3, 1933, provided that this former section should not apply to the Philippine Islands.

Chapter 11.—ALIEN OWNERS OF LAND

Sec.
1501. Lands in Territories.
1502. Same; previously acquired lands; bona fide resident aliens; mining or incorporated village lands.
1503. Same; acquisition by inheritance, in collection of debts, etc.
1504. Same; conveyance by aliens before escheat proceedings.
1505. Same; proceedings for escheat of improperly held lands.

Sec.
1506. Same; condemnation and sale of lands in escheat proceedings.
1507. Same; public lands.
1508. Same; application to District of Columbia.
1509. Public lands in Hawaii; right to acquire in general.
1510. Same; conveyance or other transfer to alien.
1511. Same; preference right to purchase land to persons declaring intention to become citizens.
1512. Same; sale on agricultural land to persons declaring intention to become citizens.

§ 1501. Lands in Territories.

No alien or person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law shall acquire title to or own any land in any of the Territories of the United States except as hereinafter provided. The prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer. (Mar. 3, 1887, ch. 340, § 1. 24 Stat. 476; Mar. 2, 1897, ch. 363, 29 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1503, 1504, 1505, 1506, 1507, 1508 of this title.

§ 1502. Same; previously acquired lands; bona fide resident aliens; mining or incorporated village lands.

Sections 1501 to 1507 of this title shall not apply to land owned in any of the Territories of the United States by aliens, which was acquired on or before March 3, 1887, so long as it is held by the then owners, their heirs or legal representatives, nor to any alien who shall become a bona fide resident of the United States, and any alien who shall become a bona fide resident of the United States, or shall have declared his intention to become a citizen of the United States in the manner provided by law, shall have the right to acquire and hold lands in either of the Territories of the United States upon the same terms as citizens of the United States. If any such resident alien shall cease to be a bona fide resident of the United States then such alien shall have ten years from the time he ceases to be such bona fide resident in which to alienate such lands. Sections 1501 to 1507 of this title shall not be construed to prevent any persons not citizens of the United States from acquiring or holding lots or parcels of lands in any incorporated or platted city, town, or village, or in any mine or mining claim, in any of the Territories of the United States. (Mar. 3, 1887, ch. 340, § 2, 24 Stat. 477; Mar. 2, 1897, ch. 363, 29 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506, 1507, 1508 of this title.

§ 1503. Same; acquisition by inheritance, in collection of debts, etc.

Sections 1501 to 1507 of this title shall not prevent aliens from acquiring lands or any interests therein by inheritance or in the ordinary course of justice in the collection of debts, nor from acquiring liens on real estate or any interest therein, nor from lending money and securing the same upon real estate or any interest therein; nor from enforcing any such lien, nor from acquiring and holding title to such real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured. All lands so acquired shall be sold within ten years after title shall be perfected in him under said sale or the same shall escheat to the United States and be forfeited as provided in sections 1504 to 1507 of this title. (Mar. 3, 1887, ch. 340, § 3, 24 Stat. 477; Mar. 2, 1897, ch. 363, 29 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1501, 1504, 1505, 1506, 1507, 1508 of this title.

§ 1504. Same; conveyance by aliens before escheat proceedings.

Any alien who shall hold lands in any of the Territories of the United States in contravention of the provisions of sections 1501 to 1507 of this title may nevertheless convey his title thereto at any time before the institution of escheat proceedings as hereinafter provided. If any such conveyance shall be made by such alien, either to an alien or to a citizen of the United States, in trust and for the purpose and with the intention of evading the provisions of said sections, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the United States. (Mar. 3, 1887, ch. 340, § 4, 24 Stat. 477; Mar. 2, 1897, ch. 363, 29 Stat. 618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1503, 1505, 1506, 1507, 1508 of this title.

§ 1505. Same; proceedings for escheat of improperly held lands.

It shall be the duty of the Attorney General of the United States, when he shall be informed or have reason to believe that lands in any of the Territories of the United States are being held contrary to the provisions of sections 1501 to 1507 of this title, to institute or cause to be instituted suit in behalf of the United States in the district court of the Territory in the district where such land or a part thereof may be situated, praying for the escheat of the same on behalf of the United States to the United States. Before any such suit is instituted the Attorney General shall give or cause to be given ninety days' notice by registered letter of his intention to sue, or by personal notice directed to or delivered to the owner of said land, or the person who last rendered the same for taxation, or his agent, and to all other persons having an interest in such lands of which he may have actual or constructive notice. In the event personal notice cannot be obtained in some one of the modes above provided, then said notice shall be given by publication in some newspaper published in the county where the land is situate, and if no newspaper is published in said county then the said notice shall be published in some newspaper nearest said county. (Mar. 3, 1887, ch. 340, § 5, as added Mar. 2, 1897, ch. 363, 29 Stat. 619.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1503, 1504, 1506, 1507, 1508 of this title.

§ 1506. Same; condemnation and sale of lands in escheat proceedings.

If it shall be determined upon the trial of any such escheat proceedings that the lands are held contrary to the provisions of sections 1501 to 1507 of this title, the court trying said cause shall render judgment condemning such lands and shall order the same to be sold as under execution; and the proceeds of such sale, after deducting costs of such suit, shall be paid to the clerk of such court so rendering judgment, and said fund shall remain in the hands of such clerk for one year from the date of such payment, subject to the order of the alien owner of such lands, or his heirs or legal representatives; and if not claimed within the period of one year, such clerk shall pay the same into the treasury of the Territory in which the lands may be situated, for the benefit of the available school fund of said Territory. The defendant in any such escheat proceedings may, at any time before final judgment, suggest and show to the court that he has conformed with the law, either becoming a bona fide resident of the United States, or by declaring his intention of becoming a citizen of the United States, or by the doing or happening of any other act which, under the provisions of said sections, would entitle him to hold or own real estate, which being admitted or proved, such suit shall be dismissed on payment of costs and a reasonable attorney fee to be fixed by the court. (Mar. 3, 1887, ch. 340, § 6, as added Mar. 2, 1897, ch. 363, 29 Stat. 619.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1503, 1504, 1505, 1507, 1508 of this title.

§ 1507. Same; public lands.

Sections 1501 to 1507 of this title shall not in any manner be construed to authorize aliens to acquire title from the United States to any of the public lands of the United States or to in any manner affect or change the laws regulating the disposal of the public lands of the United States. (Mar. 3, 1887, ch. 340, § 7, as added Mar. 2, 1897, ch. 363, 29 Stat. 619, and amended Feb. 23, 1905, ch. 733, § 1, 33 Stat. 733.)

CODIFICATION

Act Feb. 23, 1905, set out as section 1508 of this title, made sections 1501—1507 of this title applicable to the District of Columbia, on the basis of which certain provisions of this section were omitted.

SECTION REFERRED TO IN OTHER SECTIONS

This secton is referred to in sections 1502, 1503, 1504, 1505, 1506, 1508 of this title.

§ 1508. Same; application to District of Columbia.

Aliens shall have the same rights and privileges concerning the acquisition, holding, owning, and disposition of real estate in the District of Columbia as are conferred upon aliens in respect of real estate in the Territories of the United States by sections 1501 to 1507 of this title. (Feb. 23, 1905, ch. 733, § 1, 33 Stat. 733.)

CODIFICATION

Section is also set out as section 45–1501 of the District of Columbia Code; 1961 Ed.

REPEALS

Section 2 of act Feb. 23, 1905, repealed all laws and parts of laws so far as they conflict with the provisions of this section.

CROSS REFERENCES

Judicial proceedings for declaration of nationality in event of denial of rights, see section 1503 of Title 8, Aliens and Nationality.

§ 1509. Public lands in Hawaii; right to acquire in general.

No person, including individual, partnership, corporation, and association, who is an alien, shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement in public lands in Hawaii, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention, and taken and held under any such certificate, lease, or agreement, shall continue to hold, or become entitled to a homestead lease or patent to the land, unless he becomes a citizen within five years after so taking. (Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 304, 42 Stat. 117.)

§ 1510. Same; conveyance or other transfer to alien.

No public land in Hawaii for which any certificate of occupation, right of purchase lease, or cash freehold or special homestead agreement is issued or any part thereof, or interest therein or control thereof, shall, without the written consent of the Commissioner of Public Lands of the Territory of Hawaii, and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise, transferred to, or acquired or held by, or for the benefit of any alien. The prohibitions of this section shall not apply to transfers or acquisitions by inheritance or between tenants in common. (Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 304, 42 Stat. 117.)

HAWAII STATEHOOD

Territory of Hawaii was admitted into the Union as a State on August 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4.

§ 1511. Same; preference right to purchase land to persons declaring intention to become citizens.

The Commissioner of Public Lands of the Territory of Hawaii, with the approval of the governor, may give to any person who has legally declared his intention to become a citizen of the United States, and thereafter becomes such, and who has, or whose predecessors in interest have improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcels and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price, the commissioner may, if he

deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may, with the approval of the governor, grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this section shall not extend to any original lessee or to an assignee of an entire lease of public lands. (Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 306, 42 Stat. 118.)

HAWAII STATEHOOD

Territory of Hawaii was admitted into the Union as a State on August 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4.

§ 1512. Same; sale of agricultural land to persons declaring intention to become citizens.

The Commissioner of Public Lands of the Territory of Hawaii shall, with the approval of the board of public lands, sell to any person who has legally declared his intention to become a citizen of the United States, for residence purposes lots and tracts of agricultural lands, not exceeding three acres in area. (Apr. 30, 1900, ch. 339, § 73, 31 Stat. 154; May 27, 1910, ch. 258, § 5, 36 Stat. 444; July 9, 1921, ch. 42, § 308, 42 Stat. 118.)

HAWAII STATEHOOD

Territory of Hawaii was admitted into the Union as a State on August 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4.

Chapter 12.—THE VIRGIN ISLANDS

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 1541. Geographical scope of chapter; definition of "Virgin Islands"; territorial designation; powers and legal status of government; capital and seat of government; general administrative supervision of Secretary of Interior.

(a) The provisions of this chapter and the name "Virgin Islands" as used in this chapter, shall apply to and include the territorial domain, islands, cays, and waters acquired by the United States through cession of the Danish West Indian Islands by the convention between the United States of America and His Majesty the King of Denmark entered into August 4, 1916, and ratified by the Senate on September 7, 1916 (39 Stat. 1706). The Virgin Islands as above described are declared an unincorporated territory of the United States of America.

(b) The government of the Virgin Islands shall have the powers set forth in this chapter and shall have the right to sue by such name and in cases arising out of contract, to be sued: *Provided,* That no tort action shall be brought against the government of the Virgin Islands or against any officer or employee thereof in his official capacity without the consent of the legislature constituted by subchapter III of this chapter.

The capital and seat of government of the Virgin Islands shall be located at the city of Charlotte Amalie, in the island of Saint Thomas.

(c) The relations between such government and the Federal Government in all matters not the program responsibility of another Federal department or agency shall be under the general administrative supervision of the Secretary of the Interior. (July 22, 1954, ch. 558, § 2, 68 Stat. 497; Aug. 23, 1968, Pub. L. 90-496, § 13, 82 Stat. 842.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-496 added subsec. (c).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90-496, effective Jan. 4, 1971, see section 16 of Pub. L. 90-496, set out as a note under section 1591 of this title.

EFFECTIVE DATE

Section 34 of act July 22, 1954, provided: "This Act [this chapter, amendments to sections 104 and 111 of Title 21, and addition of subsec. (c) to former section 3350 of Title 26] shall take effect upon its approval [July 22, 1954], but until its provisions shall severally become operative as herein provided, the corresponding legislative, executive, and judicial functions of the existing government shall continue to be exercised as now provided by law or ordinance, and the incumbents of all offices under the government of the Virgin Islands shall continue in office until their successors are appointed and have qualified unless sooner removed by competent authority. The enactment of this Act shall not affect the term of office of the judge of the District Court of the Virgin Islands in office on the date of its enactment [July 22, 1954]."

SEPARABILITY OF PROVISIONS

Section 36 of act July 22, 1954, provided: "If any clause, sentence, paragraph, or part of this Act [enacting this chapter, amending sections 104 and 111 of Title 21, and adding subsec. (c) to former section 3350 of Title 26], or the application thereof to any person, or circumstances, is held invalid, the application thereof to other persons, or circumstances, and the remainder of the Act, shall not be affected thereby."

SHORT TITLE

Congress, in enacting act July 22, 1954, which constitutes this chapter, and which amended sections 104 and 111 of Title 21, and amended former section 3350 of Title 26, provided by section 1 of that act that this chapter and those amendments shall be popularly known as the "Revised Organic Act of the Virgin Islands".

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of the Virgin Islands, see chapter 15 of this title.

§ 1542. Voting franchise; discrimination prohibited.

(a) The franchise shall be vested in residents of the Virgin Islands who are citizens of the United States, twenty-one years of age or over. Additional qualifications may be prescribed by the legislature: *Provided, however,* That no property, language, or income qualification shall ever be imposed upon or required of any voter, nor shall any discrimination in qualification be made or based upon difference in race, color, sex, or religious belief.

(b) The legislature shall have authority to enact legislation establishing the voting age for residents of the Virgin Islands at an age not lower than eighteen years of age, if a majority of the qualified voters in the Virgin Islands approve in a referendum election held for that purpose. (July 22, 1954, ch. 558, § 4, 68 Stat. 498; Oct. 16, 1970, Pub. L. 91-460, 84 Stat. 978.)

AMENDMENTS

1970—Pub. L. 91-460 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1543. United States citizenship requirement of government officials; loyalty statement.

All officials of the government of the Virgin Islands shall be citizens of the United States. Every member of the Legislature of the Virgin Islands and all officers and employees of the government of the Virgin Islands shall before entering upon the duties of their respective offices, or, in the case of persons in the employ of the government of the Virgin Islands on the effective date of this Act, then within sixty days of the effective date thereof, make a written statement in the following form:

"I, _____, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution and laws of the United States applicable to the Virgin Islands and the laws of the Virgin Islands, and that I will discharge the duties of_____ _____ with fidelity.

"And I do further swear (or affirm) that I do not advocate, nor am I knowingly a member of any organization that advocates, the overthrow of the Government of the United States or of the Virgin Islands by force or violence or other unconstitutional means, or seeking by force or violence to deny other persons their rights under the Constitution and laws of the United States applicable to the Virgin Islands or the laws of the Virgin Islands.

"And I do further swear (or affirm) that I will not so advocate nor will I knowingly become a member of such organization during the period that I am an employee of the Virgin Islands." (July 22, 1954, ch. 558, § 29, 68 Stat. 509.)

REFERENCES IN TEXT

Words "effective date of this Act", referred to in the text, refer to effective date of act July 22, 1954. For effective date of that act, see note under section 1541 of this title.

§ 1544. Reports by Governor; jurisdiction of Secretary of Interior; exceptions.

All reports required by law to be made by the Governor to any official of the United States shall hereafter be made to the Secretary of the Interior, and the President is authorized to place all matters pertaining to the government of the Virgin Islands under the jurisdiction of the Secretary of the Interior, except matters relating to the judicial branch of said government which on July 22, 1954 are under the supervision of the Director of the Administrative Office of the United States Courts, and the matters relating to the United States Attorney and the United States Marshal which on July 22, 1954 are under the supervision of the Attorney General. (July 22, 1954, ch. 558, § 30, 68 Stat. 509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1591 of this title.

§ 1545. Lease, sale, and control of public property.

(a) The Secretary of the Interior shall be authorized to lease or to sell upon such terms as he may deem advantageous to the Government of the United States any property of the United States under his administrative supervision in the Virgin Islands not needed for public purposes.

(b) The government of the Virgin Islands shall continue to have control over all public property that is under its control on July 22, 1954. (July 22, 1954, ch. 558, § 31, 68 Stat. 510.)

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of the Virgin Islands, see chapter 15 of this title.

§ 1546. Appropriations.

There are authorized to be appropriated annually by the Congress of the United States such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter. (July 22, 1954, ch. 558, § 35, 68 Stat. 510.)

SUBCHAPTER II.—BILL OF RIGHTS

§ 1561. Rights and prohibitions.

No law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws.

In all criminal prosecutions the accused shall enjoy the right to be represented by counsel for his defense, to be informed of the nature and cause of the accusation, to have a copy thereof, to have a speedy, and public trial, to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favor.

No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal cause to give evidence against himself; nor shall any person sit as judge or magistrate in any case in which he has been engaged as attorney or prosecutor.

All persons shall be bailable by sufficient sureties in the case of criminal offenses, except for first-degree murder or any capital offense when the proof is evident or the presumption great.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned or shall suffer forced labor for debt.

All persons shall have the privilege of the writ of habeas corpus and the same shall not be suspended except as herein expressly provided.

No ex post facto law or bill of attainder shall be enacted.

Private property shall not be taken for public use except upon payment of just compensation ascertained in the manner provided by law.

The right to be secure against unreasonable searches and seizures shall not be violated.

No warrant for arrest or search shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Slavery shall not exist in the Virgin Islands.

Involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted by a court of law, shall not exist in the Virgin Islands.

No law shall be passed abridging the freedom of speech or of the press or the right of the people peaceably to assembly[1] and petition the government for the redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof.

No person who advocates, or who aids or belongs to any party, organization, or association which advocates, the overthrow by force or violence of the government of the Virgin Islands or of the United States shall be qualified to hold any office of trust or profit under the government of the Virgin Islands.

No money shall be paid out of the Virgin Islands treasury except in accordance with an Act of Congress or money bill of the legislature and on warrant drawn by the proper officer.

The contracting of polygamous or plural marriages is prohibited.

The employment of children under the age of sixteen years in any occupation injurious to health or morals or hazardous to life or limb is prohibited.

Nothing contained in this chapter shall be construed to limit the power of the legislature herein provided to enact laws for the protection of life, the public health, or the public safety.

No political or religious test other than an oath to support the Constitution and the laws of the United States applicable to the Virgin Islands, and the laws of the Virgin Islands, shall be required as a qualification to any office or public trust under the Government of the Virgin Islands.

The following provisions of and amendments to the Constitution of the United States are hereby extended to the Virgin Islands to the extent that they have not been previously extended to that territory and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments: *Provided, however,* That all offenses shall continue to be prosecuted in the district court by information as heretofore, except such as may be required by local law to be prosecuted by indictment by grand jury.

All laws enacted by Congress with respect to the Virgin Islands and all laws enacted by the territorial legislature of the Virgin Islands which are inconsistent with the provisions of this subsection[2] are repealed to the extent of such inconsistency. (July 22, 1954, ch. 558, § 3, 68 Stat. 497; Aug. 28, 1958, Pub. L. 85–851, § 1, 72 Stat. 1094; Aug. 23, 1968, Pub. L. 90–496, § 11, 82 Stat. 841.)

AMENDMENTS

1968—Pub. L. 90–496 added provisions extending to the Virgin Islands the enumerated provisions of and amendments to the Constitution of the United States, and provisions repealing, to the extent of any inconsistency, all laws enacted by Congress with respect to the Virgin Islands and all laws enacted by the territorial legislature of the Virgin Islands which are inconsistent with the provisions of this section.

1958—Pub. L. 85–851 prohibited political or religious test but required loyalty oath as qualification to any office or public trust.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 11 of Pub. L. 90–496 provided in part that the amendment of this section by Pub. L. 90–496 shall be effective on the date of enactment of Pub. L. 90–496, which was approved Aug. 23, 1968.

[1] So in original. Probably should read "assemble".

[2] So in original. Probably should be "section".

SUBCHAPTER III.—LEGISLATIVE BRANCH

§ 1571. Legislature.

(a) Designation and unicameral character.

The legislative power and authority of the Virgin Islands shall be vested in a legislature, consisting of one house, to be designated the "Legislature of the Virgin Islands", herein referred to as the legislature.

(b) Composition; legislative districts; method of elections.

The legislature shall be composed of fifteen members to be known as senators. The apportionment of the legislature shall be as provided by the laws of the Virgin Islands: *Provided,* That such apportionment shall not deny to any person in the Virgin Islands the equal protection of the law: *And provided further,* That every voter in any district election or at large election shall be permitted to vote for the whole number of persons to be elected in that district election or at large election as the case may be. Until the legislature shall provide otherwise, four members shall be elected at large, five shall be elected from the District of Saint Thomas, five from the District of Saint Croix, and one from the District of Saint John, as those Districts were constituted on July 22, 1954. (July 22, 1954, ch. 558, § 5, 68 Stat. 498; Aug. 30, 1966, Pub. L. 89–548, §1, 80 Stat. 371.)

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–548 raised from eleven to fifteen the total number of senators in the legislature, substituted provision that the legislature be apportioned according to the laws of the Virgin Islands for provisions spelling out the division of the Virgin Islands into districts, the composition of each such district, and the district and at-large representation breakdown of the senators in the legislature, struck out provision for the casting of a ballot for two candidates by each elector in at-large elections and the drawing of lots to determine placement on the ballot in at-large elections, prohibited apportionment in a way which would deny equal protection of the law, and provided for temporary apportionment until the legislature provided otherwise from the districts as constituted on July 22, 1954.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–548 provided that: "This Act [amending subsec. (b) of this section] shall be effective with respect to the legislature to be elected at the regular general election in November 1966, and thereafter."

§ 1572. Same.

(a) Terms of office.

The term of office of each member of the legislature shall be two years. The term of office of each member shall conmmence on the second Monday in January following his election: *Provided, however,* That the term of office of each member elected in November 1958 shall commence on the second Monday in April 1959 and shall continue until the second Monday in April 1961, and the term of office of each member elected in November 1960 shall commence

on the second Monday in April 1961 and continue until the second Monday in January 1963.

(b) Qualifications of members.

No person shall be eligible to be a member of the legislature who is not a citizen of the United States, who has not attained the age of twenty-five years, who is not a qualified voter in the Virgin Islands, who has not been a bona fide resident of the Virgin Islands for at least three years next preceding the date of his election, or who has been convicted of a felony or of a crime involving moral turpitude and has not received a pardon restoring his civil rights. Federal employees and persons employed in the legislative, executive or judicial branches of the government of the Virgin Islands shall not be eligible for membership in the legislature.

(c) Appointment of electoral officers; popular election of members of boards of election.

All officers and employees charged with the duty of directing the administration of the electoral system of the Virgin Islands and its representative districts shall be appointed in such manner as the legislature may by law direct: *Provided, however,* That members of boards of elections, which entities of government have been duly organized and established by the government of the Virgin Islands, shall be popularly elected.

(d) Immunity of members.

No member of the legislature shall be held to answer before any tribunal other than the legislature for any speech or debate in the legislature and the members shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the legislature and in going to and returning from the same.

(e) Compensation and allowances.

Each member of the legislature shall be paid such compensation and shall receive such additional allowances or benefits as may be fixed under the laws of the Virgin Islands. Such compensation, allowances, or benefits, together with all other legislative expenses, shall be appropriated by, and paid out of funds of, the government of the Virgin Islands.

(f) Limitations on holding other office.

No member of the legislature shall hold or be appointed to any office which has been created by the legislature, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected, or during one year after the expiration of such term.

(g) General powers; parliamentary rules.

The legislature shall be the sole judge of the elections and qualifications of its members, shall have and exercise all the authority and attributes, inherent in legislative assemblies, and shall have the power to institute and conduct investigations, issue subpena to witnesses and other parties concerned, and administer oaths. The rules of the Legislative Assembly of the Virgin Islands existing on July 22, 1954 shall continue in force and effect for sessions of the legislature, except as inconsistent with this chapter, until altered, amended, or repealed by the legislature.

(h) Vacancies.

The Governor of the Virgin Islands shall fill any vacancy in the office of a member of the legislature by appointment. If the vacant office is that of a senator from a district, the person appointed shall be a resident of the district from which the member whose office is vacant was elected. If the vacant office is that of a senator at large the person appointed may be a resident of any part of the Virgin Islands. In any case, the person appointed shall serve for the remainder of the unexpired term. (July 22, 1954, ch. 558, § 6, 68 Stat. 499; Sept. 16, 1959, Pub. L. 86–289, § 2(a), (b), 73 Stat. 568; July 30, 1965, Pub. L. 89–98, 79 Stat. 423; Aug. 23, 1968, Pub. L. 90–496, § 8(b), 82 Stat. 839.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90–496 added proviso requiring members of boards of elections, duly organized by the government, to be popularly elected.

1965—Subsec. (e). Pub. L. 89–98 substituted provisions empowering the government of the Virgin Islands to fix and pay legislative salaries and expenses for provisions which specifically fixed these salaries and expenses and which required the United States Government to pay them.

1959—Subsec. (a). Pub. L. 86–289, § 2(a), substituted, in second sentence thereof, "January" for "April", preceding the words "following his election", and substituted, in proviso thereof, "1958" for "1954", "April 1959" for "January 1955", and "1961, and the term of office of each member elected in November 1960 shall commence on the second Monday in April 1961 and continue until the second Monday in January 1963" for "1957".

Subsec. (e). Pub. L. 86–289, § 2(b), changed the date of payment of salaries, increased the per diem from $10 to $20, and provided that the per diem paid to members of the legislature for official travel outside the Virgin Islands should not be at rates in excess of those paid Federal Government employees.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

SHORT TITLE

Section 1 of Pub. L. 86–289 provided that the Act, which amended subsecs. (a) and (e) of this section, and sections 1573(a), 1597(a), and 1617 of this title, should be popularly known as the "Virgin Islands Organic Act Amendments of 1959".

§ 1573. Time, frequency, and duration of regular sessions; special sessions; place of holding.

(a) Regular sessions of the legislature shall be held annually, commencing on the second Monday in January (unless the legislature shall by law fix a different date), and shall continue for such term as the legislature may provide. The Governor may call special sessions of the legislature at any time when in his opinion the public interest may require it. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the legislature while in such session. All sessions of the legislature shall be open to the public.

(b) Sessions of the legislature shall be held in the capital of the Virgin Islands at Charlotte Amalie, Saint Thomas. (July 22, 1954, ch. 558, § 7, 68 Stat. 500; Sept. 16, 1959, Pub. L. 86–289, § 2(c), 73 Stat. 569; Aug. 23, 1968, Pub. L. 90–496, § 1, 82 Stat. 837).

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–496 substituted provisions that regular sessions of the legislature shall continue for such term as the legislature may provide for provisions that regular sessions shall continue for not more than sixty consecutive calendar days in any calendar year, with the proviso that the regular annual session for 1959, 1960, and 1961 shall commence on the second Monday in April and shall continue for not more than sixty consecutive calendar days, struck out provisions that any special session called by the Governor shall continue for not more than fifteen calendar days, with the aggregate of any such special sessions during any calendar year not to exceed thirty calendar days, and added provision opening to the public all sessions of the legislature.

1959—Subsec. (a). Pub. L. 86–289 substituted, in first sentence thereof, "January (unless the legislature shall by law fix a different date)" for "April", and substituted "regular annual session for each of the years 1959, 1960, and 1961, respectively, shall commence on the second Monday in April" for "annual session for 1955 shall commence on the second Monday in January 1955".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 1 of Pub. L. 90–496 provided in part that the amendment of this section by Pub. L. 90–496 shall be effective on the date of enactment of Pub. L. 90–496, which was approved Aug. 23, 1968.

SHORT TITLE

Section 17 of Pub. L. 90–496 provided that: "This Act [which enacted section 336 of Title 10, amended this section and sections 1541, 1561, 1572, 1574, 1575, 1591, 1593, 1595, 1597, 1599, and 1641 of this title, repealed sections 1594, 1596, and 1632 of this title, and enacted provisions set out as a note under section 1591 of this title] may be cited as the 'Virgin Islands Elective Governor Act'."

§ 1574. Legislative powers and activities.

(a) Scope of authority; limitation on enactments and taxation.

The legislative authority and power of the Virgin Islands shall extend to all rightful subjects of legislation not inconsistent with this chapter or the laws of the United States made applicable to the Virgin Islands, but no law shall be enacted which would impair rights existing or arising by virtue of any treaty or international agreement entered into by the United States, nor shall the lands or other property of nonresidents be taxed at a higher rate than the lands or other property of residents.

(b) Government bonds; maximum amount; sale, interest, etc.

(i) The legislature of the government of the Virgin Islands may cause to be issued on behalf of said government bonds or other obligations for a public improvement or public undertaking authorized by an act of the legislature. Such bonds or obligations shall be payable solely from the revenues directly derived from and attributable to such public improvement, public undertaking, or other project. Bonds issued pursuant to paragraph (i) may bear such date or dates, may be in such denominations, may mature in such amounts and at such time or times, not exceeding thirty years from the date thereof, may be payable at such place or places, may carry such registration privileges as to either principal and interest, or principal only, and may be executed by such officers and in such manner as shall be prescribed by the government of the Virgin Islands. Said bonds shall be sold at public sale and may be redeemable (either with or without premium) or nonredeemable. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signature, whether manual or facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until such delivery. The bonds so issued shall bear interest at a rate not to exceed that specified by the legislature, payable semiannually. All such bonds issued by the government of the Virgin Islands or by its authority shall be exempt as to principal and interest from taxation by the Government of the United States, or by the government of the Virgin Islands, or by any State, Territory, or possession or by any political subdivision of any State, Territory or possession, or by the District of Columbia. Such bonds shall under no circumstances constitute a general obligation of the Virgin Islands or of the United States.

(ii) (A) Subject to the provisions of this paragraph (ii), the legislature of the government of the Virgin Islands may cause to be issued such negotiable general obligation bonds or other evidence of indebtedness as it may deem necessary and advisable to construct, improve, extend, better, repair, reconstruct, acquire, and equip hospitals, schools, libraries, gymnasia, athletic fields, sewers, sewage-disposal plants, and water systems: *Provided,* That no public indebtedness of the Virgin Islands shall be incurred in excess of 10 per centum of the aggregate assessed valuation of the taxable real property in the Virgin Islands. Bonds issued pursuant to this paragraph (ii) shall bear such date or dates, may be in such denominations, may mature in such amounts and at such time or times, not exceeding thirty years from the date thereof, may be payable at such place or places, may be sold at either public or private sale, may be redeemable (either with or without premium) or nonredeemable, may carry such registration privileges as to either principal and interest, or principal only, and may be executed by such officers and in such manner, as shall be prescribed by the legislature of the government of the Virgin Islands. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signature, whether manual or facsimile, shall nevertheless be valid and sufficient for all purposes, the same as if such officers had remained in office until such delivery. The bonds so issued shall bear interest at a rate not to exceed that specified by the legislature and payable semiannually. All such bonds shall be sold for not less than the principal amount thereof plus accrued interest. All bonds issued by the government of the Virgin Islands, including specifically interest thereon, shall be exempt from taxation by the Government of the United States, or by the government of the Virgin Islands or any political subdivision thereof, or by any State, territory, or possession or by any political subdivision of any State, territory, or possession, or by the District of Columbia.

(B) The proceeds of the bond issues or other obligations herein authorized shall be expended only for the public improvements set forth in the preceding subparagraph, or for the reduction of the debt created by such bond issue or obligation, unless otherwise authorized by the Congress.

(C) Bonds or other obligations issued pursuant to this paragraph (ii) shall not be a debt of the United States, nor shall the United States be liable thereon.

(c) Applicability of laws and ordinances; amendment or repeal.

The laws of the United States applicable to the Virgin Islands on July 22, 1954, including laws made applicable to the Virgin Islands by or pursuant to the provisions of the Act of June 22, 1936 (49 Stat. 1807), and all local laws and ordinances in force in the Virgin Islands, or any part thereof, on July 22, 1954 shall, to the extent they are not inconsistent with this chapter, continue in force and effect until otherwise provided by the Congress: *Provided,* That the legislature shall have power, when within its jurisdiction and not inconsistent with the other provisions of this chapter, to amend, alter, modify, or repeal any local law or ordinance, public or private, civil or criminal, continued in force and effect by this chapter, except as herein otherwise provided, and to enact new laws not inconsistent with any law of the United States applicable to the Virgin Islands, subject to the power of Congress to annul any such Act of the legislature.

(d) Commission to survey field of Federal statutes; recommendations to Congress; compensation and allowances.

The President of the United States shall appoint a commission of seven persons, at least three of whom shall be residents of the Virgin Islands, to survey the field of Federal statutes and to make recommendations to the Congress within twelve months after July 22, 1954 as to which statutes of the United States not applicable to the Virgin Islands on such date should be made applicable to the Virgin Islands, and as to which statutes of the United States applicable to the Virgin Islands on such date should be declared inapplicable. The members of the commission shall receive no salary for their service on the commission, but under regulations and in amounts prescribed by the Secretary of the Interior, they may be paid, out of Federal funds, reasonable per diem fees, and allowances in lieu of subsistence expenses, for attendance at meetings of the commission, and for time spent on official business of the commission, and their necessary travel expenses to and from meetings or when upon such official business, without regard to the Travel Expense Act of 1949.

(e) Code of laws.

The Secretary of the Interior shall arrange for the preparation, at Federal expense, of a code of laws of the Virgin Islands, to be entitled the "Virgin Islands Code", which shall be a consolidation, codification and revision of the local laws and ordinances in force in the Virgin Islands. When prepared, the Governor shall submit it, together with his recommendations, to the legislature for enactment. Upon the enactment of the Virgin Islands Code it shall be printed, at Federal expense, by the Government Printing Office as a public document. (July 22, 1954, ch. 558, § 8, 68 Stat. 500; Aug. 28, 1958, Pub. L. 85–851, §§ 2, 3, 10, 72 Stat. 1094, 1095; Nov. 19, 1963, Pub. L. 88–180, 77 Stat. 335; Oct. 12, 1966, Pub. L. 89–643, 80 Stat. 890; Aug. 23, 1968, Pub. L. 90–496, § 15, 82 Stat. 842.)

REFERENCES IN TEXT

Act of June 22, 1936 (49 Stat. 1807), referred to in subsec. (c), is the Organic Act of the Virgin Islands of the United States and is classified to sections 1405 et seq. of this title.

The Travel Expense Act of 1949, referred to in subsec. (d), is now covered by section 5701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (b)(i). Pub. L. 90–496 struck out the provisions that the total amount of revenue bonds which may be issued and outstanding for all improvements and undertakings at any one time shall not be in excess of $30,000,000, exclusive of all bonds and undertakings held by the United States as a result of a sale of real or personal property to the government of the Virgin Islands, and with not more than $10,000,000 of such bonds or obligations to be outstanding at any one time for public improvements or public undertakings other than water or power projects, and substituted provisions that the bonds so issued shall bear interest at a rate not to exceed that specified by the legislature, payable semiannually, for provisions that the bonds so issued shall bear interest at a rate not to exceed 5% per annum, payable semiannually, and that all such bonds shall be sold for not less than the principal amount thereof plus accrued interest.

1966—Subsec. (b)(i). Pub. L. 89–643 increased the borrowing authority of the Virgin Islands by striking out limiting provisions so as to require only that the object of a bond issue be a public improvement or undertaking authorized by the legislature as opposed to previous requirement of a legislative authorization for specific improvements and legislative findings of need, substituted provisions authorizing the issuance of bonds that are nonredeemable or redeemable (either with or without premium) for provisions requiring that bonds be redeemable after five years without premium, raised the limitation on total amount of outstanding bonds from a flat limitation of $10,000,000 to $30,000,000 exclusive of all bonds or obligations which are held by the Government of the United States as a result of a sale of real or personal property to the government of the Virgin Islands, and added requirement that not to exceed $10,000,000 of the bonds or obligations may be outstanding at any one time for public improvement or public undertakings other than water or power projects.

1963—Subsec. (b). Pub. L. 88–180 redesignated existing provisions as paragraph (i), deleted "The legislature shall have no power to incur any indebtedness which may be a general obligation of said government" therefrom, and added paragraph (ii).

1958—Subsec. (a). Pub. L. 85–851, § 2, substituted "rightful subjects of legislation" for "subjects of local application".

Subsec. (b). Pub. L. 85–851, § 10, authorized issuance of bonds for establishment, construction, operation, maintenance, reconstruction, improvement, or enlargement of other projects and payment of the bonds from revenues derived from the projects.

Subsec. (e). Pub. L. 85–851, § 3, struck out following "Upon the enactment of the Virgin Islands Code it" the words "and any supplements to it".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 15 of Pub. L. 90–496 provided in part that the amendment of this section by Pub. L. 90–496 shall be effective on the date of enactment of Pub. L. 90–496, which was approved Aug. 23, 1968.

§ 1575. Legislative procedure.

(a) Quorum and method of voting on bills.

The quorum of the legislature shall consist of eight of its members. No bill shall become a law unless it shall have been passed at a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays.

(b) Enacting clause of acts.

The enacting clause of all acts shall be as follows: "Be it enacted by the Legislature of the Virgin Islands".

(c) Governor's message and budget.

The Governor shall submit at the opening of each regular session of the legislature a message on the state of the Virgin Islands and a budget of estimated receipts and expenditures, which shall be the basis of the appropriation bills for the ensuing fiscal year, which shall commence on the first day of July.

(d) Approval and disapproval of bills.

Every bill passed by the legislature shall, before it becomes a law, be presented to the Governor. If the Governor approves the bill, he shall sign it. If the Governor disapproves the bill, he shall, except as hereinafter provided, return it, with his objections, to the legislature within ten days (Sundays excepted) after it shall have been presented to him. If the Governor does not return the bill within such period, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law. When a bill is returned by the Governor to the legislature with his objections, the legislature shall enter his objections at large on its journal and, upon motion of a member of the legislature, proceed to reconsider the bill. If, after such reconsideration, two-thirds of all the members of the legislature pass the bill, it shall be a law. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect.

(e) Use of prior appropriations upon failure to pass appropriation bills.

If at the termination of any fiscal year the legislature shall have failed to pass appropriation bills providing for payment of the obligations and necessary current expenses of the government of the Virgin Islands for the ensuing fiscal year, then the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be applicable, shall be deemed to be reappropriated item by item.

(f) Journal of proceedings; contents.

The legislature shall keep a journal of its proceedings and publish the same. Every bill passed by the legislature and the yeas and nays on any question shall be entered on the journal.

(g) Transmittal of laws to Secretary of Interior and Congress.

Copies of all laws enacted by the legislature shall be transmitted within fifteen days of their enactment by the Governor to the Secretary of the Interior and by him annually to the Congress of the United States. (July 22, 1954, ch. 558, § 9, 68 Stat. 501; Aug. 23, 1968, Pub. L. 90–496, §§ 2, 3, 82 Stat. 837.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–496, § 2, increased the quorum requirement from seven to eight members.

Subsec. (d). Pub. L. 90–496, § 3, added requirement that when a bill is returned by the Governor to the legislature, a motion of a member of the legislature is necessary for the legislature to reconsider the bill, and substituted provisions that if, after reconsideration by the legislature, two-thirds of all the members of the legislature pass a bill returned by the Governor, it shall be a law for provisions that if, after reconsideration by the legislature, two-thirds of all the members of the legislature agree to pass the bill, it shall be presented anew to the Governor for his approval, provisions that if the Governor does not approve the bill, the bill shall be sent to the President of the United States for his approval, provisions that if the President disapproves the bill, the bill shall be returned to the Governor, stating the President's disapproval, and it shall not be a law, and provisions that if the President neither approves nor disapproves the bill within 90 days after it was sent to him by the Governor, the bill shall be a law as if the President had signed it.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–496 provided in part that the amendment of this section by section 2 of Pub. L. 90–496 shall be effective on the date of enactment of Pub. L. 90–496, which was approved Aug. 23, 1968.

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

§ 1576. General elections; time; transfer of Council functions, property, etc.

The next general election in the Virgin Islands shall be held on November 2, 1954. At such time there shall be chosen the entire membership of the legislature as herein provided. Thereafter the general elections shall be held on the first Tuesday after the first Monday in November, beginning with the year 1956, and every two years thereafter. The Municipal Council of Saint Thomas and Saint John, and the Municipal Council of Saint Croix, existing on July 22, 1954, shall continue to function until January 10, 1955, at which time all of the functions, property, personnel, records, and unexpended balances of appropriations and funds of the governments of the municipality of Saint Thomas and Saint John and the municipality of Saint Croix shall be transferred to the government of the Virgin Islands. (July 22, 1954, ch. 558, § 10, 68 Stat. 502.)

SUBCHAPTER IV.—EXECUTIVE BRANCH

§ 1591. Governor and Lieutenant Governor; election; eligibility; official residence; powers and duties; report.

The executive power of the Virgin Islands shall be vested in an executive officer whose official title shall be the "Governor of the Virgin Islands". The Governor of the Virgin Islands, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the legislature of the Virgin Islands. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both officers. If no candidates receive a majority of the votes cast in

any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 3, 1970. Thereafter, beginning with the year 1974, the Governor and Lieutenant Governor shall be elected every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years and until their successors are elected and qualified. No person who has been elected Governor for two full successive terms shall be again eligible to hold that office until one full term has intervened. The term of the elected Governor and Lieutenant Governor shall commence on the first Monday of January following the date of election.

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is an eligible voter and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of the Virgin Islands and will be, at the time of taking office, at least thirty years of age. The Governor shall maintain his official residence in the Government House on Saint Thomas during his incumbency, which house, together with land appurtenant thereto, is hereby transferred to the government of the Virgin Islands. While in Saint Croix the Governor may reside in Government House on Saint Croix free of rent.

The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of the Virgin Islands. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this chapter. He shall appoint, and may remove, all officers and employees of the executive branch of the government of the Virgin Islands, except as otherwise provided in this or any other Act of Congress, or under the laws of the Virgin Islands, and shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Virgin Islands and the laws of the United States applicable in the Virgin Islands. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the militia or request assistance of the senior military or naval commander of the Armed Forces of the United States in the Virgin Islands or Puerto Rico, which may be given at the discretion of such commander if not disruptive of, or inconsistent with, his Federal responsibilities. He may, in case of rebellion or invasion or imminent danger thereof, when the public safety requires it, proclaim the islands, insofar as they are under the jurisdiction of the government of the Virgin Islands, to be under martial law. The members of the legislature shall meet forthwith on their own initiative and may, by a two-thirds vote, revoke such proclamation.

The Governor shall make to the Secretary of the Interior under section 1544 of this title, an annual report of the transactions of the government of the Virgin Islands for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body.

There is hereby established the office of Lieutenant Governor of the Virgin Islands. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this chapter or under the laws of the Virgin Islands. (July 22, 1954, ch. 558, § 11, 68 Stat. 503; Aug. 23, 1968, Pub. L. 90–496, § 4, 82 Stat. 837.)

AMENDMENTS

1968—Pub. L. 90–496 provided for the popular election of the Governor and Lieutenant Governor, set the date of the first election, defined the scope of their authority, set out the duties of their offices, specified the qualifications for the offices of Governor and Lieutenant Governor, and provided that an elected Governor may serve two full successive terms but shall not be again eligible to hold that office until one full term has intervened.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 16 of Pub. L. 90–496 provided that: "Those provisions of this Act [see Short Title note set out under section 1573 of this title] necessary to authorize the holding of an election for Governor and Lieutenant Governor on November 3, 1970, shall be effective on January 1, 1970. All other provisions of this Act, unless otherwise expressly provided herein, shall be effective January 4, 1971."

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of the Virgin Islands, see chapter 15 of this title.

§ 1592. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 657.

Section, act July 22, 1954, ch. 558, § 20(a), 68 Stat. 505, prescribed the compensation of the Governor.

CODIFICATION

Section 20 of Act July 22, 1954 was amended in its entirety by section 10 of Pub. L. 90–496, Aug. 23, 1968, 82 Stat. 841, which consolidated the text of said section 20 into a single unlettered paragraph, now set out as section 1641 of this title. Prior to the 1968 amendment said section 20 was comprised of subsecs. (a)—(c). Subsec. (a) was classified to this section, and subsecs. (b) and (c) were classified to sections 1598 and 1641, respectively, of this title.

§ 1593. Removal of Governor; referendum election; procedure; initiation of referendum.

Any Governor of the Virgin Islands may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for Governor in the last preceding general election at which a Governor was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in the referendum election. The referendum election shall be initiated by the legislature of the Virgin Islands following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) a petition for such a referendum to the legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast for Governor at the last general election at which a Governor was elected preceding the filing of the petition. (July 22, 1954,

ch. 558, § 12, 68 Stat. 503; Aug. 23, 1968, Pub. L. 90–496, § 5, 82 Stat. 838.)

AMENDMENTS

1968—Pub. L. 90–496 substituted provisions authorizing the removal of the Governor from office by a recall referendum for provisions authorizing the appointment of a Government Secretary for the Virgin Islands, and provisions setting forth his powers and duties.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

§ 1594. Repealed. Pub. L. 90–496, § 6, Aug. 23, 1968, 82 Stat. 839.

Section, act July 22, 1954, ch. 558, § 13, 68 Stat. 503, authorized the Governor to appoint an administrative assistant to reside in St. Croix and an administrative assistant to reside in St. John.

EFFECTIVE DATE OF REPEAL

Section 6 of Pub. L. 90–496 provided in part that the repeal of this section is effective on the date of enactment of Pub. L. 90–496, which was approved on Aug. 23, 1968.

§ 1595. Vacancy in office of Governor or Lieutenant Governor.

(a) Temporary disability or temporary absence of Governor.

In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

(b) Permanent vacancy in office of Governor; Lieutenant Governor as Governor; term of office.

In case of a permanent vacany in the office of Governor, arising by reason of the death, resignation, removal by recall or permanent disability of the Governor, or the death, resignation, or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Governor.

(c) Temporary disability or temporary absence of Lieutenant Governor; president of legislature as Lieutenant Governor.

In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the president of the legislature shall act as Lieutenant Governor.

(d) Permanent vacancy in office of Lieutenant Governor; Governor to appoint new Lieutenant Governor with advice and consent of legislature; term of office.

In case of a permanent vacancy in the office of Lieutenant Governor, arising by reason of the death, resignation, or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the legislature, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

(e) Temporary disability or temporary absence of Governor and Lieutenant Governor; appointment of Acting Governor; permanent vacancies in offices of Governor and Lieutenant Governor; appointment of Governor.

In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of the Virgin Islands may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of the Virgin Islands.

(f) Additional compensation.

No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the office of Governor or Lieutenant Governor under the provisions of this chapter. (July 22, 1954, ch. 558, § 14, 68 Stat. 504; Aug. 23, 1968, Pub. L. 90–496, § 7(a), 82 Stat. 839.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–496 designated existing provisions as subsec. (a), and, as so designated, substituted provisions that in case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor for provisions that in case of a vacancy in the office of Governor or the disability of the Governor or the temporary absence of the Governor, the Government Secretary shall have all the powers of the Governor.

Subsecs. (b)—(f). Pub. L. 90–496 added subsecs. (b)—(f).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

§ 1596. Repealed. Pub. L. 90–496, § 7(b), Aug. 23, 1968, 82 Stat. 839.

Section, acts July 22, 1954, ch. 558, § 15, 68 Stat. 504; Mar. 16, 1962, Pub. L. 87–419, § 2, 76 Stat. 35, authorized the Secretary of the Interior to designate the head of an executive department of the Government of the Virgin Islands as Governor in the case of a vacancy in the offices, or the disability or temporary absence, of both the Governor and the Government Secretary.

EFFECTIVE DATE OF REPEAL

Repeal of section except provisions necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective Jan. 1, 1970, and all other provisions, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

§ 1597. Reorganization of government.

(a) Consolidation of departments, bureaus, etc.; popular election of school board members.

The Governor shall, within one year after July 22, 1954, reorganize and consolidate the existing executive departments, bureaus, independent boards, agencies, authorities, commissions, and other instrumentalities of the government of the Virgin Islands or of the municipal governments into not more than nine executive departments except for independent bodies whose existence may be required by

Federal law for participation in Federal programs. The head of each executive department other than the department of law shall be designated as the commissioner thereof, and the commissioner of finance shall be bonded. The head of the department of law shall be known as the attorney general of the Virgin Islands. Members of school boards, which entities of government have been duly organized and established by the government of the Virgin Islands, shall be popularly elected.

(b) Changes after examination from time to time.

The Governor shall, from time to time, after complying with the provisions of subsection (a) of this section, examine the organization of the executive branch of the government of the Virgin Islands, and shall make such changes therein, subject to the approval of the legislature, not inconsistent with this chapter, as he determines are necessary to promote effective management and to execute faithfully the purposes of this chapter and the laws of the Virgin Islands.

(c) Appointment of department heads; tenure; removal; powers and duties; appointments to boards, etc.

The heads of the executive departments created by this chapter shall be appointed by the Governor, with the advice and consent of the legislature. Each shall hold office during the continuance in office of the Governor by whom he is appointed and until his successor is appointed and qualified, unless sooner removed by the Governor. Each shall have such powers and duties as may be prescribed by the legislature. The chairman and members of any board, authority, or commission established by the laws of the Virgin Islands shall, if the laws of the Virgin Islands hereafter provide, also be appointed by the Governor with the advice and consent of the legislature, if such board, authority, or commission has quasi-judicial functions: *Provided,* That no law of the Virgin Islands dealing with the chairmanship, membership, or chairmanship and membership of any such board, authority, or commission, and requiring an appointment or appointments to be made with the advice and consent of the legislature, shall relate to more than one such board, authority, or commission, nor shall it relate to any other legislative matter. (July 22, 1954, ch. 558, § 16, 68 Stat. 504; Aug. 30, 1957, Pub. L. 85–224, 71 Stat. 510; Sept. 16, 1959, Pub. L. 86–289, § 3, 73 Stat. 569; Aug. 23, 1968, Pub. L. 90–496, § 8(a), 82 Stat. 839.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–496 substituted provisions that members of school boards which have been duly organized by the government of the Virgin Islands be popularly elected for provisions that required the approval of the Secretary of the Interior for the establishment of any new department, agency, or other instrumentality by the Governor or the legislature, unless such department, agency, etc., was required by federal law for participation in federal programs.

1959—Subsec. (a). Pub. L. 86–289 provided that the head of the department of law should be known as the attorney general of the Virgin Islands.

1957—Subsec. (c). Pub. L. 85–224 provided for appointments to boards, authorities or commissions.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

§ 1598. Compensation of Government Secretary, department heads, and staffs of Governor and Government Secretary.

The Government Secretary, the heads of the executive departments, and the members of the immediate staffs of the Governor and the Government Secretary, shall receive annual salaries at rates established by the Secretary of the Interior in accordance with the standards provided in chapter 51 and subchapter III of chapter 53 of Title 5. (July 22, 1954, ch. 558, § 20(b), 68 Stat. 505.)

CODIFICATION

Section constituted subsec. (b) of section 20 of act July 22, 1954, prior to the 1968 amendment of said section 20 by section 10 of Pub. L. 90–496, Aug. 23, 1968, 82 Stat. 841, which consolidated the text of said section 20 into a single unlettered paragraph, now classified to section 1641 of this title. Subsec. (a) and (c) of said section 20 were classified to sections 1592 and 1641, respectively, of this title.

§ 1599. Government comptroller.

(a) Appointment; status; compensation; transfer or removal procedure.

The Secretary of the Interior shall appoint in the Department of the Interior a government comptroller for the Virgin Islands who shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of the Virgin Islands, and whose salary and expenses of office shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the Virgin Islands. Sixty days prior to the effective date of transfer or removal of the government comptroller, the Secretary shall communicate to the President of the Senate and the Speaker of the House of Representatives his intention to so transfer or remove the government comptroller and his reasons therefor.

(b) Audit of accounts; review and adjudication of claims; audit of expenditures.

The government comptroller shall audit all accounts and review and recommend adjudication of claims pertaining to the revenue and receipts of the government of the Virgin Islands and of funds derived from bond issues, and he shall audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Virgin Islands, including those pertaining to trust funds held by the government of the Virgin Islands.

(c) Duty to report uncollected amounts and irregular or unlawful expenditures of funds or uses of property; purposes of audit activities.

It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law. The audit activities of the government comptroller shall be directed so

as to (1) improve the efficiency and economy of programs of the government of the Virgin Islands, and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial Federal revenues which are covered into the treasury of the government of the Virgin Islands are properly accounted for and audited.

(d) Certification of net amount of revenues.

It shall be the duty of the government comptroller to certify to the Secretary of the Interior the net amount of government revenues which form the basis for Federal grants for the civil government of the Virgin Islands.

(e) Finality of decision; appeal to Secretary of Interior.

The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the Governor, be taken by the party aggrieved or the head of the department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

(f) Judicial review.

If the Governor does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the Governor, on behalf of the head of the department concerned, may seek relief by suit in the District Court of the Virgin Islands if the claim is otherwise within its jurisdiction.

(g) Direct communication with any person or departmental personnel; witnesses; oaths.

The government comptroller is authorized to communicate directly with any person or with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

(h) Annual fiscal reports to the Governor and the Secretary of the Interior; comments and recommendations of the Secretary on reports.

As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of the Virgin Islands and the Secretary of the Interior an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government. The Secretary of the Interior shall submit such report along with his comments and recommendations to the President of the Senate and the Speaker of the House of Representatives.

(i) Other reports.

The government comptroller shall make such other reports as may be required by the Governor of the Virgin Islands, the Comptroller General of the United States, or the Secretary of the Interior.

(j) Review by Comptroller General of the United States of office and activities of government comptroller; report.

The office and activities of the government comptroller of the Virgin Islands shall be subject to review by the Comptroller General of the United States, and reports thereon shall be made by him to the Governor, the Secretary of the Interior, President of the Senate, and the Speaker of the House of Representatives.

(k) Access to business and other information of all departments, agencies, etc., by the government comptroller; examination of books, papers, and records.

All departments, agencies, and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organizations, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency, or establishment. (July 22, 1954, ch. 558 § 17, 68 Stat. 505; Aug. 28, 1958, Pub. L. 85–851, §§ 4, 5, 72 Stat. 1094, 1095; Mar. 20, 1962, Pub. L. 87–421, 76 Stat. 43; Aug. 23, 1968, Pub. L. 90–486, § 9, 82 Stat. 840.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–496 added provisions that the government comptroller for the Virgin Islands shall be under the general supervision of the Secretary of the Interior and shall not be part of any executive department in the government of the Virgin Islands, and substituted provisions that the government comptroller's salary and expenses shall be paid by the United States from funds derived by transfer from the internal revenue collections appropriated for the Virgin Islands, and provisions that the transfer or removal of the comptroller shall be according to the prescribed procedure, for provisions that the comptroller shall receive an annual salary at a rate established in accordance with the standards provided by the Classification Act of 1949, as amended, provisions that set forth the tenure of the government comptroller, and provisions that the comptroller shall not be eligible for reappointment.

Subsec. (b). Pub. L. 90–496 substituted provisions authorizing the government comptroller to audit all accounts and review and recommend adjudication of claims, and to audit all expenditures for provisions authorizing the comptroller to audit and settle all accounts and claims, and to audit and settle all expenditures.

Subsec. (c). Pub. L. 90–496 substituted provision requiring notification of the Secretary of the Interior and the Governor of the Virgin Islands of all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law for provision requiring notification of the proper administrative officer of failures to collect amounts due the government, and expenditures of funds or property which in the opinion of the comptroller are extravagant, excessive, unnecessary, or irregular, and added the provision setting forth the purposes of the audit activities of the government comptroller.

Subsecs. (d), (e). Pub. L. 90–496 reenacted subsecs. (d) and (e) without change.

Subsec. (f). Pub. L. 90–496 substituted provisions authorizing a suit in the District Court of the Virgin Islands by the party aggrieved if the Governor does not concur in the taking of an appeal to the Secretary, or, by the party aggrieved or the Governor, on behalf of the head of the department concerned, not later than thirty days following the date of decision of the Secretary of the Interior, for provisions authorizing a suit in the District Court of the Virgin Islands if the Secretary of the Interior

confirms the decision of the government comptroller, or if the Governor does not concur in the taking of an appeal to the Secretary.

Subsec. (g). Pub. L. 90–496 struck out "having claims before him for settlement," following "with any person".

Subsec. (h). Pub. L. 90–496 added provisions requiring the government comptroller to submit an annual fiscal report to the Secretary of the Interior, and requiring the Secretary to submit such report, with his comments and recommendations, to the President of the Senate and the Speaker of the House.

Subsec. (i). Pub. L. 90–496 reenacted subsec. (i) without change.

Subsec. (j). Pub. L. 90–496 substituted provisions authorizing the Comptroller General of the United States to review the office and activities of the government comptroller, and to submit reports thereon to the Governor, the Secretary of the Interior, the President of the Senate, and the Speaker of the House of Representatives for provisions placing the office of the government comptroller under the general supervision of the Secretary of the Interior, such office not to be a part of any executive department in the government of the Virgin Islands.

Subsec. (k). Pub. L. 90–496 added subsec. (k).

1962—Subsec. (a). Pub. L. 87–421 prescribed payment of an annual salary of the government comptroller in accordance with the standards provided by the Classification Act of 1949, as amended, and eliminated provisions which prescribed an annual salary of $12,500.

1958—Subsec. (a). Pub. L. 85–851, § 4, deleted the words "not to exceed" following "salary of".

Subsec. (e). Pub. L. 85–851, § 5, substituted provision permitting appeals to be taken to the Secretary of Interior with the concurrence of the Governor for former provision allowing appeals to the Governor.

Subsec. (f). Pub. L. 85–851, § 5, substituted provision for judicial review of Secretary of the Interior's or the Governor's determination for former provision permitting alternative remedies of appeal to legislature or the District Court from Governor's determination.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 9 of Pub. L. 90–496 provided in part that the amendment of this section by Pub. L. 90–496 shall be effective on the date of enactment of Pub. L. 90–496, which was approved Aug. 23, 1968.

SUBCHAPTER V.—JUDICIAL BRANCH

§ 1611. District Court of the Virgin Islands, and inferior courts.

The judicial power of the Virgin Islands shall be vested in a court of record to be designated the "District Court of the Virgin Islands", and in such court or courts of inferior jurisdiction as may have been or may hereafter be established by local law. (July 22, 1954, ch. 558, § 21, 68 Stat. 506.)

SECTION REFERRED TO IN OTHER SECTIONS

This secton is referred to in title 28 section 1869.

§ 1612. Jurisdiction of District Court; transfer of actions.

The District Court of the Virgin Islands shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties and laws of the United States, regardless of the sum or value of the matter in controversy. It shall have general original jurisdiction in all other causes in the Virgin Islands, exclusive jurisdiction over which is not conferred by this chapter upon the inferior courts of the Virgin Islands. When it is in the interest of justice to do so the district court may on motion of any party transfer to the district court any action or proceeding brought in an inferior court and the district court shall have jurisdiction to hear and determine such action or proceeding. The district court shall also have appellate jurisdiction to review the judgments and orders of the inferior courts of the Virgin Islands to the extent now or hereafter prescribed by local law. (July 22, 1954, ch. 558, § 22, 68 Stat. 506.)

CROSS REFERENCES

Amount in controversy required to exceed $10,000 in federal question cases in district courts of the United States, see section 1331 of Title 28, Judiciary and Judicial Procedure.

§ 1613. Jurisdiction of inferior courts; transfer of actions; status as committing court; bail; rules.

The inferior courts now or hereafter established by local law shall have exclusive original jurisdiction of all civil actions wherein the matter in controversy does not exceed the sum or value of $500, exclusive of interest and costs, all criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of $100 or imprisonment for six months, or both, and all violations of police and executive regulations, and they shall have original jurisdiction, concurrently with the district court, of all actions, civil or criminal, jurisdiction of which may hereafter be conferred upon them by local law. Any action or proceeding brought in the district court which is within the jurisdiction of an inferior court may be transferred to such inferior court by the district court in the interest of justice. The inferior courts shall hold preliminary investigations in charges of felony and charges of misdemeanor in which the punishment that may be imposed is beyond the jurisdiction granted to the inferior courts by this section, and shall commit offenders to the district court and grant bail in bailable cases. The rules governing the practice and procedure of the inferior courts and prescribing the duties of the judges and officers thereof, oaths and bonds, the times and places of holding court, and the procedure for appeal to the district court shall be as may hereafter be established by the district court. The rules governing disposition of fines, costs and forfeitures, enforcement of judgments, and disposition and treatment of prisoners shall be as established by law or ordinance in force on July 22, 1954 or as may hereafter be so established. (July 22, 1954, ch. 558, § 23, 68 Stat. 506.)

§ 1614. Judges of the District Court.

(a) Appointment; tenure; removal; compensation.

The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of eight years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of the municipal court of the Virgin Islands or a circuit or district judge of the Third Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin

Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.

(b) Chief judge.

The judge of the district court who is senior in continuous service and under seventy years of age shall be the chief judge of the court and shall have power to appoint officers of the court when and as provided in section 756 of Title 28. The division of the business of the court among the judges shall be made as prescribed in section 137 of Title 28.

(c) United States marshal.

The Attorney General shall appoint a United States marshal for the Virgin Islands, to whose office the provisions of chapter 33 of Title 28 shall apply. (July 22, 1954, ch. 558, § 24, 68 Stat. 506; Aug. 28, 1958, Pub. L. 85–851, § 7, 72 Stat. 1095; June 2, 1970, Pub. L. 91–272, § 3(b), 84 Stat. 296.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–272 designated existing provisions as subsec. (a) and in subsec. (a) as so designated increased from one to two the number of district judges, added judges of the municipal court of the Virgin Islands to the list of judges from which may be drawn temporary judges for the district court, and transferred to subsec. (c) provisions covering the appointment of a United States marshal for the Virgin Islands.

Subsec. (b). Pub. L. 91–272 added subsec. (b).

Subsec. (c). Pub. L. 91–272 added subsec. (c), the substance of which was formerly contained in subsec. (a).

1958—Pub. L. 85–851 substituted "the Attorney General shall appoint a United States marshal" for "the Attorney General shall, as heretofore, appoint a marshal and one deputy marshal".

PRESENT INCUMBENT

Enactment of this chapter as not affecting term of office of judge of the District Court of the Virgin Islands in office on the date of its enactment, see effective date note under section 1541 of this title.

RESIGNATION AND RETIREMENT OF JUDGES

Resignation and retirement of judges in the Territories and possessions, see section 373 of Title 28, Judiciary and Judicial Procedure.

§ 1615. Judicial divisions; sessions; applicability of procedural rules; prosecution by information or indictment.

The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays. The district court shall hold sessions in each division at such time as the court may designate by rule or order, at least once in three months in each division. The rules of practice and procedure heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to section 2072 of Title 28, in civil cases, section 2073 of such title, in admiralty cases, and section 53 of Title 11 in bankruptcy cases, shall apply to the District Court of the Virgin Islands and to appeals therefrom. All offenses shall continue to be prosecuted in the District Court by information as heretofore except such as may be required by local law to be prosecuted by indictment by grand jury. (July 22, 1954, ch. 558, § 25, 68 Stat. 507.)

§ 1616. Trial by jury.

All criminal cases originating in the district court shall be tried by jury upon demand by the defendant or by the Government. If no jury is demanded the case shall be tried by the judge of the district court without a jury, except that the judge may, on his own motion, order a jury for the trial of any criminal action. The legislature may provide for trial in misdemeanor cases by a jury of six qualified persons. (July 22, 1954, ch. 558, § 26, 68 Stat. 507; Aug. 28, 1958, Pub. L. 85–851, § 8, 72 Stat. 1095.)

AMENDMENTS

1958—Pub. L. 85–851 substituted requirement of jury trial upon demand by defendant or Government for prohibition against denial to any person on demand of either party.

§ 1617. United States attorney, and assistant; appointment; duties; vacancies.

The President shall, by and with the advice and consent of the Senate, appoint a United States attorney for the Virgin Islands to whose office the provisions of chapter 31 of Title 28, shall apply, except that the Attorney General shall not appoint more than one assistant United States attorney for the Virgin Islands. Except as otherwise provided by law it shall be the duty of the United States attorney to prosecute all offenses against the United States and to conduct all legal proceedings, civil and criminal, to which the Government of the United States is a party in the district court and in the inferior courts of the Virgin Islands. He shall also prosecute in the district court in the name of the government of the Virgin Islands all offenses against the laws of the Virgin Islands which are cognizable by that court unless, at his request or with his consent, the prosecution of any such case is conducted by the attorney general of the Virgin Islands. The United States attorney may, when requested by the Governor or the attorney general of the Virgin Islands, conduct any other legal proceedings to which the government of the Virgin Islands is a party in the district court or the inferior courts of the Virgin Islands. In the case of a vacancy in the office of United States attorney, the District Court of the Virgin Islands may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court. (July 28, 1954, ch. 558, § 27, 68 Stat. 507; Aug. 28, 1958, Pub. L. 85–851, § 9, 72 Stat. 1095; Sept. 16, 1959, Pub. L. 86–289, § 4, 73 Stat. 569.)

REFERENCES IN TEXT

Chapter 31 of Title 28, referred to in text, was completely revised by Pub. L. 89–554, § 4(c), Sept. 6, 1966, 80 Stat. 611, and its provisions, dealing with United States Attorneys, are now covered by section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1959—Pub. L. 86–289 substituted provisions making chapter 31 of Title 28 applicable to United States attorney and by provisions specifying his duties, for provisions which prescribed his term of office and provided for his compensation, provided for appointment and compensation of his assistant and employees, and provided that he or his assistant conduct all legal proceedings in which the United States Government or the government of the Virgin Islands is a party in the District Court and inferior courts.

1958—Pub. L. 85–851 substituted "United States Attorney" for "district attorney" wherever appearing.

SUBCHAPTER VI.—SYSTEM OF ACCOUNTS

§ 1631. Establishment and maintenance; scope.

The Governor shall establish and maintain systems of accounting and internal control designed to provide—

(a) full disclosure of the financial results of the government's activities;

(b) adequate financial information needed for the government's management purposes;

(c) effective control over and accountability for all funds, property, and other assets for which the government is responsible, including appropriate internal audit; and

(d) reliable accounting results to serve as the basis for preparation and support of the government's request for the approval of the President or his designated representative for the obligation and expenditure of the internal revenue collections as provided in section 26,[1] the Governor's budget request to the legislature, and for controlling the execution of the said budget. (July 22, 1954, ch. 558, § 18, 68 Stat. 505.)

§ 1632. Repealed. Pub. L. 90–496, § 14, Aug. 23, 1968, 82 Stat. 842.

Section, act July 22, 1954, ch. 558, § 19, 68 Stat. 505, authorized the Comptroller General of the United States to review annually the office and activities of the Government Comptroller of the Virgin Islands, and report thereon to the Governor, the Secretary of the Interior, and the Congress.

EFFECTIVE DATE OF REPEAL

Section 14 of Pub. L. 90–496 provided in part that the repeal of this section is effective on the date of enactment of Pub. L. 90–496, which was approved on Aug. 23, 1968.

SUBCHAPTER VII.—FISCAL PROVISIONS

§ 1641. Method of payment of official salaries.

The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the government of the Virgin Islands, and the members of the legislature shall be paid by the government of the Virgin Islands at rates prescribed by the laws of the Virgin Islands. (July 22, 1954, ch. 558, § 20(c), 68 Stat. 506; Aug. 28, 1958, Pub. L. 85–851, § 6(a), 72 Stat. 1095; Aug. 23, 1968, Pub. L. 90–496, § 10, 82 Stat. 841.)

CODIFICATION

Prior to the 1968 amendment of section 20 of Act July 22, 1954, this section constituted subsec. (c) of said section 20. Subsecs. (a) and (b) of said section 20 were classified to sections 1592 and 1598, respectively, of this title. Section 10 of Pub. L. 90–496 consolidated the text of said section 20 into a single unlettered paragraph, now set out as this section.

AMENDMENTS

1968—Pub. L. 90–496 substituted provisions that the salaries and travel allowances of all officials connected with the executive and legislative departments of the government of the Virgin Islands be paid by the government of the Virgin Islands at rates prescribed by the laws of the Virgin Islands for provisions that the salaries of the Governor, the Government Secretary, the government comptroller, and their immediate staffs be paid by the United States, and provisions that the salaries of the heads of the executive departments be paid by the government of the Virgin Islands, such salaries to be paid without the necessity of further appropriations therefor, if the legislature fails to make an appropriation for such salaries.

1958—Pub. L. 85–851 provided for the payment of the salary of the government comptroller by the United States instead of by the government of the Virgin Islands.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of provisions of section necessary to authorize the holding of an election for Governor and Lieutenant Governor on Nov. 3, 1970, effective on Jan. 1, 1970, and all other amendments of provisions of section, unless otherwise expressly provided by Pub. L. 90–496, effective Jan. 4, 1971, see section 16 of Pub. L. 90–496, set out as a note under section 1591 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 6(b) of Pub. L. 85–851 provided that the amendment of this section by Pub. L. 85–851 shall become effective on July 1, 1959.

§ 1642. Use of certain proceeds for expenditure; income tax obligations of inhabitants.

The proceeds of customs duties, the proceeds of the United States income tax, the proceeds of any taxes levied by the Congress on the inhabitants of the Virgin Islands, and the proceeds of all quarantine, passport, immigration, and naturalization fees collected in the Virgin Islands, less the cost of collecting all of said duties, taxes, and fees, shall be covered into the treasury of the Virgin Islands, and shall be available for expenditure as the Legislature of the Virgin Islands may provide: *Provided,* That the term "inhabitants of the Virgin Islands" as used in this section shall include all persons whose permanent residence is in the Virgin Islands, and such persons shall satisfy their income tax obligations under applicable taxing statutes of the United States by paying their tax on income derived from all sources both within and outside the Virgin Islands into the treasury of the Virgin Islands: *Provided further,* That nothing in this chapter and section 3350 (c) of Title 26 shall be construed to apply to any tax specified in section 3811 of Title 26. (July 22, 1954, ch. 558, § 28 (a), 68 Stat. 508.)

REFERENCES IN TEXT

Sections 3350(c) and 3811 of Title 26, referred to in the text, which was a reference to sections 3350(c) and 3811 of the Internal Revenue Code, 1939, were repealed by section 7851 of Title 26, I.R.C., 1954, and are now covered by sections 7651 and 7652(b) of Title 26. For provision deeming a reference to other laws as a reference to corresponding provision of I.R.C., 1954, see section 7852(b) of that title.

CODIFICATION

Section constitutes subsec. (a) of section 28 of act July 22, 1954. Subsec. (b) of section 28 amended former section 3350 of Title 26, Internal Revenue Code, 1939, and subsecs. (c) and (d) thereof are classified to sections 1643 and 1644, respectively, of this title.

CROSS REFERENCES

All provisions of laws of the United States applicable to assessment and collection of taxes imposed by Internal Revenue Code as applicable to possessions, see section 7651(1) of Title 26, Internal Revenue Code, 1954.

Disposition of proceeds of taxes on articles produced in the Virgin Islands and transported into the United States, see section 7652(b)(3) of Title 26, Internal Revenue Code, 1954.

Payment of proceeds of United States income tax collected in the Virgin Islands into local treasury, see section 1397 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 sections 934, 957, 7651.

[1] So in original. Probably should read "3350(c) of Title 26".

§ 1643. Import provisions with respect to trade-marks.

Section 1124 of Title 15, and section 1526 of Title 19, shall not apply to importations into the Virgin Islands of genuine foreign merchandise bearing a genuine foreign trade-mark, but shall remain applicable to importations of such merchandise from the Virgin Islands into the United States or its possessions; and the dealing in or possession of any such merchandise in the Virgin Islands shall not constitute a violation of any registrant's right under the Trade Mark Act. (July 22, 1954, ch. 558, § 28 (c), 68 Stat. 508.)

REFERENCES IN TEXT

The Trade Mark Act, referred to in the text, is classified to chapter 22 of Title 15, Commerce and Trade.

CODIFICATION

Section constitutes subsec. (c) of section 28 of act July 22, 1954. Subsec. (b) of section 28 amended former section 3350 of Title 26, Internal Revenue Code, 1939, and subsecs. (a) and (d) thereof are classified to sections 1642 and 1644, respectively, of this title.

§ 1644. Import duties on articles entering United States or possessions from Virgin Islands.

All articles coming into the United States from the Virgin Islands shall be subject to or exempt from duty as provided for in section 1301a of Title 19 and subject to internal-revenue taxes as provided for in section 7652 (b) of Title 26 (July 22, 1954, ch. 558, § 28 (d), 68 Stat. 509; Sept. 1, 1954, ch. 1213, title IV, § 402 (a), 68 Stat. 1140.)

REFERENCES IN TEXT

Section 1301a of Title 19, referred to in text, was repealed by Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75.

CODIFICATION

Section constitutes subsec. (d) of section 28 of act July 22, 1954. Subsecs. (a) and (c) of section 28 are classified to sections 1642 and 1643, respectively, of this title, and subsec. (b) thereof amended former section 3350 of Title 26, Internal Revenue Code, 1939.

AMENDMENTS

1954—Act Sept. 1, 1954, subjected the Virgin Islands to the general provision for importations from insular possessions contained in section 1301a of Title 19, Customs Duties.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment of section by act Sept. 1, 1954, effective on and after the thirtieth day following Sept. 1, 1954, see note set out under section 160 of Title 19, Customs Duties.

Chapter 13.—EASTERN SAMOA

Sec.
1661. Islands of Tutuila, Manua, and eastern Samoa; ceded to and accepted by United States; revenue; government.
1662. Sovereignty of United States extended over Swains Island.
1663. Acknowledgment of deeds.
1664. Coastwise shipping laws of United States inapplicable.
1665. Purchases by governments of Samoa.
1666. Extension of scientific, technical, and other assistance; grant-in-aid program restriction; limitations on expenditures.
1667. Repealed.

§ 1661. Islands of Tutuila, Manua, and eastern Samoa; ceded to and accepted by United States; revenue; government.

(a) The cessions by certain chiefs of the islands of Tutuila and Manua and certain other islands of the Samoan group lying between the thirteenth and fifteenth degrees of latitude south of the Equator and between the one hundred and sixty-seventh and one hundred and seventy-first degrees of longitude west of Greenwich, herein referred to as the islands of eastern Samoa, are accepted, ratified, and confirmed, as of April 10, 1900, and July 16, 1904, respectively.

(b) The existing laws of the United States relative to public lands shall not apply to such lands in the said islands of eastern Samoa; but the Congress of the United States shall enact special laws for their management and disposition: *Provided,* That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the said islands of eastern Samoa for educational and other public purposes.

(c) Until Congress shall provide for the government of such islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned. (Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4.)

CODIFICATION

Former subsec. (d) which provided for recommendation of legislation concerning the islands of eastern Samoa by seven commissioners as soon as reasonably practicable, was omitted as obsolete.

AMENDMENTS

1929—Subsec. (d). Act May 22, 1929, substituted in lines 1 and 3, respectively, the words "seven" and "three" for "six" and "two", and inserted "or high chiefs" between "chiefs" and "of the said islands".

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of American Samoa, see chapter 15 of this title.

CROSS REFERENCES

Articles, goods, wares or merchandise going into Samoa as exempt from payment of any tax imposed by the internal revenue laws of the United States, see section 7653(b) of Title 26, Internal Revenue Code, 1954.

Certification of invoices of goods shipped from Samoa, see section 1482 of Title 19, Customs Duties.

Entry of goods by means of false statements as excluding Samoa, see section 542 of Title 18, Crimes and Criminal Procedure.

Fair Labor Standards Act, application to Samoa, see section 213(f) of Title 29, Labor.

Payment to Samoa of proceeds of tax collected on coconut and palm oil, see section 7654 of Title 26, Internal Revenue Code, 1954.

Preference of American products and manufactures, inclusion of Samoa in statute, see section 10c of Title 41, Public Contracts.

Relanding goods as excluding Samoa, see section 544 of Title 18, Crimes and Criminal Procedure.

Smuggling as excluding Samoa, see section 545 of Title 18, Crimes and Criminal Procedure.

§ 1662. Sovereignty of United States extended over Swains Island.

The sovereignty of the United States over American Samoa is extended over Swains Island, which is made a part of American Samoa and placed under the jurisdiction of the administrative and judicial

authorities of the government established therein by the United States. (Mar. 4, 1925, ch. 563, 43 Stat. 1357.)

TRANSFER OF CERTAIN PROPERTY TO GOVERNMENT OF AMERICAN SAMOA

Pub. L. 87–158, Aug. 17, 1961, 75 Stat. 392, authorized the Secretary of the Navy to transfer, without reimbursement or transfer of funds, to the government of American Samoa, within ninety days after August 17, 1961, title to all property, real and personal, located in American Samoa on that date which was owned by the United States and was within the administrative supervision of the Department of the Navy on such date.

SUBMERGED LANDS, CONVEYANCE TO TERRITORY

Conveyance of submerged lands to the government of American Samoa, see chapter 15 of this title.

EX. ORD. NO. 10264. TRANSFER OF ADMINISTRATION OF AMERICAN SAMOA

Ex. Ord. No. 10264, June 29, 1951, 16 F.R. 6419, provided:

1. The administration of American Samoa is hereby transferred from the Secretary of the Navy to the Secretary of the Interior, such transfer to become effective on July 1, 1951.

2. The Department of the Navy and the Department of the Interior shall proceed with the plans for the transfer of administration of American Samoa as embodied in the above-mentioned memorandum of understanding between the two departments.

3. When the transfer of administration made by this order becomes effective, the Secretary of the Interior shall take such action as may be necessary and appropriate, and in harmony with applicable law, for the administration of civil government in American Samoa.

4. The executive departments and agencies of the Government are authorized and directed to cooperate with the Departments of the Navy and Interior in the effectuation of the provisions of this order.

5. The said Executive order of February 19, 1900 [Ex. Ord. 125–A], is revoked, effective July 1, 1951.

§ 1663. Acknowledgment of deeds.

Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the islands of Samoa before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: *Provided,* That the certificate by such notary in Samoa, as the case may be, shall be accompanied by the certificate of the governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since the 1st day of January 1905 and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified. (June 28, 1906, ch. 3585, 34 Stat. 552.)

CODIFICATION

Similar provisions relating to Guam are set out as section 1421f–1 of this title.

§ 1664. Coastwise shipping laws of United States inapplicable.

The provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port of the United States to another port of the United States shall not be applicable to commerce beween[1] the islands of American Samoa or between those islands and other ports under the jurisdiction of the United States. (June 14, 1934, ch. 523, 48 Stat. 963.)

CROSS REFERENCES

Transportation of merchandise between points in United States in other than domestic-built and documented vessels, see section 883 of Title 46, Shipping.

§ 1665. Purchases by governments of Samoa.

The Territorial and local governments of American Samoa are authorized to make purchases through the General Services Administration. (Pub. L. 91–361, title I, § 100, July 31, 1970, 84 Stat. 673.)

CODIFICATION

Section, as it relates to the Virgin Islands, Guam, and the Trust Territory of the Pacific, is set out as sections 1401f, 1423*l*, and 1682, respectively, of this title.

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91–98, title I, § 100, 83 Stat. 151.
1968—July 26, 1968, Pub. L. 90–425, title I, § 100, 82 Stat. 430.
1967—June 24, 1967, Pub. L. 90–28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89–435, title I, § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89–52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88–356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88–79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87–578, title I, § 100, 76 Stat. 339.
1961—Aug. 1961, Pub. L. 87–122, title I, § 100, 75 Stat. 250.
1960—May 13, 1960, Pub. L. 86–455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86–60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85–439, title I, § 100, 72 Stat. 163.
1957—July 1, 1957, Pub. L. 85–77, title I, § 1, 71 Stat. 266.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 265.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 372.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 273.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458.
1951—Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 263.

§ 1666. Extension of scientific, technical, and other assistance; grant-in-aid program restriction; limitations on expenditures.

Upon request of the Secretary of the Interior—

(a) the head of any Federal department, agency, or corporation may, notwithstanding any other provision of law, extend to American Samoa, without reimbursement, such scientific, technical, and other assistance under any program which it administers as, in the judgment of the Secretary of the Interior, will promote the welfare of American Samoa. The provisions of the preceding sentence shall not apply to financial assistance under any grant-in-aid program. The Secretary of the Interior shall not request assistance pursuant to this subsection which will involve nonreimbursable costs as estimated for him in advance by the heads of the departments, agencies, and corporations concerned in excess of an aggregate of $150,000 in any one fiscal year;

[1] So in original. Probably should read "between."

(b) the Secretary of Agriculture may extend to American Samoa the benefits of the National School Lunch Act, as amended; and

(c) the Secretary of Health, Education, and Welfare may extend to American Samoa the benefits of the Vocational Education Act of 1946, the Library Services Act, the Hospital Survey and Construction Act, and section 246 of Title 42, all as amended.

(Pub. L. 87–688, § 1, Sept. 25, 1962, 76 Stat. 586.)

REFERENCES IN TEXT

The National School Lunch Act, as amended, referred to in subsec. (b), is classified to chapter 13 of Title 42, The Public Health and Welfare.

The Vocational Education Act of 1946, as amended, referred to in subsec. (c), is now covered by section 1241 et seq. of Title 20, Education.

The Library Services Act, as amended, referred to in subsec. (c), is classified to chapter 16 of Title 20, Education.

The Hospital Survey and Construction Act, as amended, referred to in subsec. (c), is classified to section 291 et seq. of Title 42, The Public Health and Welfare.

§ 1667. Repealed. Pub. L. 90–576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091.

Section, Pub. L. 87–688, § 2, Sept. 25, 1962, 76 Stat. 586, extended to American Samoa the benefits of the Vocational Education Act of 1946 and authorized an annual appropriation of $80,000 therefor.

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided in part that repeal of this section by Pub. L. 90–576 is effective July 1, 1969.

Chapter 14.—TRUST TERRITORY OF THE PACIFIC ISLANDS

Sec.

1681. Continuance of civil government for the Trust Territory of the Pacific Islands; assistance programs; maximum fiscal year costs; reimbursement.
1681a. Appointment of High Commissioner.
1682. Purchases by governments of Pacific Trust Territory.
1683. Auditing of transactions of Pacific Trust Territory.
1684. Expenditure of funds for administration of Pacific Trust Territory.
1685. Transfer of property or money for administration of Pacific Trust Territory.
1686. Approval by Congress of new activity in Pacific Trust Territory.
1687. Expenditure of appropriations for Pacific Trust Territory for aircraft and surface vessels.

§ 1681. Continuance of civil government for the Trust Territory of the Pacific Islands; assistance programs; maximum fiscal year costs; reimbursement

(a) Until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, all executive, legislative, and judicial authority necessary for the civil administration of the Trust Territory shall continue to be vested in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize.

(b) The head of any department, corporation, or other agency of the executive branch of the Government may, upon the request of the Secretary of the Interior, extend to the Trust Territory of the Pacific Islands, with or without reimbursement, scientific, technical, and other assistance under any program administered by such agency, or extend to the Trust Territory any Federal program administered by such agency, if the assistance or program will promote the welfare of the Trust Territory, notwithstanding any provision of law under which the Trust Territory may otherwise be ineligible for the assistance or program: *Provided,* That the Secretary of the Interior shall not request assistance pursuant to this subsection that involves, in the aggregate, an estimated nonreimbursable cost in any one fiscal year in excess of $150,000: *Provided further,* That the cost of any program extended to the Trust Territory under this subsection shall be reimbursable out of appropriations authorized and made for the government of the Trust Territory pursuant to section 2 of this Act, as amended. The provisions of this subsection shall not apply to financial assistance under a grant-in-aid program. (June 30, 1954, ch. 423, § 1, 68 Stat. 330; Aug. 22, 1964, Pub. L. 88–487, § 1, 78 Stat. 601.)

REFERENCES IN TEXT

Section 2 of this Act, as amended, referred to in subsec. (b), means section 2 of act June 30, 1954, set out as a note under this section.

AMENDMENTS

1964—Pub. L. 88–487 designated existing provisions as subsec. (a), and added subsec. (b).

AUTHORIZATION FOR FISCAL YEAR 1963

Pub. L. 87–541, July 19, 1962, 76 Stat. 171, provided in part that "not more than $15,000,000 is authorized to be appropriated for the fiscal year 1963."

APPROPRIATIONS

Section 2 of act June 30, 1954, as amended July 19, 1962, Pub. L. 87–541, 76 Stat. 171; May 10, 1967, Pub. L. 90–16, § 1, 81 Stat. 15; Oct. 21, 1968, Pub. L. 90–617, § 1, 82 Stat. 1213; Dec. 24, 1970, Pub. L. 91–578, 84 Stat 1559, provided that: "There are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1967, for each of the fiscal years 1971, 1972, and 1973, $60,000,000 to remain available until expended, to carry out the provisions of this Act [this section] and to provide for a program of necessary capital improvements and public works related to health, education, utilities, highways, transportation facilities, communications, and public buildings: *Provided,* That except for funds appropriated for the activities of the Peace Corps no funds appropriated by any Act shall be used for administration of the Trust Territory of the Pacific Islands except as may be specifically authorized by law."

EXECUTIVE ORDER NO. 10265

Ex. Ord. No. 10265, June 29, 1951, 16 F.R. 6419, which related to transfer of administration of Trust Territory of the Pacific Islands, was superseded by Ex. Ord. No. 11021, May 8, 1962, 27 F.R. 4409, set out as a note under this section.

EX. ORD. NO. 11021. ADMINISTRATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

Ex. Ord. No. 11021, May 7, 1962, 27 F.R. 4409, provided:

WHEREAS the Trust Territory of the Pacific Islands was placed under the trusteeship system established in the Charter of the United Nations by mean of a trusteeship agreement approved by the Security Council of the United Nations on April 2, 1947, and by the United States Government on July 18, 1947, after due constitutional process (hereafter referred to as the trusteeship agreement); and

WHEREAS the United States of America was designated under the terms of the trusteeship agreement as the administering authority of the Trust Territory referred to above (hereinafter referred to as the trust territory); and

WHEREAS the United States has heretofore assumed obligations for the civil administration of the trust territory and has carried out such civil administration under the provisions of Executive Orders Nos. 9875 of July 18, 1947, 10265 of June 29, 1951, 10408 of November 10, 1952, and 10470 of July 17, 1953; and

WHEREAS thereunder the Secretary of the Navy is now responsible for the civil administration of the Northern Mariana Islands except the Island of Rota and the Secretary of Interior is responsible for the civil administration of all of the remainder of the trust territory; and

WHEREAS it appears that the purposes of the trusteeship agreement can best be effectuated at this time by placing in the Secretary of the Interior responsibility for the civil administration of all of the trust territory:

NOW, THEREFORE, by virtue of the authority vested in me by the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681) and as President of the United States, it is ordered as follows:

SECTION 1. *Responsibility of Secretary of the Interior.* The responsibility for the administration of civil government in all of the trust territory, and all executive, legislative, and judicial authority necessary for that administration, are hereby vested in the Secretary of the Interior. Subject to such policies as the President may from time to time prescribe, and in harmony with applicable law, and, where advantageous, in collaboration with other departments and agencies of the Government, the Secretary of the Interior shall take such actions as may be necessary and appropriate to carry out the obligations assumed by the United States as the administering authority of the trust territory under the terms of the trusteeship agreement and under the Charter of the United Nations: *Provided however,* That the authority to specify parts or all of the trust territory as closed for security reasons and to determine the extent to which Articles 87 and 88 of the Charter of the United Nations shall be applicable to such close areas, in accordance with Article 13 of the trusteeship agreement, shall be exercised by the President: *And provided further,* That the Secretary of the Interior shall keep the Secretary of State currently informed of activities in the trust territory affecting the foreign policy of the United States and shall consult with the Secretary of State on questions of policy concerning the trust territory which relate to the foreign policy of the United States, and that all relations between the departments and agencies of the Government and appropriate organs of the United Nations with respect to the trust territory shall be conducted through the Secretary of State.

SEC. 2. *Redelegation of authority.* The executive, legislative, and judicial authority provided for in section 1 of this order may be exercised through such officers or employees of the Department of the Interior, or through such other persons under the jurisdiction of the Secretary of the Interior, as the Secretary may designate, and shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

SEC. 3. *Cooperation with Department of the Interior.* The executive departments and agencies of the Government shall cooperate with the Department of the Interior in the effectuation of the provisions of this order.

SEC. 4. *Prior orders.* To the extent not heretofore superseded or otherwise rendered inapplicable, the following are hereby superseded:

(1) Executive Order No. 10265 of June 29, 1951.

(2) Executive Order No. 10408 of November 10, 1952.

(3) Executive Order No. 10470 of July 17, 1953.

SEC. 5. *Saving provisions.* (a) Existing laws, regulations, orders, appointments, or other acts promulgated, made, or taken by the Secretary of the Interior or his delegates under the authority of Executive Order No. 10265, as amended and in effect immediately prior to the effective date of this order, shall remain in effect until they are superseded in pursuance of the provisions of this order.

(b) Nothing contained in this order shall be construed as modifying the rights or obligation of the United States under the provisions of the trusteeship agreement or as affecting or modifying the responsibility of the Secretary of State to interpret the rights and obligations of the United States arising out of that agreement.

SEC. 6. *Effective date.* The provisions of this order shall become effetcive on July 1, 1962.

JOHN F. KENNEDY

AUTHORIZING APPROVAL OF TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF THE PACIFIC ISLANDS

Joint Res. July 18, 1947, ch. 271, 61 Stat. 397, provided:

"Whereas the United States submitted to the Security Council of the United Nations for its approval in accordance with article 83 of the Charter of the United Nations a proposed trusteeship agreement for the Pacific islands formerly mandated to Japan under which the United States would be prepared to administer those islands under trusteeship in accordance with the Charter of the United Nations; and

"Whereas the Security Council on April 2, 1947, approved unanimously the trusteeship agreement with amendments acceptable to the United States; and

"Whereas the said agreement, having been approved by the Security Council, will come into force upon approval by the Government of the United States after due constitutional process: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to approve, on behalf of the United States, the trusteeship agreement between the United States of America and the Security Council of the United Nations for the former Japanese mandated islands (to be known as the Territory of the Pacific Islands) which was approved by the Security Council at the seat of the United Nations, Lake Success, Nassau County, New York, on April 2, 1947.

SIMILAR PROVISIONS

Similar provisions continuing the civil government for the Trust Territory of the Pacific Islands until June 30, 1954 were contained in Joint Res. Aug. 8, 1953, ch. 383, §§ 1, 2, 67 Stat. 494.

ISLAND TRADING COMPANY OF MICRONESIA

Section 3 of Joint Res. Aug. 8, 1953, ch. 383, 67 Stat. 494, provided that: "Notwithstanding the provisions of the Interior Department Appropriation Act, 1953. (Public Law 470, Eighty-second Congress, second session, 66 Stat. 445), the Island Trading Company of Micronesia shall not have succession after December 31, 1954".

DISASTER RELIEF

Section 2 of act June 30, 1954, ch. 423, as added Pub. L. 90–617, § 2, Oct. 21, 1968, 82 Stat. 1213, and amended Pub. L. 91–606, title III, § 301(k), Dec. 31, 1970, 84 Stat. 1759, provided that: "There are hereby authorized to be appropriated such sums as the Secretary of the Interior may find necessary, but not to exceed $10,000,000 for any one year, to alleviate suffering and damage resulting from major disasters that occur in the Trust Territory of the Pacific Islands. Such sums shall be in addition to those authorized in section 2 of this Act [set out as a note under this section] and shall not be subject to the limitations imposed by section 2 of this Act. The Secretary of the Interior shall determine whether or not a major disaster has occurred in accordance with the principles and policies of section 102(1) of the Disaster Relief Act of 1970 [section 4402(1) of Title 42, The Public Health and Welfare]."

APPOINTMENT OF HIGH COMMISSIONER

Appointment of High Commissioner by the President by and with the advice and consent of the Senate, see section 1681a of this title.

§ 1681a. Appointment of High Commissioner.

Any appointment made on or after May 10, 1967 to the office of the High Commissioner of the Trust Territory of the Pacific Islands shall be made by the President by and with the advice and consent of the Senate. (Pub. L. 90–16, § 2, May 10, 1967, 81 Stat. 15.)

§ 1682. Purchases by governments of Pacific Trust Territory.

The Territorial and local governments of the Trust Territory of the Pacific Islands are authorized to make purchases through the General Services

Administration. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 673.)

CODIFICATION

Section as it relates to the Virgin Islands, Guam, and American Samoa, is set out as sections 1401f, 1423l, and 1665, respectively, of this title.

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91-98, title I, § 100, 83 Stat. 151.
1968—July 26, 1968, Pub. L. 90-425, title I, § 100, 82 Stat. 430.
1967—June 24, 1967, Pub. L. 90-28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89-435, title I, § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89-52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88-356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 340.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 251.
1960—May 13, 1960, Pub L. 86-455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85-439, title I, § 100, 72 Stat. 164.
1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 266.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 265.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 372.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 273.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458.
1951—Aug. 31, 1951, ch. 371, title I, § 101, 65 Stat. 263.

§ 1683. Auditing of transactions of Pacific Trust Territory.

All financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921, as amended, and the Accounting and Auditing Act of 1950. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 673.)

REFERENCES IN TEXT

The Budget and Accounting Act, 1921, as amended, referred to in the text, is classified to sections 1, 2, 11, 13—16, 17, 18, 19—22, 23, 24, 41, 42, 43, 44, 46—50, 52, and 53—56 of Title 31, Money and Finance.

The Accounting and Auditing Act of 1950, referred to in the text, is classified to sections 65—67 of Title 31.

SIMILAR PROVISIONS

Section is from the Department of the Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91-98, title I, § 100, 83 Stat. 151.
1968—July 26, 1968, Pub. L. 90-425, title I, § 100, 82 Stat. 430.
1967—June 24, 1967, Pub. L. 90-28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89-435, title I, § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89-52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88-356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 340.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 251.
1960—May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 112.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85-439, title I, § 100, 72 Stat. 164.
1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 266.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 265.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 101, 68 Stat. 372.
1953—July 31, 1953, ch. 298, title I, § 1, 67 Stat. 273.
1952—July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458.

§ 1684. Expenditure of funds for administration of Pacific Trust Territory.

After June 30, 1954, no funds appropriated by any Act and no funds which are available or which may become available from any source whatever shall be used for administration of the Trust Territory of the Pacific Islands, except as may be specifically authorized by law. (July 31, 1953, ch. 298, title I, § 1, 67 Stat. 273.)

SIMILAR PROVISIONS

Section is from the Interior Department Appropriation Act, 1954, act July 31, 1954. Similar provisions were contained in the Interior Department Appropriation Act, 1953, act July 9, 1952, ch. 597, title I, § 101, 66 Stat. 458.

§ 1685. Transfer of property or money for administration of Pacific Trust Territory.

After June 30, 1952, transfers to the Department of the Interior pursuant to the Federal Property and Administrative Services Act of 1949 of equipment, material and supplies, excess to the needs of Federal agencies may be made at the request of the Secretary of the Interior without reimbursement or transfer of funds when required by the Interior Department for operations conducted in the administration of the Territories and the Trust Territory of the Pacific Islands. (July 9, 1952, ch. 597, title I, § 108, 66 Stat. 460.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I-IV and VI-VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90-620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

§ 1686. Approval by Congress of new activity in Pacific Trust Territory.

CODIFICATION

Section, act July 31, 1953, ch. 298, title I, § 1, 67 Stat. 274, which prohibited new activity in the Trust Territory of the Pacific Islands requiring expenditures of Federal funds without specific prior approval of Congress, was from the Interior Department Appropriation Act, 1954, and was not repeated in subsequent appropriation acts.

§ 1687. Expenditure of appropriations for Pacific Trust Territory for aircraft and surface vessels.

Appropriations available for the Administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of aircraft and surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary. (Pub. L. 91-361, title I, § 100, July 31, 1970, 84 Stat. 673.)

SIMILAR PROVISIONS

Section is from the Department of Interior and Related Agencies Appropriation Act, 1971. Similar provisions were contained in the following prior appropriation acts:

1969—Oct. 29, 1969, Pub. L. 91-98, title I, § 100, 83 Stat. 152.
1968—July 26, 1968, Pub. L. 90-425, title I, § 100, 82 Stat. 431.
1967—June 24, 1967, Pub. L. 90-28, title I, § 100, 81 Stat. 63.
1966—May 31, 1966, Pub. L. 89-435, title I, § 100, 80 Stat. 174.
1965—June 28, 1965, Pub. L. 89-52, title I, § 100, 79 Stat. 179.
1964—July 7, 1964, Pub. L. 88-356, title I, § 100, 78 Stat. 278.
1963—July 26, 1963, Pub. L. 88-79, title I, § 100, 77 Stat. 102.
1962—Aug. 9, 1962, Pub. L. 87-578, title I, § 100, 76 Stat. 340.
1961—Aug. 3, 1961, Pub. L. 87-122, title I, § 100, 75 Stat. 251.
1960—May 13, 1960, Pub. L. 86-455, title I, § 100, 74 Stat. 113.
1959—June 23, 1959, Pub. L. 86-60, title I, § 100, 73 Stat. 101.
1958—June 4, 1958, Pub. L. 85-439, title I, § 100, 72 Stat. 164.
1957—July 1, 1957, Pub. L. 85-77, title I, § 1, 71 Stat. 266.
1956—June 13, 1956, ch. 380, title I, § 101, 70 Stat. 265.
1955—June 16, 1955, ch. 147, title I, § 1, 69 Stat. 149.
1954—July 1, 1954, ch. 446, title I, § 1, 68 Stat. 372.

Chapter 15.—CONVEYANCE OF SUBMERGED LANDS TO TERRITORIES

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(b) Conveyances for specific economic development purposes or compelling public need.
(c) Notification to congressional committees; time of conveyance.
(d) Terms and conditions; reimbursement.
(e) Rights of territorial governments; power of Secretary of Interior and of territorial governments to convey; conditions; notice.
(f) Exception of certain minerals from conveyances.
1702. Administrative responsibility of Secretary of Interior.
1703. Reserved rights.
(a) Establishment of naval defensive sea areas and airspace reservations.
(b) Navigation; flood control; power production.
(c) Navigational servitude and powers of regulation for purposes of commerce, navigation, national defense, and international affairs.
1704. Concurrent jurisdiction; exceptions for national defense purposes.

§ 1701. Tidelands, submerged lands, or filled lands.

(a) Authorization to convey.

Upon the request of the Governor of Guam, the Governor of the Virgin Islands, or the Governor of American Samoa, the Secretary of the Interior is authorized to convey to the government of the territory concerned whatever right, title, or interest the United States has in particular tracts of tidelands, submerged lands, or filled lands in or adjacent to the territory, subject to the limitations contained in this section. The term "tidelands, submerged lands, or filled lands" means for the purposes of this chapter all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territory, as heretofore or hereafter modified by accretion, erosion, and reliction, including artificially made, filled-in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters.

(b) Conveyances for specific economic development purposes or compelling public need.

No conveyance shall be made pursuant to this section unless the land proposed to be conveyed is clearly required for specific economic development purposes or to satisfy a compelling public need.

(c) Notification to congressional committees; time of conveyance.

No conveyance shall be made pursuant to this section until the expiration of sixty calendar days (exclusive of days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

(d) Terms and conditions; reimbursement.

Conveyances pursuant to this section shall be subject to such terms and conditions as the Secretary of the Interior may deem appropriate, and shall be made without reimbursement or with such reimbursement as he may deem appropriate.

(e) Rights of territorial governments; power of Secretary of Interior and of territorial governments to convey; conditions; notice.

The governments of Guam, the Virgin Islands, and American Samoa shall have proprietary rights of ownership and the rights of management, administration, leasing, use, and the development of the lands conveyed pursuant to this section, but the Secretary of the Interior and such territorial governments shall not have the power or right to convey title to such lands unless the Secretary of the Interior (1) determines that such right to convey is necessary and (2) advises the committee of such determination in the manner described in subsection (c) of this section, and (3) unless the Secretary of the Interior, in proposing to convey such lands to such territorial governments, and such territorial governments in proposing to convey such lands to a third party or third parties pursuant to this section, shall publish notice of such proposed conveyance at least once a week for three weeks in a daily newspaper or newspapers of general circulation

in the territory affected by the proposed conveyance. Such published notice shall include the names of all parties to the proposed contract of conveyance, the purchase price, and a general summary of the boundaries of the tract or tracts proposed to be included in the conveyance.

(f) Exception of certain minerals from conveyances.

There shall be excepted from conveyances made pursuant to this section all deposits of oil, gas, and other minerals, but the term "minerals" shall not include sand, gravel, or coral. (Pub. L. 88–183, § 1, Nov. 20, 1963, 77 Stat. 338.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1703 of this title.

§ 1702. Administrative responsibility of Secretary of Interior.

(a) The Secretary of the Interior shall have administrative responsibility for all tidelands, submerged lands, or filled lands in or adjacent to Guam, the Virgin Islands, and American Samoa, except (1) lands conveyed pursuant to section 1701 of this title, (2) lands that are not owned by the United States on November 20, 1963, and (3) lands that are within the administrative responsibility of any other department or agency of the United States on November 20, 1963, for so long as such condition continues. In exercising such authority, the Secretary may grant revocable permits, subject to such terms and conditions as he may deem appropriate, for the use, occupancy, and filling of such lands, and for the removal of sand, gravel, and coral therefrom.

(b) Nothing contained in this section shall affect the authority heretofore conferred upon any department, agency, or officer of the United States with respect to the lands referred to in this section. (Pub. L. 88–183, § 2, Nov. 20, 1963, 77 Stat. 339.)

§ 1703. Reserved rights.

(a) Establishment of naval defensive sea areas and airspace reservations.

Nothing in this chapter shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands which he deems necessary for national defense.

(b) Navigation; flood control; power production.

Nothing in this chapter shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands conveyed pursuant to section 1701 of this title and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or shall be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power.

(c) Navigational servitude and powers of regulation for purposes of commerce, navigation, national defense, and international affairs.

The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed pursuant to section 1701 of this title and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources not in derogation of United States navigational servitude and rights which are specifically conveyed to the governments of Guam, the Virgin Islands, or American Samoa, as the case may be, pursuant to section 1701 of this title. (Pub. L. 88–183, § 3, Nov. 20, 1963, 77 Stat. 339.)

§ 1704. Concurrent jurisdiction; exceptions for national defense purposes.

(a) Except as otherwise provided in this section, the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, shall have concurrent jurisdiction with the United States over parties found, acts performed, and offenses committed on property owned, reserved, or controlled by the United States in Guam, the Virgin Islands, and American Samoa. A judgment of conviction or acquittal on the merits under the laws of Guam, the Virgin Islands, or American Samoa shall be a bar to any prosecution under the criminal laws of the United States for the same act or acts, and a judgment of conviction or acquittal on the merits under the laws of the United States shall be a bar to any prosecution under the laws of Guam, the Virgin Islands, or American Samoa for the same act or acts.

(b) Notwithstanding the provisions of subsection (a) of this section, the President may from time to time exclude from the concurrent jurisdiction of the government of Guam persons found, acts performed, and offenses committed on the property of the United States which is under the control of the Secretary of Defense to such extent and in such circumstances as he finds required in the interest of the national defense. (Pub. L. 88–183, § 4, Nov. 20, 1963, 77 Stat. 339.)

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Chapter 1.—INTERSTATE COMMERCE ACT, PART I; GENERAL PROVISIONS AND RAILROAD AND PIPE LINE CARRIERS

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INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "part I" and a new part II, comprising chapter 8 of this title, was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV constituting chapter 13 of this title, was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting chapter 19 of this title, was added by Pub. L. 85–625, § 2, Aug. 12, 1958, 72 Stat. 568.

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act, chapters 1, 8, 12, 13 and 19 of this title, by inserting before part I thereof (chapter 1 of this title) the following provision entitled "National Transportation Policy:"

"It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act (chapters 1, 8, 12, 13 and 19 of this title), so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this act (chapters 1, 8, 12, 13 and 19 of this title), shall be administered and enforced with a view to carrying out the above declaration of policy."

INVESTIGATION OF VARIOUS MODES OF TRANSPORTATION

Title III, part I of act Sept. 18, 1940, ch. 722, §§ 301—306, 54 Stat. 952—954, establishing a Board of Investigation and Research to conduct certain investigations in connection with national transportation problems, was extended to September 18, 1944, by 1942 Proc. No. 2559, June 26, 1942, 7 F. R. 4809.

REPEALS

The provisions of this chapter, insofar as they related to communication by wire or wireless, or to telegraph, telephone, or cable companies operating by wire or wireless, except the last proviso of section 1 (5) and the provisions of section 1 (7), were repealed by act June 19, 1934, ch. 652, § 602 (b), 48 Stat. 1102. See chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

CROSS REFERENCES

Appeals to Supreme Court, see section 45 of this title.

Expedition of actions by United States under this chapter involving general public importance, see section 44 of this title.

Rate making policy, see section 55 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 53, 55, 302, 303, 305, 319, 902, 903, 905, 906, 1002, 1004, 1008, 1010, 1011, 1013, 1017 of this title; title 15 section 80a-3; title 16 section 813; title 26 sections 48, 281, 3231; title 45 sections 65, 228a, 351.

§ 1. Regulation in general; car service; alteration of line.

(1) Carriers subject to regulation.

The provisions of this chapter shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water—

(c) Repealed. June 19, 1934, ch. 652, Title VI, § 602 (b), 48 Stat. 1102.

From one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only insofar as such transportation or transmission takes place within the United States.

(2) Transportation subject to regulation.

The provisions of this chapter shall also apply to such transportation of passengers and property, but only insofar as such transportation takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid, except as otherwise provided in this chapter;

(b) Repealed. June 19, 1934, ch. 652, Title VI, § 602 (b), 48 Stat. 1102.

(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this chapter except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(3) Definitions.

(a) The term "common carrier" as used in this chapter shall include all pipe-line companies; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this chapter it shall be held to mean "common carrier." The term "railroad" as used in this chapter shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this chapter shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "person" as used in this chapter includes an individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes a trustee, receiver, assignee, or personal representative thereof.

(b) For the purposes of sections 5, 12 (1), 20, 304 (a) (7), 310, 320, 904 (b), 910, and 913 of this title, where reference is made to control (in referring to a relationship between any person or persons and

another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(4) Duty to furnish transportation and establish through routes; division of joint rates.

It shall be the duty of every common carrier subject to this chapter to provide and furnish transportation upon reasonable request therefor, and to establish reasonable through routes with other such carriers, and just and reasonable rates, fares, charges, and classifications applicable thereto; and it shall be the duty of common carriers by railroad subject to this chapter to establish reasonable through routes with common carriers by water subject to chapter 12 of this title, and just and reasonable rates, fares, charges, and classifications applicable thereto. It shall be the duty of every such common carrier establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such participating carriers.

(5) Just and reasonable charges.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

(5½) Exchange of services.

Nothing in this Act shall be construed to prevent any common carrier subject to this Act from entering into or operating under any contract with any telephone, telegraph, or cable company, for the exchange of their services.

(6) Classification of property for transportation; regulations and practices.

It is made the duty of all common carriers subject to the provisions of this chapter to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this chapter which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this chapter upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.

(7) Free transportation for passengers prohibited; exceptions; penalty.

No common carrier subject to the provisions of this chapter, shall, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees, its officers, time inspectors, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such organizations are authorized and designated to represent employees in accordance with the provisions of the Railway Labor Act; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials; to customs inspectors, and immigration officers; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: *Provided,* That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: *And provided further,* That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this chapter: *Provided further,* That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and exemployees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those

persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier. Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than $100 nor more than $2,000, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in sections 41 to 43 of this title.

(8) Transportation of commodity manufactured or produced by railroad forbidden.

It shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

(9) Switch connections and tracks.

Any common carrier subject to the provisions of this chapter, upon application of any lateral, branch line of railroad, or of any shipper tendering interstate traffic for transportation, shall construct, maintain, and operate upon reasonable terms a switch connection with any such lateral, branch line of railroad, or private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper or owner of such lateral, branch line railroad, such shipper or owner of such lateral branch line of railroad, may make complaint to the Commission, as provided in section 13 of this title, and the Commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the Commission may make an order, as provided in section 15 of this title, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the Commission, other than orders for the payment of money.

(10) "Car service" defined.

The term "car service" in this chapter shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this chapter.

(11) Duty to furnish car service; rules and regulations.

It shall be the duty of every carrier by railroad subject to this chapter to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

(12) Distribution of coal cars; failure to prorate; penalty.

It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of $100 for each offense, which may be recovered in a civil action brought by the United States.

(13) Rules and regulations as to car service to be filed, etc.

The Commission is authorized by general or special orders to require all carriers by railroad subject to this chapter, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the Commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this chapter relating thereto.

(14) Establishment by Commission of rules, etc., as to car service.

(a) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this chapter, including the compensation to be paid and other terms of any contract, agreement, or arrangement for the use of any locomotive, car, or other vehicle not owned by the carrier using it (and whether or not owned by another carrier), and the penalties or other sanctions for nonobservance of such rules, regulations, or practices. In fixing such compensation to be paid for the use of any type of freight car, the Commission shall give consideration to the national level of ownership of such type of freight car and to other factors affecting the adequacy of the national freight car supply, and shall, on the basis of such consideration, determine whether compensation should be computed solely on the basis of elements of ownership expense involved in owning and

maintaining such type of freight car, including a fair return on value, or whether such compensation should be increased by such incentive element or elements of compensation as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car the supply of which the Commission finds to be adequate and may exempt from the compensation to be paid by any group of carriers such incentive element or elements of the Commission finds it to be in the national interest.

(b) It shall be unlawful for any common carrier by railroad or express company, subject to this chapter, to make or enter into any contract, agreement, or arrangement with any person for the furnishing to or on behalf of such carrier or express company of protective service against heat or cold to property transported or to be transported in interstate or foreign commerce, or for any such carrier or express company to continue after April 1, 1941, as a party to any such contract, agreement, or arrangement unless and until such contract, agreement, or arrangement has been submitted to and approved by the Commission as just, reasonable, and consistent with the public interest: *Provided*, That if the Commission is unable to make its determination with respect to any such contract, agreement, or arrangement prior to said date, it may extend it to not later than October 1, 1941.

(15) Powers of Commission in case of emergency.

Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

(16) Rerouting of traffic on failure of initial carrier to serve public.

Whenever the Commission is of opinion that any carrier by railroad subject to this chapter is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

(17) Directions of Commission as to car service; disobedience; rights of States; bribery.

(a) The directions of the Commission as to car service and to the matters referred to in paragraphs (15) and (16) of this section may be made through and by such agents or agencies as the Commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this chapter, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver, or trustee shall be liable to a penalty of not less than $100 no more than $500 for each such offense and $50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided, however*, That nothing in this chapter shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except insofar as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this chapter and except as otherwise provided in this chapter.

(b) It shall be unlawful for any person to offer or give or cause or procure to be offered or given, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, to any person acting for or employed by any carrier by railroad subject to this part with intent to influence his decision or action, or because of his decision or action, with respect to the supply, distribution, or

movement of cars or other vehicles, or vessels, used in the transportation of property. It shall be unlawful for any person acting for or employed by any carrier by railroad subject to this chapter to solicit, accept, or receive, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, with intent to be influenced thereby in his decision or action, or because of his decision or action, with respect to the supply, distribution, or movement of cars or other vehicles, or vessels, used in the transportation of property. Any person who violates the provisions of this subparagraph shall be deemed guilty of a misdemeanor and be subject for each offense to a fine of not more than $1,000, or imprisonment in the penitentiary for a term of not more than two years, or both such fine and imprisonment.

(18) Extension or abandonment of lines; certificate required; contracts for joint use of spurs, switches, etc.

No carrier by railroad subject to this chapter shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this chapter over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this chapter shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment. Nothing in this paragraph or in section 5 of this title shall be considered to prohibit the making of contracts between carriers by railroad subject to this chapter, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

(19) Application for certificate of Commission; notice and hearing.

The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this chapter shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

(20) Issuance of certificate by Commission; unlawful extension or abandonment of lines.

The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

(21) Power of Commission to require adequate facilities or extension of line; penalty.

The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this chapter, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this chapter, and to extend its line or lines: *Provided,* That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this chapter which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(22) Construction, etc., of spurs, switches, etc., within State.

The authority of the Commission conferred by paragraphs (18) to (21) of this section, both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching, or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.

(Feb. 4, 1887, ch. 104, pt. I, § 1, 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, 35 Stat. 60; June 18, 1910, ch. 309, § 7, 36 Stat. 544; May 29, 1917, ch. 23, 40 Stat. 101; Feb. 28, 1920, ch. 91, §§ 400—403, 41 Stat. 474—479; June 19, 1934, ch. 652, § 602 (b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, §§ 2, 3 (a), (b), 4, 54 Stat. 899—901; June 24, 1948, ch. 622, 62 Stat. 602; Aug. 2, 1949, ch. 379, § 1, 63 Stat. 485; June 27, 1952, ch. 477, title IV, § 402 (g), 66 Stat. 277; Aug. 12, 1958, Pub. L. 85-625, § 3, 72 Stat. 570; May 26, 1966, Pub. L. 89-430, § 1, 80 Stat. 168.)

REFERENCES IN TEXT

"This chapter", referred to in text, was in the original "this part", which means part I of the Interstate Commerce Act.

This Act, referred to in par (5½), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13 and 19 of this title.

The Railway Labor Act, referred to in par. (7), is classified to chapter 8 of Title 45, Railroads.

The National Home for Disabled Volunteer Soldiers, referred to in par. (7), was dissolved by act July 3, 1930, ch. 863, §§ 1, 3, 5, 46 Stat. 1016, which provided for the consolidation of such home and its functions in the Veterans' Administration. The consolidation was effected by Ex. Ord. No. 5398, July 21, 1930.

CODIFICATION

Par. (1) constituted the first paragraph of section 400 of act Feb. 28, 1920, which amended section 7 of the Commerce Court, act June 18, 1910, ch. 309, 36 Stat. 544. The latter act amended section 1 of act Feb. 4, 1887, as amended before 1910. The earlier acts in designating the carriers subject to regulation followed substantially the clause of this paragraph which related to telegraph companies. Under the paragraph in the present form common cariers by railroads, etc., generally are subjected to the provisions of this chapter, and paragraph (2) of this section contains exceptions as to intrastate transportation, etc.

Par. (2) constituted the second paragraph of section 400 of act Feb. 28, 1920, which amended section 7 of the Commerce Court Act, act June 18, 1910, ch. 309, 36 Stat. 544. This latter act amended section 1 of act 1887, as amended before 1910. Subpar. (c) of this par. was added by act Feb. 28, 1920. Subpar. (a) is to the same effect as the proviso contained in act June 18, 1910.

Par. (3) constituted paragraph (3) of section 400 of act Feb. 28, 1920, amending section 1 of the Interstate Commerce Act as such paragraph appeared in section 7 of the Commerce Court Act, act June 18, 1910, ch. 309, 36 Stat. 544.

Par. (4) constituted the fourth paragraph of section 400 of act Feb. 28, 1920, amending section 1 of the Interstate Commerce Act as such paragraph appeared in section 7 of the Commerce Court Act, act June 18, 1910, ch. 309, 36 Stat. 545.

Par. (5) constituted the fifth paragraph of section 400 of act Feb. 28, 1920, amending section 1 of the Interstate Commerce Act, as such paragraph appeared in section 7 of the Commerce Court Act, act June 18, 1910, ch. 309, 36 Stat. 545.

Par. (6) was inserted in this section as originally enacted and subsequently amended, by the Mann-Elkins Act of June 18, 1910. It constituted the fourth paragraph of such section and subsequently became paragraph "(6)" under the amendatory act of Feb. 28, 1920.

Par. (7). No provisions similar to those of the text were contained in this paragraph as originally enacted. They were added by a part of act June 29, 1906, amended by act April 13, 1908, and again amended to read as given in the text by act June 18, 1910, constituting the fifth paragraph of such section. The paragraph was numbered paragraph "(7)" by the amendatory act of Feb. 28, 1920.

Par. (8). This paragraph, known as the "Commodities Clause," did not appear in the Interstate Commerce Act of Feb. 4, 1887, as originally enacted, but was added by the amendment made by act June 29, 1906, and was repeated by the amending act of June 18, 1910. The paragraph which constituted the sixth paragraph of the earlier acts was numbered "(8)" by section 401 of act Feb. 28, 1920.

Par. (9) was not contained in the Interstate Commerce Act of Feb. 4, 1887. It was first added by the amendatory act of June 29, 1906, and by the subsequent amendatory act of June 18, 1910, was made to read as set out in the text. The amendment in 1910 was to the last sentence and authorized the application, etc., to be made by the "owner of such lateral, branch line of railroad" in additional to the "shipper." The number "(9)" was given to the paragraph by act Feb. 28, 1920; theretofore it constituted the seventh paragraph of this section as amended by the act of 1910, and the sixth paragraph of this section as amended by the act of 1906.

Par. (10) was added to section 1 of the act of 1887, by the amendatory act of May 29, 1917, and was amended to read as above by the Transportation Act of Feb. 28, 1920, and given the number "(10)".

Par. (11) was added by act May 29, 1917 and was amended to read as above by the Transportation Act of Feb. 28, 1920, and was given the number "(11)".

Par. (12) was not contained in the Interstate Commerce Act of 1887 or the earlier amendatory acts, but was added by the Transportation Act of Feb. 28, 1920, and given the number "(12)."

Par. (13) is not found in original Interstate Commerce Act of 1887 or the earlier amendatory acts, but was added to section 1 by the act of May 29, 1917, and was amended to read as above by the Transportation Act of Feb. 28, 1920, and given the number "(13)."

Par. (14) was not found in the original Interstate Commerce Act of 1887 or the earlier amendatory acts, but was added to section 1, by the amendatory act of May 29, 1917, and was amended by the Transportation Act of Feb. 28, 1920, and given the number "(14)."

Par. (15) was not found in the original Interstate Commerce Act of 1887 or the earlier amendatory acts. It was added by the amendatory act of May 29, 1917, and was amended to read as above by the Transportation Act of Feb. 28, 1920, and was given the number "(15)."

Par. (16) was not found in the original Interstate Commerce Act of 1887 or the earlier amendatory acts. It was added by the Transportation Act of Feb. 28, 1920, and was given the number "(16)."

Par. (17) was not found in the original Interstate Commerce Act of 1887 or the earlier amendatory acts. The first part of this paragraph down to the proviso was added by the amendatory act of May 29, 1917, was amended by the Transportation Act of Feb. 28, 1920, and was given the number "(17)."

Pars. (18) to (22) were not found in the original Interstate Commerce Act of 1887 nor in the earlier amendatory acts. They were added by the Transportation Act of Feb. 28, 1920, and given the numbers "(18)" to "(22)."

AMENDMENTS

1966—Par. (14). Pub. L. 89-430 required that, in fixing the compensation to be paid for the use of any type of freight car, the Commission give consideration to the national level of ownership of the type of freight cars involved and other factors affecting the adequacy of the national freight car supply, and authorized the Commission to fix the compensation at a level so as to provide incentive elements that will encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense in cases where the Commission finds the car supply to be inadequate.

1958—Par. (2). Pub. L. 85-625, inserted "except as otherwise provided in this chapter" following "aforesaid" in subpar. (a).

Par. (17). Pub. L. 85-625, inserted "and except as otherwise provided in this chapter" following "made under the provisions of this chapter" in subpar. (a).

1952—Par. (7). Act June 27, 1952, substituted "immigration officers" for "immigration inspectors".

1949—Par. (5). Act Aug. 2, 1949, struck out "(a)" and made subpar. (b) a separate paragraph numbered "(5½)".

1948—Par. (7). Act June 24, 1948, allowed free transportation to time inspectors and their families.

1940—Par. (3). Act Sept. 18, 1940, § 2 (a), (b) designated former paragraph to be subpar. (a), added last sentence thereto, and added subpar. (b).

Par. (4). Act Sept. 18, 1940, § 2(c), amended par. (4).

Par. (5). Act Sept. 18, 1940, § 2(d), designated former paragraph to be subpar. (a), struck out the proviso thereto, and added subpar. (b).

Par. (7). Act Sept. 18, 1940, § 3 (a), (b), amended par. (7).

Par. (14). Act Sept. 18, 1940, § 4(a), amended par. (14).

Par. (17). Act Sept. 18, 1940, § 4(b), designated former paragraph to be subpar. (a) and added subpar. (b).

Par. (18). Act Sept. 18, 1940, § 4(c), added last sentence.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act which has been translated to read "this chapter".

1934—Par. (1). Act June 19, 1934, repealed subpar. (c) which related to communications by wire or wireless.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89-430 provided that: "Any compensation fixed pursuant to the amendment made to the Interstate Commerce Act by the first section of this Act [amending par. (14) of this section] shall not take effect before September 1, 1966."

REPEALS

The provisions of this section, insofar as they related to communication by wire or wireless, or to telegraph, telephone, or cable companies operating by wire or wireless, except the last proviso of par. (5) and the provisions of par. (7), were repealed by the Communications Act of June 19, 1934. See chapter 5 of Title 47, Telegraphs, Telephones and Radiotelegraphs.

CONTINUATION OF PROVISIONS OF PAR. (15) UNTIL TERMINATION OF DEC. 16, 1950, NATIONAL EMERGENCY AND SIX MONTHS

Act June 30, 1953, ch. 165, 67 Stat. 115, provided: "That the provisions of section 1 (15) of the Interstate Commerce Act, as amended [par. (15) of this section], as continued in effect by section 1 (a) (25) of the Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress) and the authorizations conferred and liabilities imposed thereby, shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2914, 3 C.F.R., 1950 Supp., p. 71 [set out as a note preceding section 1 of Appendix to title 50]), or until such earlier date as the Congress by concurrent resolution declares that it is no longer necessary to exercise the powers continued in force and effect by this Act, notwithstanding any limitation, by reference to war or threatened war, of the time during or for which the authorizations or liabilities thereunder may be exercised or imposed."

PRIOR CONTINUATIONS

Provisions of par. (15) of this section were previously extended to July 1, 1953 by Joint Res. July 3, 1952, ch. 570, § 1 (a) (25), 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, 67 Stat. 18.

REPEAL OF PRIOR ACTS CONTINUING PAR. (15)

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CROSS REFERENCES

Motor vehicle common carriers, application of par. (7) to, see section 317(b) of this title.

Natural Gas Act, see chapter 15B of Title 15, Commerce and Trade.

Rates on Government traffic, see section 65 of this title.

Special exception to operation of par. (7) prohibiting free transportation, see section 53 of this title.

Transportation at reduced rates, see section 22 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 6, 15, 317, 906, 1020, 1655 of this title; title 11 section 205; title 26 section 250; title 45 sections 502, 544, 546.

§ 2. Special rates and rebates prohibited.

If any common carrier subject to the provisions of this chapter shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered or to be rendered, in the transportation of passengers or property, subject to the provisions of this chapter, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is prohibited and declared to be unlawful. **(Feb. 4, 1887, ch. 104, pt. I, § 2, 24 Stat. 379; Feb. 28, 1920, ch. 91, § 404, 41 Stat. 479; June 19, 1934, ch. 652, § 602 (b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)**

REFERENCES IN TEXT

"This chapter" referred to in the text, was in the original "This part", which means part I of the Interstate Commerce Act.

CODIFICATION

This section constitutes the second section of the original Interstate Commerce Act of 1887, as amended by the Transportation Act of Feb. 28, 1920.

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

REPEALS

The provisions of this section, insofar as they related to communication by wire or wireless, or to telegraph, telephone, or cable companies operating by wire or wireless, were repealed by the Communications Act of June 19, 1934. See chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

§ 3. Preferences; interchange of traffic; terminal facilities.

(1) Undue preferences or prejudices prohibited.

It shall be unlawful for any common carrier subject to the provisions of this chapter to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however*, That this paragraph shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

(1a) Export rates on farm commodities; Commission's power to carry out policy.

It is declared to be the policy of Congress that shippers of wheat, cotton, and all other farm com-

modities for export shall be granted export rates on the same principles as are applicable in the case of rates on industrial products for export. The Commission is directed, on its own initiative or an application by interested persons, to make such investigations and conduct such hearings, and, after appropriate proceedings, to issue such orders, as may be necessary to carry out such policy.

(2) Payment of freight as prerequisite to delivery. No carrier by railroad and no express company subject to the provisions of this chapter shall deliver or relinquish possession at destination of any freight or express shipment transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges and to prevent unjust discrimination: *Provided,* That the provisions of this paragraph shall not be construed to prohibit any carrier or express company from extending credit in connection with rates and charges on freight or express shipments transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia. Where carriers by railroad are instructed by a shipper or consignor to deliver property transported by such carriers to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (a) is an agent only and has no beneficial title in the property, and (b) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has also notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or, in the case of a shipment so reconsigned or diverted, the beneficial owner, shall be liable for such additional charges, irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made. An action for the enforcement of such liability may be begun within the period provided in paragraph (3) of section 16 of this title or before the expiration of six months after final judgment against the carrier in an action against the consignee begun within the period provided in paragraph (3) of section 16 of this title. If the consignee has given to the carrier erroneous information as to who the beneficial owner is, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. An action for the enforcement of such liability may be begun within the period provided in paragraph (3) of section 16 of this title or before the expiration of six months after final judgment against the carrier in an action against the beneficial owner named by the consignee begun within the period provided in paragraph (3) of section 16 of this title. On shipments reconsigned or diverted by an agent who has furnished the carrier in the reconsignment or diversion order with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith. If the reconsignor or diverter has given to the carrier erroneous information as to who the beneficial owner is, such reconsignor or diverter shall himself be liable for all such charges, and an action for the enforcement of his liability may be begun within the same period provided in the case of an action against a consignee who has given erroneous information as to the beneficial owner.

(3) Liability of shipper-consignee for freight where delivery is made to another party upon instruction.

If a shipper or consignor of a shipment of property (other than a prepaid shipment) is also the consignee named in the bill of lading and, prior to the time of delivery, notifies, in writing, a delivering carrier by railroad or a delivering express company subject to the provisions of this chapter, (a) to deliver such property at destination to another party, (b) that such party is the beneficial owner of such property, and (c) that delivery is to be made to such party only upon payment of all transportation charges in respect of the transportation of such property, and delivery is made by the carrier to such party without such payment, such shipper or consignor shall not be liable (as shipper, consignor, consignee, or otherwise) for such transportation charges but the party to whom delivery is so made shall in any event be liable for transportation charges billed against the property at the time of such delivery, and also for any additional charges which may be found to be due after delivery of the property, except that if such party prior to such delivery has notified in writing the delivering carrier that he is not the beneficial owner of the property, and has given in writing to such delivering carrier the name and address of such beneficial owner, such party shall not be liable for any additional charges which may be found to be due after delivery of the property; but if the party to whom delivery is made has given to the carrier erroneous information as to the beneficial owner, such party shall nevertheless be liable for such additional charges. If the shipper or consignor has given to the lelivering carrier erroneous information as to who the beneficial owner is, such shipper or consignor shall himself be liable for such transportation charges, notwithstanding the foregoing provisions of this paragraph and irrespective of any provisions to the contrary in the bill of lading or in the contract of transportation under which the shipment was made. An action for the enforcement of such liability either against the party to whom delivery is made or the shipper or consignor may be begun within the period provided in paragraph (3) of section 16 of this title, or before the expiration of six months after final judgment against the carrier in an action against either of such parties begun within the limitation period provided in paragraph (3) of section 16 of this title. The term "delivering carrier" means the line-haul carrier making ultimate delivery.

(4) Interchange of traffic.

All carriers subject to the provisions of this chapter shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines and connecting lines, and for the receiving, forwarding, and delivering of passengers or property to and from connecting lines; and shall not discriminate in their rates, fares, and charges between connecting lines, or unduly prejudice any connecting line in the distribution of traffic that is not specifically routed by the shipper. As used in this paragraph the term "connecting line" means the connecting line of any carrier subject to the provisions of this chapter or any common carrier by water subject to chapter 12 of this title.

(5) Terminal facilities; use of and compensation for.

If the Commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a common carrier by railroad owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power by order to require the use of any such terminal facilities, including main-line track or tracks for a reasonable distance outside of such terminal, of any common carrier by railroad, by another such carrier or other such carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be. (Feb. 4, 1887, ch. 104, pt. I, § 3, 24 Stat. 380; Feb. 28, 1920, ch. 91, § 405, 41 Stat. 479; Mar. 4, 1927, ch. 510, § 1, 44 Stat. 1447; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 12, 1935, ch. 509, 49 Stat. 607; Sept. 18, 1940, ch. 722, title I, § 5(a), (c)—(f), 54 Stat. 902; Aug. 2, 1949, ch. 379, § 2 (a), 63 Stat. 485.)

AMENDMENTS

1949—Par. (2). Act Aug. 2, 1949, brought express companies within its provisions.

1940—Par. (1). Act Sept. 18, 1940, § 5(a), set out par. (1).

Par. (1a). Act Sept. 18, 1940, § 5(a), set out par. (1a).

Par. (2). Act Sept. 18, 1940, § 5(c) amended par. (2).

Par. (3). Act Sept. 18, 1940, § 5(d), added par. (3), and redesignated former par. (3) as "(4)".

Par. (4). Act Sept. 18, 1940, § 5(e), redesignated former par. (3) as "(4)" and amended said par. "(4)". Former par. (4) redesignated "(5)" and amended by section 5(f) of act Sept. 18, 1940.

Par. (5). Act Sept. 18, 1940, § 5(f), redesignated former par. (4) as "(5)" and amended said par. "(5)".

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

Par. (1). Act Aug. 12, 1935, amended par. (1).

1927—Par. (2). Act Mar. 4, 1927, amended par. (2).

EFFECTIVE DATE OF 1949 AMENDMENT

Section 2 (b) of act Aug. 2, 1949, provided that the amendment of par. (2) by act Aug. 2, 1949, shall be effective six months after Aug. 2, 1949.

INVESTIGATION BY COMMISSION OF RATES ON MANUFACTURED AND AGRICULTURAL PRODUCTS AND RAW MATERIALS

Section 5 (b) of act Sept. 18, 1940, provided that:

"The Interstate Commerce Commission is authorized and directed to institute an investigation into the rates on manufactured products, agricultural commodities, and raw materials, between points in one classification territory and points in another such territory, and into like rates within any of such territories, maintained by common carriers by rail or water subject to part I of the Interstate Commerce Act, as amended (this chapter), for the purpose of determining whether said rates are unjust and unreasonable or unlawful in any other respect in and of themselves or in their relation to each other, and to enter such orders as may be appropriate for the removal of any unlawfulness which may be found to exist: *Provided,* That the Commission in its discretion may confine its investigation to such manufactured products, agricultural commodities, and raw materials, and the rates thereon as shippers thereof may specifically request be included in such investigation."

CROSS REFERENCES

Failure of carrier or officer to obey orders, penalty, see section 16(8) of this title.

Rebates and discrimination, see sections 2 and 41 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 15, 16 of this title.

§ 4. Long and short haul charges; competition with water routes.

(1) Charges for long and short hauls and on through route; exemption.

It shall be unlawful for any common carrier subject to this chapter or chapter 12 of this title to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this chapter or chapter 12 of this title, but this shall not be construed as authorizing any common carrier within the terms of this chapter or chapter 12 of this title to charge or receive as great compensation for a shorter as for a longer distance: *Provided,* That upon application to the Commission and after investigation, such carrier, in special cases, may be authorized by the Commission to charge less for longer than for shorter distances for the transportation of passengers or property, and the Commission may from time to time prescribe the extent to which such designated carriers may be relieved from the operation of the foregoing provisions of this section, but in exercising the authority conferred upon it in this proviso, the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *Provided further,* That any such car-

rier or carriers operating over a circuitous line or route may, subject only to the standards of lawfulness set forth in other provisions of this chapter or chapter 12 of this title and without further authorization, meet the charges of such carrier or carriers of the same type operating over a more direct line or route, to or from the competitive points, provided that rates so established over circuitous routes shall not be evidence on the issue of the compensatory character of rates involved in other proceedings: *And provided further,* That tariffs proposing rates subject to the provision of this paragraph requiring Commission authorization may be filed when application is made to the Commission under the provisions hereof, and in the event such application is approved, the Commission shall permit such tariffs to become effective upon one day's notice: *And provided further,* That the provisions of this paragraph shall not apply to express companies subject to the provisions of this chapter, except that the exemption herein accorded express companies shall not be construed to relieve them from the operation of any other provision contained in this Act.

(2) Competition of railroads with water routes; change of rates.

Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points, it shall not be permitted to increase such rates unless after hearing by the Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition. (Feb. 4, 1887, ch. 104, pt. I, § 4, 24 Stat. 380; June 18, 1910, ch. 309, § 8, 36 Stat. 547; Feb. 28, 1920, ch. 91, § 406, 41 Stat. 480; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 6 (a), 54 Stat. 904; July 11, 1957, Pub. L. 85-99, 71 Stat. 292; Sept. 27, 1962, Pub. L. 87-707, 76 Stat. 635.)

REFERENCES IN TEXT

This Act, referred to in par. (1), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13 and 19 of this title.

AMENDMENTS

1962—Pub. L. 87-707 provided for exemption of express companies.

1957—Par. (1). Pub. L. 85-99, inserted proviso allowing carriers operating over circuitous routes to meet the charges of carriers of the same type operating over more direct routes.

1940—Par. (1). Act Sept. 18, 1940, amended par. (1).

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

EXISTING RATES, ETC., AS AFFECTED BY ACT SEPT. 18, 1940

Section 6 (b) of act Sept. 18, 1940, provided that:

"In the case of a carrier heretofore subject to the provisions of paragraph (1) of section 4 of the Interstate Commerce Act, as amended [par. 1 of this section], no rate, fare, or charge lawfully in effect at the time of the enactment of this act shall be required to be changed by reason of the amendments made to such paragraph [par. 1 of this section] by subsection (a) of this section. In the case of a carrier not heretofore subject to the provisions of such paragraph, no rate, fare, or charge lawfully in effect at the time of the enactment of this act shall be required to be changed, by reason of the provisions of such paragraph, as amended by subsection (a) of this section, prior to six months after the enactment of this act, or in case application for the continuance of any such existing rate, fare, or charge is filed with the Interstate Commerce Commission within such six months period, until the Commission has acted upon such application."

§ 5. Combinations and consolidations of carriers.

(1) Pooling; division of traffic, service, or earnings.

Except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this title, it shall be unlawful for any common carrier subject to this chapter, chapter 8, or chapter 12 of this title to enter into any contract, agreement, or combination with any other such common carrier or carriers for the pooling or division of traffic, or of service, or of gross or net earnings, or of any portion thereof; and in any case of an unlawful agreement for the pooling or division of traffic, service, or earnings as aforesaid each day of its continuance shall be a separate offense: *Provided,* That whenever the Commission is of opinion, after hearing upon application of any such carrier or carriers or upon its own initiative, that the pooling or division, to the extent indicated by the Commission, of their traffic, service, or gross or net earnings, or of any portion thereof, will be in the interest of better service to the public or of economy in operation, and will not unduly restrain competition, the Commission shall by order approve and authorize, if assented to by all the carriers involved, such pooling or division, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable in the premises: *Provided further,* That any contract, agreement, or combination to which any common carrier by water subject to chapter 12 of this title is a party, relating to the pooling or division of traffic, service, or earnings, or any portion thereof, lawfully existing on September 18, 1940, if filed with the Commission within six months after such date, shall continue to be lawful except to the extent that the Commission, after hearing upon application or upon its own initiative, may find and by order declare that such contract, agreement, or combination is not in the interest of better service to the public or of economy in operation, or that it will unduly restrain competition.

(2) Unifications, mergers, and acquisitions of control.

(a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b) of this paragraph—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

(b) Whenever a transaction is proposed under subdivision (a) of this paragraph, the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 305 (e) of this title), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subdivision (a) of this paragraph and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: *Provided,* That if a carrier by railroad subject to this chapter, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6) of this section, is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

(c) In passing upon any proposed transaction under the provisions of this paragraph, the Commission shall give weight to the following considerations, among others: (1) The effect of the proposed transaction upon adequate transportation service to the public; (2) the effect upon the public interest of the inclusion, or failure to include, other railroads in the territory involved in the proposed transaction; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of the carrier employees affected.

(d) The Commission shall have authority in the case of a proposed transaction under this paragraph involving a railroad or railroads, as a prerequisite to its approval of the proposed transaction, to require, upon equitable terms, the inclusion of another railroad or other railroads in the territory involved, upon petition by such railroad or railroads requesting such inclusion, and upon a finding that such inclusion is consistent with the public interest.

(e) No transaction which contemplates a guaranty or assumption of payment of dividends or of fixed charges, shall be approved by the Commission under this paragraph except upon a specific finding by the Commission that such guaranty or assumption is not inconsistent with the public interest. No transaction shall be approved under this paragraph which will result in an increase of total fixed charges, except upon a specific finding by the Commission that such increase would not be contrary to public interest.

(f) As a condition of its approval, under this paragraph, of any transaction involving a carrier or carriers by railroad subject to the provisions of this chapter, the Commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected. In its order of approval the Commission shall include terms and conditions providing that during the period of four years from the effective date of such order such transaction will not result in employees of the carrier or carriers by railroad affected by such order being in a worse position with respect to their employment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. Notwithstanding any other provisions of this Act, an agreement pertaining to the protection of the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees.

(3) Noncarrier deemed carrier upon acquiring control. Whenever a person which is not a carrier is authorized, by an order entered under paragraph (2) of this section, to acquire control of any carrier or of two or more carriers, such person thereafter shall, to the extent provided by the Commission in such order, be considered as a carrier subject to such of the following provisions as are applicable to any carrier involved in such acquisition of control: Sections 20 (1) to (10), 304 (a) (1) and (2), 320 and 913 of this title, (which relate to reports, accounts, and so forth, of carriers), and sections 20a (2) to (11), and 314 of this title, (which relate to issues of securities and assumptions of liability of carriers), including in each case the penalties applicable in the case of violations of such provisions. In the application of such provisions of sections 20a and 314 of this title, in the case of any such person, the Commission shall authorize the issue or assumption applied for only if it finds that such issue or assumption is consistent with the proper performance of its service to the public by each carrier which is under the control of such person, that it will not impair the ability of any such carrier to perform such service, and that it is otherwise consistent with the public interest.

(4) Control effected by other than prescribed methods. It shall be unlawful for any person, except as provided in paragraph (2) of this section, to enter into any transaction within the scope of subdivision (a) of paragraph (2) of this section, or to accomplish or effectuate, or to participate in accomplishing or effectuating, the control or management in a common interest of any two or more

carriers, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner whatsoever. It shall be unlawful to continue to maintain control or management accomplished or effectuated after the enactment of this amendatory paragraph[1] and in violation of its provisions. As used in this paragraph and paragraph (5) of this section, the words "control or management" shall be construed to include the power to exercise control or management.

(5) Transactions deemed to effectuate control or management.

For the purposes of this section, but not in anywise limiting the application of the provisions thereof, any transaction shall be deemed to accomplish or effectuate the control or management in a common interest of two carriers—

(a) if such transaction is by a carrier, and if the effect of such transaction is to place such carrier and persons affiliated with it, taken together, in control of another carrier;

(b) if such transaction is by a person affiliated with a carrier, and if the effect of such transaction is to place such carrier and persons affiliated with it, taken together, in control of another carrier;

(c) if such transaction is by two or more persons acting together, one of whom is a carrier or is affiliated with a carrier, and if the effect of such transaction is to place such persons and carriers and persons affiliated with any one of them and persons affiliated with any such affiliated carrier, taken together, in control of another carrier.

(6) Affiliation with a carrier defined.

For the purposes of this section a person shall be held to be affiliated with a carrier if, by reason of the relationship of such person to such carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or any other direct or indirect means), it is reasonable to believe that the affairs of any carrier of which control may be acquired by such person will be managed in the interest of such other carrier.

(7) Investigation by Commission of effectuation of control by nonprescribed methods.

The Commission is authorized, upon complaint or upon its own initiative without complaint, but after notice and hearing, to investigate and determine whether any person is violating the provisions of paragraph (4) of this section. If the Commission finds after such investigation that such person is violating the provisions of such paragraph, it shall by order require such person to take such action as may be necessary, in the opinion of the Commission, to prevent continuance of such violation. The provisions of this paragraph shall be in addition to, and not in substitution for, any other enforcement provisions contained in this chapter; and with respect to any violation of paragraphs (2) to (12) of this section, any penalty provision applying to such a violation by a common carrier subject to this chapter shall apply to such a violation by any other person.

(8) Jurisdiction of injunctions, etc., against violations of section or orders.

The district courts of the United States shall have jurisdiction upon the complaint of the Commission, alleging a violation of any of the provisions of this section or disobedience of any order issued by the Commission thereunder by any person, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person from violation of such provision or to compel obedience to such order.

(9) Supplemental orders by Commission.

The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1), (2), or (7) of this section, as it may deem necessary or appropriate.

(10) Unifications, consolidations, etc., of motor carriers only.

Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) of this section where the only parties to the transaction are motor carriers subject to chapter 8 of this title (but not including a motor carrier controlled by or affiliated with a carrier as defined in section 1(3) of this title), and where the aggregate gross operating revenues of such carriers have not exceeded $300,000 for a period of twelve consecutive months ending not more than six months preceding the date of the agreement of the parties covering the transaction.

Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) of this section where the only parties to the transaction are street, suburban, or interurban electric railways none of which is controlled by or under common control with any carrier which is operated as part of a general steam railroad system of transportation.

(11) Plenary nature of authority under section.

The authority conferred by this section shall be exclusive and plenary, and any carrier or corporation participating in or resulting from any transaction approved by the Commission thereunder, shall have full power (with the assent, in the case of a purchase and sale, a lease, a corporate consolidation, or a corporate merger, of a majority, unless a different vote is required under applicable State law, in which case the number so required shall assent, of the votes of the holders of the shares entitled to vote of the capital stock of such corporation at a regular meeting of such stockholders, the notice of such meeting to include such purpose, or at a special meeting thereof called for such purpose) to carry such transaction into effect and to own and operate any properties and exercise any control or franchises acquired through said transaction without invoking any approval under State authority; and any carriers or other corporations, and their officers and employees and any other persons, participating in a

[1] Paragraph (4), formerly (6), was added by act June 16, 1933, and amended by act Sept. 18, 1940.

transaction approved or authorized under the provisions of this section shall be and they are relieved from the operation of the antitrust laws and of all other restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to carry into effect the transaction so approved or provided for in accordance with the terms and conditions, if any, imposed by the Commission, and to hold, maintain, and operate any properties and exercise any control or franchises acquired through such transaction. Nothing in this section shall be construed to create or provide for the creation, directly or indirectly, of a Federal corporation, but any power granted by this section to any carrier or other corporation shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State.

(12) Separability clause.

If any provision of the foregoing paragraphs of this section, or the application thereof to any person or circumstances, is held invalid, the other provisions of such paragraphs, and the application of such provision to any other person or circumstances, shall not be affected thereby.

(13) Carrier defined.

As used in paragraphs (2) to (12) of this section, inclusive, the term "carrier" means a carrier by railroad and an express company and a sleeping-car company, subject to this chapter; and a motor carrier subject to chapter 8 of this title; and a water carrier subject to chapter 12 of this title.

(14) Interest in competing water carrier; prohibition of.

Notwithstanding the provisions of paragraph (2) of this section, from and after the 1st day of July 1914, it shall be unlawful for any carrier, as defined in section 1 (3) of this title, or (after September 18, 1940) any person controlling, controlled by, or under common control with, such a carrier to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water operated through the Panama Canal or elsewhere with which such carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense.

(15) Same; determination of fact of competition.

Jurisdiction is conferred on the Commission to determine questions of fact, arising under paragraph (14) of this section, as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of such paragraph and may pray for an order permitting the continuance of any vessel or vessels already in operation, or may pray for an order under the provisions of paragraph (16) of this section. The Commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the Commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said Commission shall be final.

(16) Same; permission of interest in competing water carrier.

Notwithstanding the provisions of paragraph (14) of this section, the Commission shall have authority, upon application of any carrier, as defined in section 1 (3) of this title, and after hearing, by order to authorize such carrier to own or acquire ownership of, to lease or operate, to have or acquire control of, or to have or acquire an interest in, a common carrier by water or vessel, not operated through the Panama Canal, with which the applicant does or may compete for traffic, if the Commission shall find that the continuance or acquisition of such ownership, lease, operation, control, or interest will not prevent such common carrier by water or vessel from being operated in the interest of the public and with advantage to the convenience and commerce of the people, and that it will not exclude, prevent, or reduce competition on the route by water under consideration: *Provided,* That if the transaction or interest sought to be entered into, continued, or acquired is within the scope of paragraph (2) (a) of this section, the provisions of paragraph (2) of this section shall be applicable thereto in addition to the provisions of this paragraph: *And provided further,* That no such authorization shall be necessary if the carrier having the ownership, lease, operation, control, or interest has, prior to September 18, 1940, obtained an order of extension under the provisions of paragraph (21) of this section, as in effect prior to such date, and such order is still in effect. (Feb. 4, 1887, ch. 104, pt. I, § 5, 24 Stat. 380; Aug. 24, 1912, ch. 390, § 11, 37 Stat. 566; Feb. 28, 1920, ch. 91, §§ 407, 408, 41 Stat. 480, 482; June 10, 1921, ch. 20, 42 Stat. 27; June 16, 1933, ch. 91, title II, §§ 201—203, 48 Stat. 217—220; June 19, 1934, ch. 652, § 221, 48 Stat. 1080; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 7, 54 Stat. 905; Aug. 2, 1949, ch. 379, §§ 3, 4, 63 Stat. 485; July 27, 1965, Pub. L. 89-93, § 1, 10 Stat. 284.)

REFERENCES IN TEXT

Words "September 18, 1940" in pars. (1), (14), and (16) appeared in act Sept. 18, 1940, as "the date this paragraph as amended takes effect", "the date of the enactment of this amendatory section", and "the date this section as amended becomes effective", respectively.

"This Act" referred to in par. (2)(f), refers to the Interstate Commerce Act, which is classified to this chapter and to chapters 8, 12, 13, and 19 of this title.

CODIFICATION

Former par. (18), relating to acquisition or consolidation of telephone companies, is now covered by section 221 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. It was formerly par. (9) of this section and was renumbered (18) by act June 16, 1933, § 203.

AMENDMENTS

1965—Pub. L. 89-93 substituted gross operating revenues, with an upper limit of $300,000 for a period of twelve consecutive months ending not more than six months preceding the date of the agreement of the parties covering the transaction, for the number of

vehicles owned, leased, controlled or operated for the purposes of transportation subject to chapter 8 of this title, with an upper limit of 20, as the basis for determining whether a proposed unification or acquisition of control is exempt from the provisions of this section.

1949—Par. (2)(b). Act Aug. 2, 1949, § 3, gave the Commission discretion as to whether a public hearing is necessary.

Par. (10). Act Aug. 2, 1949, § 4(a), in last subpar., took out of the section local electric lines which are not operated by, or under the control of, a steam railroad.

Par. (13). Act Aug. 2, 1949, § 4(b), included sleeping car company within the definition of carrier.

1940—Act Sept. 18, 1940, amended section in its entirety.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 2 of Pub. L. 89–93 provided that: "The amendment made by the first section of this Act [to this section] shall apply only with respect to agreements entered into on or after the sixtieth day after the date of enactment of this Act [July 27, 1965]."

SEPARABILITY OF PROVISIONS

Section 209 of act June 16, 1933, provided as follows: "If any provision of this Act or the application thereof to any person or circumstances, is held invalid, the other provisions of this Act or the application of such provision to any other person or circumstances shall not be affected thereby".

CROSS REFERENCES

Consolidations under Railroad Reorganization Act of 1933, see section 205 of Title 11, Bankruptcy.

Control defined, see section 1(3) of this title.

Joint ownership or joint use of spur, industrial, team, switching, or side tracks, not prohibited by this section, see section 1(18) of this title.

Proceedings for obtaining, service and enforcement, and terms of orders, see section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5a, 5b, 51, 306, 1011, 1609, 1636 of this title; title 45 sections 565, 662.

§ 5a. Combinations and consolidations existing prior to June 16, 1933.

The provisions of this chapter and of all other applicable Federal statutes, as in force prior to June 16, 1933, shall remain in force, as though sections 5, 15a, 15b, and 19a of this title had not been enacted, with respect to the acquisition by any carrier, prior to June 16, 1933, of the control of any other carrier or carriers. (June 16, 1933, ch. 91, title II, § 204, 48 Stat. 220.)

CODIFICATION

Section was enacted as a part of the Emergency Railroad Transportation Act, 1933 and not as a part of the Interstate Commerce Act which comprises this chapter and chapters 8, 12, 13, and 19 of this title.

§ 5b. Agreements between carriers.

(1) Definition of "carrier" and "antitrust laws".

For purposes of this section—

(A) The term "carrier" means any common carrier subject to chapters 1, 8, or 12 of this title or any freight forwarder subject to chapter 13 of this title; and

(B) The term "antitrust laws" has the meaning assigned to such term in section 12 of Title 15.

(2) Application to Commission for approval of agreements; rules and regulations.

Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the Commission may prescribe, apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement (if approval thereof is not prohibited by paragraph (4), (5), or (6) of this section) if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) of this section should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. The approval of the Commission shall be granted only upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

(3) Maintenance of accounts and records by conferences, bureaus, committees, etc.

Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives.

(4) Agreements between carriers of different classes.

The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipe-line companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

(5) Pooling or division agreements.

The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this title is applicable.

(6) Agreements for determining matters through joint consideration.

The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(7) Investigation of prior approved agreements; termination or modification of approval; effective date.

The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and

conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2) of this section, or whether any such terms and conditions are not necessary for purposes of conformity with such standard, and, after such investigation, the Commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

(8) Hearings.

No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(9) Relief from operation of antitrust laws.

Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4), (5), or (6) of this section, relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

(10) Effect of Commission's action.

Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9) of this section. (Feb. 4, 1887, ch. 104, pt. I, § 5a, as added June 17, 1948, ch. 491, 62 Stat. 472.)

REFERENCES IN TEXT

"This Act", referred to in subd. (2), refers to the Interstate Commerce Act, which is classified to this chapter and to chapters 8, 12, 13, and 19 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22 of this title.

§ 6. Schedules and statements of rates, etc., joint rail and water transportation.

(1) Schedule of rates, fares, and charges; filing and posting.

Every common carrier subject to the provisions of this chapter shall file with the Commission created by this chapter and print and keep open to public inspection schedules showing all the rates, fares, and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print, and keep open to public inspection, as aforesaid, the separately established rates, fares, and charges applied to the through transportation. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the Commission may require, all privileges or facilities granted or allowed, and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. The provisions of this section shall apply to all traffic, transportation, and facilities defined in this chapter.

(2) Schedule of rates through foreign country.

Any common carrier subject to the provisions of this chapter receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this chapter, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

(3) Change in rates, fares, etc.; notice required; simplification of schedules.

No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided,* That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar

circumstances or conditions: *Provided further,* That the Commission is authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges, or classifications not changed if, in its judgment, not inconsistent with the public interest.

(4) Joint tariffs.

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

(5) Copies of traffic contracts to be filed.

Every common carrier subject to this chapter shall also file with said Commission copies of all contracts, agreements, or arrangements, with other common carriers in relation to any traffic affected by the provisions of this chapter to which it may be a party: *Provided, however,* That the Commission, by regulations, may provide for exceptions from the requirements of this paragraph in the case of any class or classes of contracts, agreements, or arrangements, the filing of which, in its opinion, is not necessary in the public interest.

(6) Form and manner of publishing, filing, and posting schedules; unlawful use.

The schedules required by this section to be filed shall be published, filed, and posted in such form and manner as the Commission by regulation shall prescribe; and the Commission is authorized to reject any schedule filed with it which is not in accordance with this section and with such regulations. Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

(7) Transportation without filing and publishing rates forbidden; rebates; privileges.

No carrier, unless otherwise provided by this chapter, shall engage or participate in the transportation of passengers or property, as defined in this chapter, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this chapter; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

(8) Preference to shipments for United States.

In time of war or threatened war preference and precedence shall, upon demand of the President of the United States, be given, over all other traffic, for the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic. And in time of peace shipments consigned to agents of the United States for its use shall be delivered by the carriers as promptly as possible and without regard to any embargo that may have been declared, and no such embargo shall apply to shipments so consigned.

(9) Schedule lacking notice of effective date.

The Commission may reject and refuse to file any schedule that is tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Commission shall be void and its use shall be unlawful.

(10) Penalty for failure to comply with regulations.

In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with the terms of any regulation adopted and promulgated or any order made by the Commission under the provisions of this section, such carrier, receiver, or trustee shall be liable to a penalty of $500 for each such offense, and $25 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(11) Jurisdiction of Commission over transportation by rail and water.

When property may be or is transported from point to point in the United States by rail and water through the Panama Canal or otherwise, the transportation being by a common carrier or carriers, and not entirely within the limits of a single State, the Interstate Commerce Commission shall have jurisdiction of such transportation and of the carriers, both by rail and by water, which may or do engage in the same, in the following particulars, in addition to the jurisdiction otherwise given by this chapter:

(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passenger or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right-of-way, or by directing either or both the rail and water carrier, individually or in connection with one another to construct and connect with the lines of the rail carrier a track or tracks to the dock. The Commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier: *Provided,* That construction required by the Commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this title.

(b) To establish proportional rates or maximum, or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.

(12) Jurisdiction of Commission over carriers contracting with water carriers operating to foreign ports.

If any common carrier subject to this Act enters into arrangements with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, for the handling of through business between interior points of the United States and such foreign country, the Commission may by order require such common carrier to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country. (Feb. 4, 1887, ch. 104, pt. I, § 6, 24 Stat. 380; Mar. 2, 1889, ch. 382, § 1, 25 Stat. 855; June 29, 1906, ch. 3591, § 2, 34 Stat. 586; June 18, 1910, ch. 309, § 9, 36 Stat. 548; Aug. 24, 1912, ch. 390, § 11, 37 Stat. 568; Aug. 29, 1916, ch. 417, 39 Stat. 604; Feb. 28, 1920, ch. 91, §§ 409—413, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 8, 54 Stat. 910; Aug. 2, 1949, ch. 379, § 5, 63 Stat. 486.)

REFERENCES IN TEXT

This Act, referred to in par. (12), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13 and 19 of this title.

AMENDMENTS

1949—Par. (5). Act Aug. 2, 1949, added proviso to give Commission discretion in not requiring copies of certain instruments.

1940—Par. (6). Act Sept. 18, 1940, § 8(a), amended par. (6).

Par. (11). Act Sept. 18, 1940, § 8(c), redesignated former par. (13) as "(11)", and amended said par. "(11)".

Par. (12). Act Sept. 18, 1940, § 8(d), added par. (12).

Former par. (13) redesignated "(11)" and amended by act Sept. 18, 1940, § 8(c).

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

REPEALS

Former paragraphs 11 and 12 of this section were repealed by act Sept. 18, 1940, § 8 (b).

CONTINUATION OF PROVISIONS OF PAR. (8) UNTIL 6 MONTHS AFTER TERMINATION OF NATIONAL EMERGENCY

Act July 31, 1953, ch. 292, 67 Stat. 244, provided that: "The provisions of the eighth paragraph (designated 'Military traffic in time of war') of section 6 of the Act of February 4, 1887 (ch. 104, 24 Stat. 380), as that section was amended by section 2 of the Act of June 29, 1906 (ch. 3591, 34 Stat. 586), as amended [par. 8 of this section], and as extended by section 1 (a) (24), Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress [Joint Res. July 3, 1952, ch. 570, 66 Stat. 332]) shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proclamation 2914, 3 C.F.R. 71 [set out as a note preceding section 1 of Title 50, Appendix, War and National Defense]), or until such earlier date as the Congress by concurrent resolution declares that it is no longer necessary to exercise the powers continued in force and effect by this Act, notwithstanding any limitation by reference to war or threatened war of the time during which the powers and authorizations therein granted may be exercised."

CONTINUATION OF PROVISIONS UNTIL AUGUST 1, 1953

Joint Res. June 30, 1953, ch. 172, 67 Stat. 132, and Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, amended Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, referred to in a note under this section, by extending the time limitation on the effectiveness of the provisions of par. (8) of this section from April 1, 1953 to August 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING PAR. (8)

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CROSS REFERENCES

Inclusion of statement of through service and joint rates under Federal Aviation Act of 1958, see section 1483 (b) of this title.

Proceedings for obtaining, service and enforcement, and terms of orders, see section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22, 51 of this title; title 43 section 942–1.

§ 7. Combinations to prevent continuous carriage of freight prohibited.

It shall be unlawful for any common carrier subject to the provisions of this chapter to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. I, § 7, 24 Stat. 382; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

§ 8. Liability in damages to persons injured by violation of law.

In case any common carrier subject to the provisions of this chapter shall do, cause to be done, or permit to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this chapter, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case. (Feb. 4, 1887, ch. 104, pt. I, § 8, 24 Stat. 382; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

§ 9. Remedies of persons damaged; election; witnesses.

Any person or persons claiming to be damaged by any common carrier subject to the provisions of this chapter may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this chapter in any district court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit. (Feb. 4, 1887, ch. 104, pt. I, § 9, 24 Stat. 382; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Oct. 15, 1970, Pub. L. 91–452, title II, § 243(a), 84 Stat. 931.)

AMENDMENTS

1970—Pub. L. 91–452 struck out the provisions that the claim that any compelled testimony or evidence which tends to criminate the person giving such evidence would not excuse such witness from testifying, but that such evidence or testimony would not be used against such person on the trial of any criminal proceeding.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 10. Violation of regulations by carrier; discrimination; penalties.

(1) Violation by carrier or officer; penalty.

Any common carrier subject to the provisions of this chapter, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this chapter required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this chapter to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this chapter for which no penalty is otherwise provided, or who shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed $5,000 for each offense: *Provided,* That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property or the transmission of intelligence, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

(2) False billing or classification by carrier; penalty.

Any common carrier subject to the provisions of this chapter, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding $5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

(3) Obtaining lower rates by false billing, etc., or by false claim; penalty.

Any person, corporation, or company, or any agent or officer thereof, who shall deliver property for transportation to any common carrier subject to the provisions of this chapter, or for whom, as consignor or consignee, any such carrier shall transport property, who shall knowingly and willfully, directly, or indirectly, himself or by employee, agent, officer, or otherwise, by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent, or officer, obtain or attempt to obtain transportation for such property at less than the regular rates then established and in force on the line of transportation; or who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false statement or representation as to cost, value, nature, or extent of injury, or by the use of any false bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund, or payment for damage

or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without the consent or connivance of the carrier, whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed, be subject for each offense to a fine of not exceeding $5,000 or imprisonment in the penitentiary for a term of not exceeding two years, or both in the discretion of the court: *Provided,* That the penalty of imprisonment shall not apply to artificial persons.

(4) Inducing unjust discrimination; penalty; liability for damages.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce or attempt to induce any common carrier subject to the provisions of this chapter, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding $5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom. (Feb. 4, 1887, ch. 104, pt. I, § 10, 24 Stat. 382; Mar. 2, 1889, ch. 382, § 2, 25 Stat. 857; June 18, 1910, ch. 309, § 10, 36 Stat. 549; Feb. 28, 1920, ch. 91, § 414, 41 Stat. 483; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20, 22 of this title.

§ 11. Interstate Commerce Commission; appointment, term, and qualifications of Commissioners.

A commission is created and established to be known as the Interstate Commerce Commission, which shall be composed of eleven Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners appointed under this chapter and their successors, shall continue in office for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Of the Commissioners in office on January 1, 1926, the term of one shall expire December 31 in each of the years 1926, 1927, and 1932 and the terms of two shall expire December 31, in each of the years 1928, 1929, 1930, and 1931. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than six of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this chapter, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. Upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and shall have qualified. (Feb. 4, 1887, ch. 104, pt. I, §§ 11, 24, 24 Stat. 383, 387; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Aug. 9, 1917, ch. 50, § 1, 40 Stat. 270; Feb. 28, 1920, ch. 91, § 440, 41 Stat. 497; July 16, 1935, ch. 383, 49 Stat. 481; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

Act July 16, 1935, added last sentence relating to the continuance in office of a Commissioner until his successor is appointed and has qualified.

COMPENSATION OF MEMBERS OF INTERSTATE COMMERCE COMMISSION

Compensation of members, see section 5315 of Title 5, Government Organization and Employees.

REORGANIZATION PLAN NO. 1 OF 1969

Eff. Oct. 11, 1969, 34 F.R. 15783, 83 Stat. 859.

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, July 22, 1969, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

INTERSTATE COMMERCE COMMISSION

SECTION 1. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) Requests for regular, supplemental, or deficiency appropriations for the Commission (prepared by or under the Chairman in pursuance of section 214 of the Budget

and Accounting Act, 1921, as amended (31 USC 22) and as affected by this reorganization plan) shall require the approval of the Commission prior to the submission of the requests to the Bureau of the Budget [now the Office of Management and Budget] by the Chairman.

(5) There are hereby reserved to the Commission its functions with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. DESIGNATION OF CHAIRMAN

(a) The function of the Commission of choosing the Chairman from among the commissioners composing the Commission is hereby transferred to the President of the United States.

(b) Nothing in this reorganization plan shall preclude the Commission from designating a commissioner to be the acting chairman of the Commission and to perform the functions of the Chairman during any period of time when (by reason of death, resignation, or other cause) no Presidentially desginated Chairman is available to perform them.

SEC. 4. TAKING EFFECT

Section 3 of this reorganization plan shall take effect on the first day of January 1970, and the other sections hereof shall take effect on the date determined under section 906(a) of title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

The Interstate Commerce Commission, oldest of the Federal regulatory agencies, has jurisdiction over 17,000 carriers—rail and motor, water and pipeline, express companies and freight forwarders. Its decisions help shape the scope and character of the Nation's transportation system.

But, as important as the Commission is, as extensive as its jurisdiction is, it is hampered by:

1. Lack of continuity: The Chairman of the Commission serves only a year, selected by annual rotation from among the eleven Commissioners. In no other major Federal regulatory agency is the President without the power to designate the Chairman.

2. Lack of leadership: The Chairman does not have vested in him by law the executive and administrative functions of the Commission. As a result there is no firm and clear legal responsibility for the management of the Commission's day-to-day affairs.

To change this situation, I am sending to the Congress today Reorganization Plan No. 1 of 1969, prepared in accordance with chapter 9 of title 5 of the United States Code.

1. Continuity

The Chairman of the Interstate Commerce Commission is the Commission's spokesman, its key link to other agencies and the industry, the supervisor of its staff, and director of its internal operations. Yet today, despite the need for sustained leadership, the Chairman of this agency serves only one year. I know of no modern business that would tolerate the practice of annually rotating its chief executive.

To provide the necessary continuity of leadership in the conduct of the Commission's administrative affairs, I propose that the President be authorized to designate the Chairman of the Commission from among its members. This principle of good management has already been taken with respect to most other major Federal regulatory agencies. The time has come to apply it to the Interstate Commerce Commission.

2. Leadership

The administrative powers of the Chairman must be strengthened.

In 1961, the Commission delegated its administrative powers to its Chairman. However, unless and until the administrative powers are vested in the Chairman by law, statutory authority will remain dispersed among the Commissioners.

Almost 20 years ago the Hoover Commission emphasized that "Administration by a plural executive is universally regarded as inefficient." It then recommended that all administrative responsibility be assigned the chairmen of these regulatory agencies.

That recommendation is as sound today as it was then. It has already been applied to almost every other major Federal regulatory agency. I propose that administrative authority be vested in the Chairman of the Interstate Commerce Commission.

In sum, the reorganization plan provides continuity of leadership and vests responsibility for internal administrative functions in a chairman designated by the President, with safeguards to ensure that the Commission retains full control over policy and the direction of its regulatory programs. This does not affect the statutory provisions governing the exercise of quasi-legislative and quasi-judicial powers by the Commission and its employees to whom it has delegated the responsibility of hearing and deciding cases.

Each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable." This plan will help achieve those ends.

This plan should result in more efficient operation of the Commission. To itemize or aggregate resulting expenditure reductions under the plan is not practicable. I shall continue to explore other ways to make the Commission structure more effective.

I strongly recommend that the Congress permit this necessary reorganization plan to become effective.

RICHARD NIXON.

THE WHITE HOUSE,
July 22, 1969.

CROSS REFERENCES

Joint board under part II of the Interstate Commerce Act, see section 305 of this title.

§ 12. Authority and duties of Commission; witnesses; depositions.

(1) Authority, duties, and proceedings of Commission, witnesses.

The Commission shall have authority, in order to perform the duties and carry out the objects for which it was created, to inquire into and report on the management of the business of all common carriers subject to the provisions of this chapter, and to inquire into and report on the management of the business of persons controlling, controlled by, or under a common control with, such carriers, to the extent that the business of such persons is related to the management of the business of one or more such carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted. The Commission may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this chapter; and may transmit to Congress from time to time such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary. The Commission is authorized and required to execute and enforce the provisions of this chapter; and, upon the request of the Commission, it shall be the duty of any United States attorney to whom the Commission may apply to institute in the proper

court and to prosecute under the direction of the Attorney General of the United States all necessary proceedings for the enforcement of the provisions of this chapter and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this chapter the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

(2) Attendance of witnesses and production of documents.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission, or any party to a proceeding before the commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

(3) Compelling attendance and testimony of witnesses, etc.

And any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this chapter, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(4) Depositions.

The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation depending[1] before the Commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any United States commissioner, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

(5) Oath; subscription of testimony on deposition.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(6) Deposition in foreign country; filing of depositions.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(7) Fees for depositions.

Witnesses whose depositions are taken pursuant to this chapter, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States. (Feb. 4, 1887, ch. 104, pt. I, § 12, 24 Stat. 383; Mar. 2, 1889, ch. 382, § 3, 25 Stat. 858; Feb. 10, 1891, ch. 128, 26 Stat. 743; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 28, 1920, ch. 91, § 415, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 9 (a), 54 Stat. 910; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

AMENDMENTS

1948—Par. (1). Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States." See section 541 of Title 28, Judiciary and Judicial Procedure.

1940—Par. (1). Act Sept. 18, 1940, amended par. (1).

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Interstate Commerce Commission and its Chairman, see Parts 1, 21, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Authority and duties of Commission under Railroad Reorganization Act of 1933, see section 205 of Title 11, Bankruptcy.

Control as used in par. (1) of this section defined, see section 1 (3) (b) of this title.

Enforcement by Interstate Commerce Commission, with respect to any common carrier subject to Acts regulating commerce, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 (a) (4) of Title 15.

Provisions of this section relating to the attendance and testimony of witnesses and the production of documentary evidence as applicable under the Commodity Exchange Act, see section 15 of Title 7, Agriculture.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 916, 1017 of this title; title 7 section 15; title 11 section 205.

[1] So in original.

§ 13. Complaints to and investigations by Commission.

(1) Complaint to Commission of violation of law by carrier; reparation; investigation.

Any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier complaining of anything done or omitted to be done by any common carrier subject to the provisions of this chapter in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

(2) Complaints by State commissions; inquiry on Commission's own motion; expenses of State commissions.

Said Commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission, and the Interstate Commerce Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made, to or before said Commission by any provision of this chapter, or concerning which any question may arise under any of the provisions of this chapter, or relating to the enforcement of any of the provisions of this chapter. And the said Commission shall have the same powers and authority to proceed with any inquiry instituted on its motion as though it had been appealed to by complaint or petition under any of the provisions of this chapter, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had excepting orders for the payment of money. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. Representatives of State commissions sitting with the Commission, under the provisions of this section, in cases pending before the Commission, shall receive such allowances for travel and subsistence expense as the Commission shall provide.

(3) Investigation involving State regulations; conference of State and interstate commissions.

Whenever in any investigation under the provisions of this chapter, or in any investigation instituted upon petition of the carrier concerned, which petition is authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this chapter or chapter 12 of this title with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this chapter or chapter 12 of this title.

(4) Duty of Commission where State regulations result in discrimination.

Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided,* That upon the filing of any petition authorized by the provisions of paragraph (3) of this section to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. (Feb. 4, 1887, ch. 104, pt. I, § 13, 24 Stat. 383; June 18, 1910, ch. 309, § 11, 36 Stat. 550; Feb. 28,

1920, ch. 91, § 416, 41 Stat. 484; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 9(b, c), 54 Stat. 910; Aug. 12, 1958, Pub. L. 85-625, § 4, 72 Stat. 570.)

AMENDMENTS

1958—Par. (4). Pub. L. 85-625 permitted the Commission to prescribe rates when it determines that any rate, fare, charge, classification, regulation or practice causes an undue burden on interstate or foreign commerce, required the Commission to start an investigation upon the filing of a petition whether or not the rates, fares or charges have theretofore been considered by any State agency or authority and without regard to the pendency of any State proceeding thereon, and authorized the Commission to make findings without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State.

1940—Par. (2). Act Sept. 18, 1940, § 9(b), added last sentence.

Par. (3). Act Sept. 18, 1940, § 9(c), amended par. (3).

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

CROSS REFERENCES

Failure of carrier or officer to obey orders, penalty, see section 16(8) of this title.

Switch connection and tracks, complaints to Commission, see section 1(9) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 15, 16 of this title.

§ 13a. Discontinuance or change of the operation or service of trains or ferries; notice; investigation; hearing; determination.

(1) A carrier or carriers subject to this chapter, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot or other facility served thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers.

(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this chapter, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part, the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within one hundred and twenty days from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. The Commission may grant such authority only after full hearing and upon findings by it that (a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records and facilities of the authorities in such State in the performance of its functions under this paragraph. (Feb. 4, 1887, ch.

104, pt. I, § 13a, as added Aug. 12, 1958, Pub. L. 85-625, § 5, 72 Stat. 571.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 sections 521, 561, 564.

§ 14. Reports and decisions of Commission.

(1) Reports of investigations by Commission.

Whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded, such report shall include the findings of fact on which the award is made.

(2) Record of reports; copies.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

(3) Publication of reports and decisions; printing and distribution of annual reports.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports. (Feb. 4, 1887, ch. 104, pt. I, § 14, 24 Stat. 384; Mar. 2, 1889, ch. 382, § 4, 25 Stat. 859; June 29, 1906, ch. 3591, § 3, 34 Stat. 589; Feb. 28, 1920, ch. 91, § 417, 41 Stat. 484; Aug. 9, 1935, ch. 408, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

CROSS REFERENCES

Motor Carrier Act, application of this section to, see section 304 (d) of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 44 on this section, see note by Advisory Committee under rule 44, title 28, Appendix, Judiciary and Judicial Procedure.

Proof of official records, see rule 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 15. Determination of rates, routes, etc.; routing of traffic; disclosures, etc.

(1) Commission empowered to determine and prescribe rates, classifications, etc.

Whenever, after full hearing, upon a complaint made as provided in section 13 of this title, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this chapter for the transportation of persons or property, as defined in section 1 of this title, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this chapter, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this chapter, the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged, and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

(2) Orders of Commission.

Except as otherwise provided in this chapter, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(3) Establishment of through routes, joint classifications, joint rates, fares, etc.

The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property by carriers subject to this chapter, or by carriers by railroad subject to this chapter and common carriers by water subject to chapter 12 of this title, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character. If any tariff or schedule canceling any through route or joint rate, fare, charge, or classification, without the consent of all carriers parties thereto or authorization by the Commission, is suspended by the Commission for investigation, the burden of proof shall be upon the carrier or carriers proposing such cancelation to show

that it is consistent with the public interest, without regard to the provisions of paragraph (4) of this section.

(4) Through routes to embrace entire length of railroad; temporary through routes.

In establishing any such through route the Commission shall not (except as provided in section 3 of this title, and except where one of the carriers is a water line) require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, (a) unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established, or (b) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, and more efficient or more economic, transportation: *Provided, however,* That in prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the foregoing limitations in clauses (a) and (b) of this paragraph, give reasonable preference to the carrier by railroad which originates the traffic. No through route and joint rates applicable thereto shall be established by the Commission for the purpose of assisting any carrier that would participate therein to meet its financial needs. In time of shortage of equipment, congestion of traffic, or other emergency declared by the Commission, it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

(5) Transportation of livestock in carload lots; services included.

Transportation wholly by railroad of ordinary livestock in carload lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee, or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee, or owner, or to try an intermediate market, or to comply with quarantine regulations. The Commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers existing on February 28, 1920, by virtue of law respecting the transportation of other than ordinary livestock, or the duty of performing service as to shipments other than those to or from public stockyards.

(6) Commission to establish just divisions of joint rates, fares, or charges; adjustments.

Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares, and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge.

(7) Commission to determine lawfulness of new rates; suspension; refunds.

Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice

goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, after September 18, 1940, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(8) Shipper's choice of route to be observed.

In all cases where at the time of delivery of property to any railroad corporation being a common carrier for transportation subject to the provisions of this chapter to any point of destination, between which and the point of such delivery for shipment two or more through routes and through rates shall have been established as in this chapter provided to which through routes and through rates such carrier is a party, the person, firm, or corporation making such shipment, subject to such reasonable exceptions and regulations as the Interstate Commerce Commission shall from time to time prescribe, shall have the right to designate in writing by which of such through routes such property shall be transported to destination, and it shall thereupon be the duty of the initial carrier to route said property and issue a through bill of lading therefor as so directed, and to transport said property over its own line or lines and deliver the same to a connecting line or lines according to such through route, and it shall be the duty of each of said connecting carriers to receive said property and transport it over the said line or lines and deliver the same to the next succeeding carrier or consignee according to the routing instructions in said bill of lading: *Provided, however*. That the shipper shall in all instances have the right to determine, where competing lines of railroad constitute portions of a through line or route, over which of said competing lines so constituting a portion of said through line or route his freight shall be transported.

(9) Liability of carriers where property is delivered contrary to routing instructions.

Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the Commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee to be taxed in the case.

(10) Direction of unrouted traffic by Commission.

With respect to traffic not routed by the shipper, the Commission may, whenever the public interest and a fair distribution of the traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.

(11) Disclosure or solicitation of information concerning shipments unlawful; exceptions.

It shall be unlawful for any common carrier subject to the provisions of this chapter, or any officer, agent, or employee of such common carrier, or for any other person or corporation lawfully authorized by such common carrier to receive information therefrom, knowingly to disclose to or permit to be acquired by any person or corporation other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for interstate transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person or corporation to solicit or knowingly receive any such information which may be so used: *Provided*, That nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any State or Federal court, or to any officer or agent of the Government of the United States, or of any State or Territory, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime; or information given by a common carrier to another carrier or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

(12) Penalty for violation of preceding provisions.

Any person, corporation, or association violating any of the provisions of paragraph 11 of this section shall be deemed guilty of a misdemeanor, and for each offense, on conviction, shall pay to the United States a penalty of not more than $1,000.

(13) Allowance for service or facilities furnished by shipper.

If the owner of property transported under this chapter directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for under this section.

(14) Other powers of Commission not excluded.

The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. I, § 15, 24 Stat. 384; June 29, 1906, ch. 3591, § 4, 34 Stat. 589; June 18, 1910, ch. 309, § 12, 36 Stat. 551; Feb. 28, 1920, ch. 91, §§ 418—421, 41 Stat. 484—488; Mar. 4, 1927, ch. 510, § 2, 44 Stat. 1447; June 19, 1934, ch. 652, § 602 (b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 10 (a—d), 54 Stat. 911, 912.)

REFERENCES IN TEXT

In par. (7), "after September 18, 1940" read "after the date this amendatory provision takes effect" as it appeared in act Sept. 18, 1940, § 10 (c).

AMENDMENTS

1940—Par. (1). Act Sept. 18, 1940, § 10(a), amended par. (1).

Pars. (3) and (4). Act Sept. 18, 1940, § 10(b), amended pars. (3) and (4).

Par. (7). Act Sept. 18, 1940, § 10(c), amended par. (7).

Par. (13). Act Sept. 22, 1940, § 10(d), inserted after "the charge and allowance therefor shall be", the words "published in tariffs or schedules filed in the manner provided in this chapter and shall be".

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

1927—Par (7). Act. Mar. 4, 1927, amended par. (7).

REPEALS

The provisions of this section, insofar as they related to communication by wire or wireless, or to telegraph, telephone, or cable companies operating by wire or wireless, were repealed by the Communications Act of June 19, 1934. See chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

CROSS REFERENCES

Failure of carrier or officer to obey orders, penalty, see section 16 (8) of this title.

Readjustment in rates, fares, and charges to shippers, see section 65a of this title.

Stockyard as defined in Packers and Stockyards Act not deemed definition of public stockyards, see section 202 and section 202 note of Title 7, Agriculture.

Switch connection and tracks, orders of Commission directing compliance, see section 1(9) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 16, 51, 907 of this title; title 11 section 205.

§ 15a. Fair return for carriers.

(1) When used in this section, the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices relating thereto.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

(3) In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act. (Feb. 4, 1887, ch. 104, pt. I, § 15a, as added Feb. 28, 1920, ch. 91, § 422, 41 Stat. 488, and amended June 16, 1933, ch. 91, title II, § 205, 48 Stat. 220; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 10(e), 54 Stat. 912; Aug. 12, 1958, Pub. L. 85-625, § 6, 72 Stat. 572.)

REFERENCES IN TEXT

This Act, referred to in par. (3), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13, and 19 of this title.

AMENDMENTS

1958—Par. (3). Pub. L. 85-625 added par. (3).

1940—Par. (2). Act Sept. 18, 1940, amended par. (2).

1935—Act Aug. 9, 1935, made this chapter Part I of the Interstate Commerce Act.

NATIONAL TRANSPORTATION POLICY

For objectives of the national transportation policy, referred to in par. (3) of the text, see note set out preceding section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5a, 15b of this title.

§ 15b. Collection of excess income discontinued; general railroad contingent fund liquidated; distribution of moneys; computation of tax liabilities.

(a) All moneys which were recoverable by and payable to the Interstate Commerce Commission, under paragraph (6) of section 15a of this title, as in force prior to June 16, 1933, shall cease to be so recoverable and payable; and all proceedings pending for the recovery of any such moneys shall be terminated. The general railroad contingent fund established under section 15a of this title shall be liquidated and the Secretary of the Treasury shall distribute the moneys in such fund among the carriers which have made payments under said section, so that each such carrier shall receive an amount bearing the same ratio to the total amount in such fund that the total of amounts paid under such section by such carrier bears to the total of amounts paid under said section by all carriers; except that if the total amount in such fund exceeds the total of amounts paid under said section by all carriers such excess shall be distributed among such carriers upon the basis of the average rate of earnings (as deter-

mined by the Secretary of the Treasury) on the investment of the moneys in such fund and differences in dates of payments by such carriers.

(b) The income, war-profits, and excess-profits tax liabilities for any taxable period ending after February 28, 1920, of the carriers and corporations whose income, war-profits, or excess-profits tax liabilities were affected by section 15a of this title, as in force prior to June 16, 1933, shall be computed as if said section had never been enacted, except that, in the case of carriers or corporations which have made payments under paragraph (6) of section 15a of this title, an amount equal to such payments shall be excluded from gross income for the taxable periods with respect to which they were made. All distributions made to carriers in accordance with subdivision (a) of this section shall be included in the gross income of the carriers for the taxable period in which this section is enacted. The provisions of this subdivision shall not be held to affect (1) the statutes of limitations with respect to the assessment, collection, refund, or credit of income, war-profits or excess-profits taxes or (2) the liabilities for such taxes of any carriers or corporations if such liabilities were determined prior to June 16, 1933, in accordance with section 1106(b) of the Revenue Act of 1926 or section 606 of the Revenue Act of 1928, or in accordance with a final judgment of a court, an order of the Tax Court of the United States which had become final, or an offer in compromise duly accepted in accordance with law. (June 16, 1933, ch. 91, title II, § 206, 48 Stat. 220; Oct. 21, 1942, ch. 619, title V, § 504 (a), (c), 56 Stat. 957.)

REFERENCES IN TEXT

Former paragraph (6) of section 15a of this title, referred to in subd.(a), provided as follows: "(6) Disposition of amounts received in excess of 6 per centum. If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. The value of such railway property shall be determined by the commission in the manner provided in paragraph (4)."

Section 1106(b) of the Revenue Act of 1926, referred to in subd. (b), has reference to section 1106(b) of act Feb. 26, 1926, ch. 27, 44 Stat. 113, which was repealed by act May 29, 1928, ch. 852, § 606(c), 45 Stat. 874. See section 7121(b) of Title 26, Internal Revenue Code.

Section 606 of the Revenue Act of 1928, referred to in subd. (b), has reference to section 606 of act May 29, 1928, ch. 852, 45 Stat. 874, which was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1. See section 7121 of Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as a part of the Emergency Railroad Transportation Act, 1933, and not as a part of the Interstate Commerce Act which comprises this chapter and chapters 8, 12, 13, and 19 of this title.

CHANGE OF NAME

The Board of Tax Appeals, referred to in subsec. (b), was changed to The Tax Court of the United States by act Oct. 21, 1942. See also section 7441 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5a of this title.

§ 16. Orders of Commission and enforcement thereof.

(1) Award of damages.

If, after hearing on a complaint made as provided in section 13 of this title, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this chapter for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

(2) Proceedings in courts to enforce orders; costs; attorney's fee.

If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the district court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a complaint setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the plaintiff shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the plaintiff shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(3) Limitation of actions.

(a) All actions at law by carriers subject to this chapter for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(b) All complaints against carriers subject to this chapter for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subdivision (d) of this paragraph.

(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers subject to this chapter within three years from the time the cause of action accrues, and not after, subject to subdivision (d) of this paragraph, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(d) If on or before expiration of the two-year period of limitation in subdivision (b) of this paragraph or of the three-year period of limitation in subdivision (c) of this paragraph a carrier subject to this chapter begins action under subdivision (a) of this paragraph for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

(e) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(f) A complaint for the enforcement of an order of the Commission for the payment of money shall be filed in the district court or the State court within one year from the date of the order, and not after.

(g) The term "overcharges" as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Commission.

(h) The provisions of this paragraph shall extend to and embrace cases in which the cause of action accrued prior to June 7, 1924, as well as cases in which the cause of action accrues thereafter, except that actions at law begun or complaints filed with the Commission against carriers subject to this chapter for the recovery of overcharges where the cause of action accrued on or after March 1, 1920, shall not be deemed to be barred under subdivision (c) of this paragraph if such actions shall have been begun or complaints filed prior to June 7, 1924, or within six months thereafter.

(i) The provisions of this paragraph (3) shall extend to and embrace all transportation of property or passengers for or on behalf of the United States in connection with any action brought before the Commission or any court by or against carriers subject to this chapter: *Provided, however,* That with respect to such transportation of property or passengers for or on behalf of the United States, the periods of limitation herein provided shall be extended to include three years from the date of (A) payment of charges for the transportation involved, or (B) subsequent refund for overpayment of such charges, or (C) deduction made under section 66 of this title, whichever is later.

(4) Joinder of parties; process; judgment.

In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

(5) Service of order of Commission and notices of proceedings.

Every order of the Commission shall be forthwith served upon the designated agent of the carrier in the city of Washington or in such other manner as may be provided by law. In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice upon an attorney in fact of a carrier who has filed a tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier, except where the carrier has designated an agent in the city of Washington, District of Columbia, upon whom service of notices and processes may be made, as provided in section 50 of this title: *Provided,* That in such proceedings service of notice of the suspension of a tariff or schedule upon an attorney in fact of a carrier who has filed said tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier, and service of notice of the suspension of a joint tariff or schedule upon a carrier which has filed said joint tariff or schedule to which another carrier is a party shall be deemed to be due and sufficient notice upon the several carriers parties thereto. Such service of notice may be made by mail to such attorney in fact or carrier at the address shown in the tariff or schedule.

(6) Suspension or modification of orders.

The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

(7) Compliance with orders.

It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

(8) Failure of carrier or officer to obey orders; penalty.

Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this title shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

(9) Suit for recovery of forfeiture.

The forfeiture provided for in this chapter shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

(10) United States attorneys to prosecute for forfeitures; costs and expenses.

It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(11) Employment of attorneys by Commission.

The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

(12) Proceedings to enforce orders other than for payment of money.

If any carrier fails or neglects to obey any order of the Commission other than for the payment of money, while the same is in effect, the Interstate Commerce Commission or any party injured thereby, or the United States, by its Attorney General, may apply to any district court of the United States of competent jurisdiction for the enforcement of such order. If, after hearing, such court determines that the order was regularly made and duly served, and that the carrier is in disobedience of the same, such court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same.

(13) Copies of schedules, tariffs, contracts, etc., kept as public records; evidence.

The copies of schedules and classifications and tariffs of rates, fares, and charges, and of all contracts, agreements, and arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the Commission as required under the provisions of this chapter shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals. (Feb. 4, 1887, ch. 104, pt. I, § 16, 24 Stat. 384; Mar. 2, 1889, ch. 382, § 5, 25 Stat. 859; June 29, 1906, ch. 3591, § 5, 34 Stat. 590; June 18, 1910, ch. 309, § 13, 36 Stat. 554; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Oct. 22, 1913, ch. 32, 38 Stat. 219; Feb. 28, 1920, ch. 91, §§ 423—429, 41 Stat. 491, 492; June 7, 1924, ch. 325, 43 Stat. 633; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 11 (a), (b), 54 Stat. 912, 913; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Aug. 2, 1949, ch. 379, § 6, 63 Stat. 486; Aug. 26, 1958, Pub. L. 85-762, § 1(1), (2), 72 Stat. 859.)

AMENDMENTS

1958—Par. (3), subds. (a), (c) and (d). Pub. L. 85-762, § 1(1), substituted "three years" for "two years" in subds. (a) and (c), and the second time it appears in subd. (d).

Subd. (i) of par. (3). Pub. L. 85-762, § 1(2), added subd. (i).

1949—Par. (5). Act Aug. 2, 1949, added proviso.

1940—Par. (2). Act Sept. 18, 1940, § 11(a)(1), substituted "district" for "circuit" throughout, "complaint" for "petition" in first sentence and "plaintiff" for "petitioner" in the second and third sentences.

Par. (3), subds. (a), (c) and (d). Act Sept. 18, 1940, § 11(a)(2)—(4), substituted two-year limitations for the old three-year period.

Par. (3), subd. (f). Act Sept. 18, 1940, § 11(a)(5), substituted "complaint" for "petition".

Par. (5). Act Sept. 18, 1940, § 11(b), provided for service of notice upon attorney in fact who filed tariff or schedule in behalf of carrier except where carrier has designated agent in city of Washington, upon whom service of notices and processes may be made.

Par. (12). Act Sept. 18, 1940, § 11(a)(6) provided that application for enforcement of orders be made to any district court of competent jurisdiction instead of to the former Commerce Court.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

1924—Par. (3). Act June 7, 1924, amended par. (3) generally and divided it into subdivisions.

1920—Par. (1). Act Feb. 28, 1920, § 423, numbered par. (1) as "(1)".

Par. (2). Act Feb. 28, 1920, numbered par. (2) as "(2)" and struck out provisions relating to time of filing complaints for reparation before commission and for institution of actions to enforce reparation orders, and added par. (3) covering provisions so stricken.

Par. (3). Act Feb. 28, 1920, § 424, added par. (3).

Pars. (4)—(7). Act Feb. 28, 1920, § 425, numbered pars. (4)—(7) as "(4)"—"(7)", respectively.

Par. (8). Act Feb. 28, 1920, § 426, numbered par. (8) as "(8)" and included orders made under sections 3 and 13 of this title.

Pars. 9 and 10. Act Feb. 28, 1920, § 427, numbered pars. (9) and (10) as "(9)" and "(10)", respectively.

Par. (11). Act Feb. 28, 1920, numbered par. (11) as "(11)" and omitted specific reference to the Commerce Court, which had been abolished.

Pars. (12) and (13). Act Feb. 28, 1920, § 429, numbered pars. (12) and (13) as "(12)" and "(13)", respectively.

1910—Par. (1). Act June 18, 1910, reenacted par. (1) without change.

Par. (2). Act June 18, 1910, extended jurisdiction to State courts of general jurisdiction.

Par. (4). Act June 18, 1910, reenacted par. (4) without change.

Par. (5). Act June 18, 1910, provided for service of Commission orders upon designated agent of carrier in City of Washington or in such other manner as provided by law.

Pars. (6)—(9). Act June 18, 1910, reenacted pars. (6)—(9) without change.

Par. (10). Act June 18, 1910, omitted provision relating to employment of special counsel and inserted a new paragraph with respect to the employment of attorneys which now constitutes par. (11) of this section.

Par. (11). Act June 18, 1910, added par. (11).

Par. (12). Act June 18, 1910, provided that application for enforcement of orders be made to the former Commerce Court instead of to the former circuit court and that such application could also be made by the United States, by its Attorney General.

Par. (13). Act June 18, 1910, included copies of classifications of rates, fares, and charges, included reports of carriers other than annual reports, and made minor changes in phraseology.

1906—Par. (1). Act June 29, 1906, added par. (1).

Par. (2). Act June 29, 1906, inserted provisions authorizing filing of petition in former circuit court for recovery from carrier of money which it has not paid although ordered to do so by Commssion, that findings and order of Commission shall be prima facie evidence of facts, and for payment of costs and attorney's fee.

Pars. (4)—(10), (12) and (13). Act June 29, 1906, added pars. (4)—(10), (12) and (13).

1889—Act Mar. 2, 1889, amended section generally.

CHANGE OF NAME

Par. (10) amended by act June 25, 1948, eff. Sept. 1, 1948, which substituted "United States Attorneys" for

"district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure.

Par. (2) amended by act Mar. 3, 1911, which transferred jurisdiction of former circuit court to district court and the word "district" was substituted for "circuit" to conform with such transfer.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 3 of Pub. L. 85-762 provided in part that: "The provisions of this Act which amend the Interstate Commerce Act, as amended [this section and sections 304a, 908, and 1006a of this title], shall apply only to causes of action which accrue on or after the effective date of this Act [August 26, 1958]."

EFFECTIVE DATE OF 1940 AMENDMENT

Act Sept. 18, 1940, § 11 (c), provided that: "The amendments made by subsection (a) of this section to paragraph (3) (a) and (c) of section 16 of the Interstate Commerce Act, as amended [par. (3), subds. (a) and (c) of this section], shall apply only in the case of causes of action accruing after the date this section takes effect."

ABOLITION OF COMMERCE COURT

Act Oct. 22, 1913, abolished the Commerce Court, formerly referred to in the text of pars. (11) and (12), and transferred its jurisdiction to the district courts.

REPARATION RECOMMENDATION

Prior authority for a reparation recommendation was contained in sections 14 and 15 of the original Interstate Commerce Act of Feb. 4, 1887.

CROSS REFERENCES

Attorney General, duties in actions to enforce orders of Commission, see section 2323 of Title 28, Judiciary and Judicial Procedure.

Criminal prosecutions for violations of the prohibitions of this chapter generally, see section 10 of this title.

Enforcement and review of orders of Commission, see sections 2321—2325 of Title 28, Judiciary and Judicial Procedure.

Injunction restraining enforcement of order of Commission, three-judge court required, see section 2325 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district court of civil action to enforce orders of Commission, see section 1336 of Title 28, Judiciary and Judicial Procedure.

Motor Carrier Act, application of this section to, see section 304 (d) of this title.

Payment of freight, commencement of action for, see section 3(2) of this title.

Rehearings of proceedings before Commission, see section 17 of this title.

United States as party, see section 2322 of Title 28, Judiciary and Judicial Procedure.

Venue of actions to enforce orders of Commission, see section 1398 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rules 44 and 54 on this section, see note by Advisory Committee under rules 44 and 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

Proof of official records, see rule 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 19a, 304 of this title.

§ 16a. Repealed. Sept. 18, 1940, ch. 722, title I, § 12, 54 Stat. 913.

Section, act Feb. 4, 1887, ch. 104, pt. I, § 16a, as added June 29, 1906, ch. 3591, § 6, 34 Stat. 592, related to rehearings by Commission, and is covered by section 17 of this title.

§ 17. Commission procedure; delegation of duties; rehearings.

(1) Divisions of Commission; organization; composition.

The Commission is authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be designated, respectively, division one, division two, and so forth, or by a term descriptive of the principal subject, work, business, or function assigned or referred to such divisions. The Commission may designate one or more of its divisions as appellate divisions. Any Commissioner may be assigned to such division or divisions as the Commission may direct, and the senior in service of the Commissioners constituting a division shall act as chairman thereof unless otherwise directed by the Commission. When a vacancy occurs in any division or when a Commissioner because of absence, or other cause, is unable to serve thereon, the Chairman of the Commission or any Commissioner designated by him for that purpose may serve temporarily on such division until the Commission otherwise orders.

(2) Reference of matters to divisions, individual Commissioners or boards.

The Commission may by order direct that any of its work, business, or functions under any provision of law (except matters required to be referred to joint boards by section 305 of this title, and except functions vested in the Commission under this section), or any matter which shall have been or may be referred to it by Congress or by either branch thereof, be assigned or referred to any division, to an individual Commissioner, or to a board to be composed of three or more eligible employees of the Commission (hereinafter in this section called a "board") to be designated by such order, for action thereon, and the Commission may by order at any time amend, modify, supplement, or rescind any such assignment or reference. The following classes of employees shall be eligible for designation by the Commission to serve on such boards: examiners, directors or assistant directors of bureaus, chiefs of sections, and attorneys. The assignment or reference, to divisions, of work, business, or functions relating to the lawfulness of rates, fares, or charges shall be made according to the character of regulation to be exercised and not according to the kind or class of the carriers involved or to the form or mode of transportation in which such carriers may be engaged. When an individual Commissioner, or any employee, is unable to act upon any matter so assigned or referred because of absence or other cause, the Chairman of the Commission may designate another Commissioner or employee, as the case may be, to serve temporarily until the Commission otherwise orders.

(3) Conduct of proceedings; seal; oaths; quorum; rules.

The Commission shall conduct its proceedings under any provision of law in such manner as will best conduce to the proper dispatch of business and to the ends of justice. The Commission shall have an official seal, which shall be judicially noticed. Any member of the Commission, the Secretary of the Commission, or any member of a board may administer oaths and affirmations and any member of the Commission or the Secretary of the Commission (or any member of a board in connection with the performance of any work, business, or functions referred under this section to a board upon which he serves) may sign subpenas. A majority of the Commission, of a division, or of a board shall constitute

a quorum for the transaction of business. The Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division, individual Commissioner, or board, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the Commission or any division, individual Commissioner, or board and be heard in person or by attorney. Every vote and official act of the Commission, or of any division, individual Commissioner, or board, shall be entered of record, and such record shall be made public upon the request of any party interested. All hearings before the Commission, a division, individual Commissioner, or board shall be public upon the request of any party interested. No Commissioner or employee shall participate in any hearing or proceeding in which he shall have any pecuniary interest.

(4) Powers of divisions, boards, etc.; effect of orders, etc.

A division, an individual Commissioner, or a board shall have authority to hear and determine, order, certify, report, or otherwise act as to any work, business, or functions assigned or referred thereto under the provisions of this section, and with respect thereto shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations. The secretary and seal of the Commission shall be the secretary and seal of each division, individual Commissioner, or board. Except as otherwise provided in this section, any order, decision, or requirement of a division, an individual Commissioner, or a board, with respect to any matter so assigned or referred, shall have the same force and effect, and may be made and evidenced in the same manner as if made or taken by the Commission.

(5) Findings, etc., of Commissioner or board; accompanying statement and recommended order; copies to parties; exceptions; recommended order as Commission's order; delegation of duties to employee boards.

Any finding, report, or requirement of an individual Commissioner or board, with respect to any matter so assigned or referred involving the taking of testimony at a public hearing, shall be accompanied by a statement in writing of the reasons therefor, together with a recommended order, which shall be filed with the Commission. Copies thereof shall be served upon interested parties (including, in proceedings under chapter 8 of this title, persons specified in section 305(e) of this title), who may file exceptions thereto, but if within twenty days after service upon such persons, or within such further period as the Commission or a duly designated division thereof may authorize, no exceptions shall have been filed, such recommended order shall become the order of the Commission and become effective unless within such period the order shall have been stayed or postponed by the Commission or by a duly designated division thereof. The Commission, or a duly designated division thereof, upon its own motion may, and where exceptions are filed it shall, reconsider the matter either upon the same record or after further hearing, and such recommended order shall thereupon be stayed or postponed pending final determination thereof. When deemed by the Commission to be appropriate for the efficient and orderly conduct of its business, it may authorize duly designated employee boards to perform, under this paragraph, functions of the same character as those which may be performed thereunder by duly designated divisions.

(6) Rehearing, reargument, or reconsideration of decisions, orders, and requirements.

After a decision, order, or requirement shall have been made by the Commission, a division, and individual Commissioner, or a board, or after an order recommended by an individual Commissioner or a board shall have become the order of the Commission as provided in paragraph (5) of this section, any party thereto may at any time, subject to such limitations as may be established by the Commission as hereinafter authorized, make application for rehearing, reargument, or reconsideration of the same, or of any matter determined therein. Such applications shall be governed by such general rules as the Commission may establish. Any such application, if the decision, order, or requirement was made by the Commission, shall be considered and acted upon by the Commission. If the decision, order, or requirement was made by a division, an individual Commissioner, or a board, such application shall be considered and acted upon by the Commission or referred to an appropriate appellate division for consideration and action. Rehearing, reargument, or reconsideration may be granted if sufficient reason therefor be made to appear; but the Commission may, from time to time, make or amend general rules or orders establishing limitations upon the right to apply for rehearing, reargument, or reconsideration of a decision, order, or requirement of the Commission or of a division so as to confine such right to proceedings, or classes of proceedings, involving issues of general transportation importance. Notwithstanding the foregoing provisions of this paragraph, any application for rehearing, reargument, or reconsideration of a matter assigned or referred to an individual Commissioner or a board, under the provisions of paragraph (2) of this section, if such application shall have been filed within twenty days after the recommended order in the proceeding shall have become the order of the Commission as provided in paragraph (5) of this section, and if such matter shall not have been reconsidered or reheard as provided in said paragraph, shall be referred to an appropriate appellate division of the Commission and such division shall reconsider the matter either upon the same record or after a further hearing.

(7) Reversal or modification after rehearing, etc.

If after rehearing, reargument, or reconsideration of a decision, order, or requirement of a division, an individual Commissioner, or board it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission or appellate division may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after rehearing, reargument, or reconsideration, reversing, changing, or modifying the original determination shall be subject to the same

provisions with respect to rehearing, reargument, or reconsideration as an original order.

(8) Stay of decisions, etc., not effective at time of application for rehearing, etc.

Where application for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division, an individual Commissioner, or board is made in accordance with the provisions of this section and the rules and regulations of the Commission, and the decision, order, or requirement has not yet become effective, the decision, order, or requirement shall be stayed or postponed pending disposition of the matter by the Commission or appellate division; but otherwise the making of such an application shall not excuse any person from complying with or obeying the decision, order, or requirement, or operate to stay or postpone the enforcement thereof, without the special order of the Commission.

(9) Judicial relief from decisions, etc., upon denial or other disposition of application for rehearing, etc.

When an application for rehearing reargument, or reconsideration of any decision, order, or requirement of a division, an individual Commissioner, or a board with respect to any matter assigned or referred to him or it shall have been made and shall have been denied, or after rehearing, reargument, or reconsideration otherwise disposed of, by the Commission or an appellate division, a suit to enforce, enjoin, suspend, or set aside such decision, order, or requirement, in whole or in part, may be brought in a court of the United States under those provisions of law applicable in the case of suits to enforce, enjoin, suspend, or set aside orders of the Commission, but not otherwise.

(10) Reference of administrative matters to examiners.

Any matter arising in the administration of chapter 8 of this title as to which a hearing is to be held may be referred to an examiner of the Commission, for action thereon, subject to the conditions and limitations provided in this section in the case of reference of work, business or functions, as to which a hearing is to be held, to an individual Commissioner or board.

(11) Intervention of representatives of employees.

Representatives of employees of a carrier, duly designated as such, may intervene and be heard in any proceeding arising under this chapter and chapters 8 and 12 of this title affecting such employees.

(12) Admission to practice before Commission.

The Commission is authorized to promulgate reasonable rules and regulations relating to admission to practice before it, and is authorized to impose a reasonable fee for such admission, and such fees shall be covered into the Treasury of the United States as miscellaneous receipts. (Feb. 4, 1887, ch. 104, pt. I, § 17, 24 Stat. 385; Mar. 2, 1889, ch. 382, § 6, 25 Stat. 861; Aug. 9, 1917, ch. 50, § 2, 40 Stat. 270; Feb. 28, 1920, ch. 91, §§ 430—432, 41 Stat. 492, 493; Feb. 28, 1933, ch. 136, 47 Stat. 1368; Aug. 9, 1935, ch. 498, § 1, 49 Stat 543; Sept. 18, 1940, ch. 722, title I, § 12, 54 Stat. 913; Sept. 14, 1961, Pub. L. 87-247, 75 Stat. 517.)

AMENDMENTS

1961—Pub. L. 87-247 authorized the Commission to delegate duties to employee boards of the same character as those performed by designated divisions.

1940—Act Sept. 18, 1940, amended section generally, revising old text and incorporating new matter.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

1933—Act Feb. 28, 1933, added a paragraph "6" which authorized the Commission to delegate its functions to an individual Commissioner or board of employees of the Commission, fixed the powers and duties of the individual Commissioners or boards, and provided for reconsideration or rehearing of decisions of individual Commissioners or boards.

1920—Act Feb. 28, 1920, numbered the paragraphs of this section, inserted provision that a division shall consist of not less than three members, and repealed paragraphs which related to number of members of a division required to participate in rate and physical valuation proceedings and, fixing salary of the secretary of the Commission.

1917—Act Aug. 9, 1917, amended section generally and authorized the Commission to divide its members into divisions and to assign members and work to the divisions, conferred full jurisdiction on divisions, provided for number of members of a division required to participate in decisions, and fixed the salary of the secretary of the Commission.

1889—Act Mar. 2, 1889, added provision authorizing the signing of subpoenas.

PRIOR LAW

Provisions relating to rehearings were formerly contained in section 16a of this title, repealed by act Sept. 18, 1940.

CROSS REFERENCES

District court jurisdiction of orders, see section 1336 of Title 28, Judiciary and Judicial Procedure.

Enforcement and review of Interstate Commerce Commission orders, see sections 2321—2325 of Title 28, Judiciary and Judicial Procedure.

Motor Carrier Act, application of this section to, see section 305(a), (b), (h) of this title.

Venue of action for enforcement, suspension, etc., of orders, see section 1398 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 916, 1017 of this title.

§ 18. Employees; appointment and compensation; witness fees; expenses.

(1) Commissioners' salaries; secretary and employees; compensation; witness fees.

Each commissioner shall receive basic compensation payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary. The Commission shall have authority to employ such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) Expenses of Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners, or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by

the chairman of the Commission. (Feb. 4, 1887, ch. 104, pt. I, §§ 17, 18, 24, 24 Stat. 386, 387; Mar. 2, 1889, ch. 382, § 7, 25 Stat. 861; June 29, 1906, ch. 3591, § 8, 34 Stat. 595; Aug. 9, 1917, ch. 50, §§ 1—3, 40 Stat. 270; Feb. 28, 1920, ch. 91, §§ 433, 440, 41 Stat. 493, 497; Oct. 15, 1949, ch. 695, § 5 (a), 63 Stat. 880.)

CODIFICATION

Section is composed of sections 17, 18, and 24 of the original Interstate Commerce Act of Feb. 4, 1887. Section 17, as amended by section 2 of act Aug. 9, 1917, provided in part for salary of secretary of Commission. The remainder of section 17 is set out as section 17 of this title. Section 18 provided for compensation of commissioners, appointment and compensation of a secretary, employment of personnel, furnishing of office space and supplies, and payment of witness fees and expenses of Commission. Section 24, as added by act June 29, 1906, provided in part for increase in annual compensation of Commissioners. The remainder of section 24 is set out as section 11 of this title.

Provisions of subsec. (1), which prescribed the compensation of Commissioners, were omitted as superseded by the Federal Executive Salary Schedule, now section 5311 et seq. of Title 5, Government Organization and Employees, and provisions which prescribed the annual salary of the secretary and which permitted the Commission to fix the compensation of other employees were omitted since the employees referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by former section 631a of Title 5, now covered in part by section 2102(a)(1) of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, the President exercised this authority with respect to many previously excepted positions.

AMENDMENTS

1949—Par. (1). Act Oct. 15, 1949, increased compensation of members from $12,000 to $15,000 per annum.

1920—Act Feb. 28, 1920, numbered paragraphs and increased annual compensation of Commissioners from $10,000 to $12,000 and annual salary of secretary from $5,000 to $7,500.

1917—Act Aug. 9, 1917, continued annual compensation of Commissioners at $10,000, increased annual salary of the secretary of the Commission from $3,500 to $5,000, and repealed prior provision fixing salary of the secretary.

1906—Act June 29, 1906, increased annual compensation of Commissioners from $7,500 to $10,000.

1889—Act Mar. 2, 1889, among other changes, omitted necessity for approval of Secretary of Interior of employment and compensation of employees and of expense vouchers, and authorized Commission to hire offices and procure supplies instead of having them furnished by Secretary of Interior.

COMPENSATION OF MEMBERS OF INTERSTATE COMMERCE COMMISSION

Compensation of members, see section 5315 of Title 5, Government Organization and Employees.

TEMPORARY SALARY REDUCTIONS

The salaries of the commissioners of the Interstate Commerce Commission were reduced to $10,000 each per annum for the fiscal years ending June 30, 1936, 1937, and 1938 by acts Feb. 2, 1935, ch. 3, § 3, 49 Stat. 19; March 19, 1936, ch. 156, § 4, 49 Stat. 1183; June 28, 1937, ch. 396, 50 Stat. 352.

CROSS REFERENCES

Attendance of witnesses, see section 12 of this title.

Appointment, term and qualifications of commissioners, see section 11 of this title.

Classification of civilian employees of Government, see section 5101 et seq. of Title 5, Government Organization and Employees.

Fees of witnesses, see chapter 119 of Title 28, Judiciary and Judicial Procedure.

§ 19. Office and sessions.

The principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. I, § 19, 24 Stat. 386; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543.)

AMENDMENTS

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

§ 19a. Valuation of property of carriers.

(a) Physical valuation of property of carriers; classification and inventory.

The Commission shall, as hereinafter provided, investigate, ascertain, and report the value of all the property owned or used by every common carrier subject to the provisions of this chapter, except any street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation; but the Commission may in its discretion investigate, ascertain, and report the value of the property owned or used by any such electric railway subject to the provisions of this chapter whenever in its judgment such action is desirable in the public interest. To enable the Commission to make such investigation and report, it is authorized to employ such experts and other assistants as may be necessary. The Commission may appoint examiners who shall have power to administer oaths, examine witnesses, and take testimony. The Commission shall, subject to the exception hereinbefore provided for in the case of electric railways, make an inventory which shall list the property of every common carrier subject to the provisions of this chapter in detail, and show the value thereof as hereinafter provided, and shall classify the physical property, as nearly as practicable, in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

(b) Cost of property; elements considered in determination; gifts, grants, etc.

First. In such investigation said Commission shall ascertain and report in detail as to each piece of property, other than land owned or used by said common carrier for its purposes as a common carrier, the original cost to date, the cost of reproduction new, the cost of reproduction less depreciation, and an analysis of the methods by which these several costs are obtained, and the reason for their differences, if any. The Commission shall in like manner ascertain and report separately other values, and elements of value, if any, of the property of such common carrier, and an analysis of the methods of valuation employed, and of the reasons for any differences between any such value and each of the foregoing cost values.

Second. Such investigation and report shall state in detail and separately from improvements the original cost of all lands, rights of way, and terminals owned or used for the purpose of a common carrier,

and ascertained as of the time of dedication to public use, and the present value of the same.

Third. Such investigation and report shall show separately the property held for purposes other than those of a common carrier, and the original cost and present value of the same, together with an analysis of the methods of valuation employed.

Fourth. In ascertaining the original cost to date of the property of such common carrier the Commission, in addition to such other elements as it may deem necessary, shall investigate and report upon the history and organization of the present and of any previous corporation operating such property; upon any increases or decreases of stocks, bonds, or other securities, in any reorganization; upon moneys received by any such corporation by reason of any issues of stocks, bonds, or other securities; upon the syndicating, banking, and other financial arrangements under which such issues were made and the expense thereof; and upon the net and gross earnings of such corporations; and shall also ascertain and report in such detail as may be determined by the Commission upon the expenditure of all moneys and the purposes for which the same were expended.

Fifth. The Commission shall ascertain and report the amount and value of any aid, gift, grant of right of way, or donation, made to any such common carrier, or to any previous corporation operating such property, by the Government of the United States or by any State, county, or municipal government, or by individuals, associations, or corporations; and it shall also ascertain and report the grants of land to any such common carrier, or any previous corporation operating such property, by the Government of the United States, or by any State, county, or municipal government, and the amount of money derived from the sale of any portion of such grants and the value of the unsold portion thereof at the time acquired and at the present time, also, the amount and value of any concession and allowance made by such common carrier to the Government of the United States, or to any State, county, or municipal government in consideration of such aid, gift, grant, or donation.

(c) Investigation; procedure and forms.

Except as herein otherwise provided, the Commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value, and such investigation shall show the value of the property of every common carrier as a whole and separately the value of its property in each of the several States and Territories and the District of Columbia, classified and in detail as herein required.

(d) Time for beginning investigation; reports to Congress.

Such investigation shall be commenced within sixty days after March 1, 1913, and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session until completed.

(e) Aid of carrier required; rules and regulations; inspection of records.

Every common carrier subject to the provisions of this chapter shall furnish to the Commission or its agents from time to time and as the Commission may require maps, profiles, contracts, reports of engineers, and any other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said common carrier, and shall grant to all agents of the Commission free access to its right-of-way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and every common carrier is directed and required to cooperate with and aid the Commission in the work of the valuation of its property in such further particulars and to such extent as the Commission may require and direct, and all rules and regulations made by the Commission for the purpose of administering the provisions of this section and section 20 of this title shall have the full force and effect of law. Unless otherwise ordered by the Commission, with the reasons therefor, the records and data of the Commission shall be open to the inspection and examination of the public.

(f) Valuation of extensions and improvements; revisions; reports.

Upon completion of the original valuations herein provided for, the Commission shall thereafter keep itself informed of all new construction, extensions, improvements, retirements, or other changes in the condition, quantity, use, and classification of the property of all common carriers as to which original valuations have been made, and of the cost of all additions and betterments thereto and of all changes in the investment therein, and may keep itself informed of current changes in costs and values of railroad properties, in order that it may have available at all times the information deemed by it to be necessary to enable it to revise and correct its previous inventories, classifications, and values of the properties; and when deemed necessary, may revise, correct, and supplement any of its inventories and valuations.

(g) Reports and information to be furnished by carriers.

To enable the Commission to carry out the provisions of paragraph (f) of this section, every common carrier subject to the provisions of this chapter shall make such reports and furnish such information as the Commission may require.

(h) Notice of completion of tentative valuation; protests; finality of report.

Whenever the Commission shall have completed the tentative valuation of the property of any common carrier, as herein directed, and before such valuation shall become final, the Commission shall give notice by registered mail or by certified mail to the said carrier, the Attorney General of the United States, the governor of any State in which the property so valued is located, and to such additional parties as the Commission may prescribe, stating the valuation placed upon the several classes of property of said carrier, and shall allow thirty days

in which to file a protest of the same with the Commission. If no protest is filed within thirty days, said valuation shall become final as of the date thereof.

(i) Protests; hearings; changes in valuations; final valuation and classification.

If notice of protest is filed the Commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented in support of any such protest so filed as aforesaid. If after hearing any protest of such the Commission and the classification thereof shall be published and shall be prima facie evidence of the tentative valuation under the provisions of this chapter the Commission shall be of the opinion that its valuation should not become final, it shall make such changes as may be necessary, and shall issue an order making such corrected tentative valuation final as of the date thereof. All final valuations by value of the property in all proceedings under this chapter as of the date of the fixing thereof, and in all judicial proceedings for the enforcement of this chapter, and in all judicial proceedings brought to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission.

(j) Effect of evidence as to values; modification of orders.

If upon the trial of any action involving a final value fixed by the Commission, evidence shall be introduced regarding such value which is found by the court to be different from that offered upon the hearing before the Commission, or additional thereto and substantially affecting said value, the court, before proceeding to render judgment shall transmit a copy of such evidence to the Commission, and shall stay further proceedings in said action for such time as the court shall determine from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same and may fix a final value different from the one fixed in the first instance, and may alter, modify, amend or rescind any order which it has made involving said final value, and shall report its action thereon to said court within the time fixed by the Court. If the Commission shall alter, modify, or amend its order, such altered, modified, or amended order shall take the place of the original order complained of and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

(k) Receivers and trustees of carriers affected; noncompliance with law; penalty.

The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this section and in the manner prescribed by the Commission such carrier, receiver, or trustee shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in section 16 of this title.

(*l*) Mandamus to compel compliance with law.

The district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this section by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this section. (Feb. 4, 1887, ch. 104, pt. I, § 19a, as added Mar. 1, 1913, ch. 92, 37 Stat. 701, and amended Feb. 28, 1920, ch. 91, § 433, 41 Stat. 493; June 7, 1922, ch. 210, §§ 1, 2, 42 Stat. 624; June 16, 1933, ch. 91, title II, §§ 207, 208, 48 Stat. 221; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; June 11, 1960, Pub. L. 86–507, § 1(38), 74 Stat. 202.)

AMENDMENTS

1960—Subsec. (h). Pub. L. 86–507 substituted "registered mail or by certified mail" for "registered letter."

1935—Act Aug. 9, 1935, substituted "this part" for "this Act," in the original Interstate Commerce Act.

1933—Par. (a). Act June 16, 1933, § 207, excepted street, suburban, or interurban electric railway not operated as part of general steam railroad system from investigation and report as to value by Commission other than at discretion of Commission in public interest.

Par. (f). Act June 16, 1933, § 208, provided that Commission keep informed of new construction, extensions, etc., or other changes in property of carriers, the cost of conditions and betterments, and changes in costs and values to enable Commission to revise and correct previous inventories, classifications, and values.

Par. (g). Act June 16, 1933, § 208, referred to provisions of paragraph (f) of this section instead of to the changes and corrections in valuations of property.

1922—Par. (b) (First). Act June 7, 1922, § 1, limited report to property other than land.

Par. (b) (Second). Act June 7, 1922, § 2, omitted from report statement as to original and present cost of condemnation and damages or of purchase in excess of original cost or present value of lands, rights of way, and terminals.

1920—Act Feb. 28, 1920, lettered the paragraphs.

CROSS REFERENCES

Transfer of records of valuations of property of carriers subject to Communications Act of 1934, see section 213 (g) of Title 47, Telegraphs, Telephones, and Radio-Telegraphs.

FEDERAL RULES OF CIVIL PROCEDURE

Application of, see rules 44, 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of rules on this section, see notes by Advisory Committee under Rules 44 and 81.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5a, 52 of this title; title 48 section 751.

§ 20. Reports, records, and accounts of carriers; mandamus; liability of initial carrier for loss, etc.—

(1) Reports from carriers and lessors.

The Commission is authorized to require annual, periodical, or special reports from carriers, lessors, and associations (as defined in this section), to prescribe the manner and form in which such reports shall be made, and to require from such carriers, lessors, and associations specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary, classifying such carriers, lessors, and associations as it may deem proper for any of these purposes. Such

annual reports shall give an account of the affairs of the carrier, lessor, or association in such form and detail as may be prescribed by the Commission.

(2) Period covered by and time for making reports; oaths for reports.

Said annual reports shall contain all the required information for the period of twelve months ending on the 31st day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under paragraph (1) of this section, shall also be under oath whenever the Commission so requires.

(3) Uniform system of accounts.

The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this chapter, prescribe a uniform system of accounts applicable to any class of carriers subject thereto, and a period of time within which such class shall have such uniform system of accounts, and the manner in which such accounts shall be kept.

(4) Depreciation charges.

The Commission shall, as soon as practicable, prescribe for carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this paragraph, carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

(5) Forms of accounts, records, and memoranda; access to records, etc., by Commission or agents.

The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers and their lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys, and it shall be unlawful for such carriers or lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto. The Commission or any duly authorized special agent, accountant, or examiner thereof shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of such carriers, lessors, and associations, and such accounts, books, records, memoranda, correspondence, and other documents, of any person controlling, controlled by, or under common control with any such carrier, as the Commission deems relevant to such person's relation to or transactions with such carrier. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to all lands, buildings, or equipment of such carriers or lessors, and shall have authority under its order to inspect and examine any and all such lands, buildings, and equipment. Such carriers, lessors, and other persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and copying authorized by this paragraph, and such carriers and lessors shall submit their lands, buildings, and equipment to inspection and examination, to any duly authorized special agent, accountant, or examiner of the Commission, upon demand and the display of proper credentials.

(6) Persons furnishing cars or protection against elements; access to and forms of records, etc.; reports.

The Commission or any duly authorized special agent, accountant, or examiner thereof shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of persons which furnish cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company subject to this chapter: *Provided, however,* That such authority shall be limited to accounts, books, records, memoranda, correspondence, or other documents which pertain or relate to the cars or protective service so furnished. The Commission shall further have authority, in its discretion, to prescribe the forms of any or all accounts, records, and memoranda which it is authorized by this paragraph to inspect and copy, and to require the persons furnishing such cars or protective service, as aforesaid, to submit such reports and specific and full, true, and correct answers to such questions, relative to such cars or service, as the Commission may deem necessary. Persons furnishing such cars or protective service shall submit their accounts, books, records, memoranda, correspondence, or other documents, to the extent above provided, for inspection or copying to any duly authorized special agent, accountant, or examiner of the Commission upon demand and the display of proper credentials.

(7) Penalties and forfeitures in connection with accounts, records, reports, etc.

(a) In case of failure or refusal on the part of any carrier, lessor, or other person to keep any accounts, records, and memoranda in the form and manner prescribed, under authority of this section, by the Commission, or to submit any accounts, books, records, memoranda, correspondence, or other documents to the Commission or any of its authorized agents, accountants, or examiners for inspection or copying, as required under this section, such carrier, lessor, or person shall forfeit to the United States not to exceed $500 for each such offense and for each day during which such failure or refusal continues.

(b) Any person who shall knowingly and willfully make, cause to be made, or participate in the making of, any false entry in any annual or other report required under this section to be filed, or in the accounts of any book of accounts or in any records

or memoranda kept by a carrier, or required under this section to be kept by a lessor or other person, or who shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such accounts, records, or memoranda, or who shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, lessor, or person, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly or willfully file with the Commission any false report or other document, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided,* That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of such carriers, lessors, or other persons as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

(c) Any carrier or lessor, or person furnishing cars or protective service, or any officer, agent, employee, or representative thereof, who shall fail to make and file an annual or other report with the Commission within the time fixed by the Commission, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto.

(d) In case of failure or refusal on the part of any carrier or lessor to accord to the Commission or its duly authorized special agents, accountants, or examiners, access to, and opportunity for the inspection and examination of, any lands, buildings, or equipment of said carrier or lessor, as provided in this section, such carrier or lessor shall forfeit to the United States the sum of one hundred dollars for each day during which such failure or refusal continues.

(e) All forfeitures authorized in this paragraph shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this chapter.

(f) Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this section, except insofar as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $500 or imprisonment for not exceeding six months, or both.

(8) Definitions.

As used in this section, the words "keep" and "kept" shall be construed to mean made, prepared, or compiled, as well as retained; the term "carrier" means a common carrier subject to this chapter, and includes a receiver or trustee of such carrier; the term "lessor" means a person owning a railroad, a water line, or a pipe line, leased to and operated by a common carrier subject to this part, and includes a receiver or trustee of such lessor; and the term "association" means an association or organization maintained by or in the interest of any group of carriers subject to this chapter which performs any service, or engages in any activities, in connection with any traffic, transportation, or facilities subject to this Act.

(9) Jurisdiction to compel compliance by mandamus.

The district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this chapter or of any statutes supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this chapter and said statutes, or any of them.

(10) Special agents or examiners.

And to carry out and give effect to the provisions of this chapter and said statutes, or any of them, the Commission is authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence.

(11) Liability of initial and delivering carrier for loss; limitation of liability; notice and filing of claim.

Any common carrier, railroad, or transportation company subject to the provisions of this chapter receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or from any point in the United States to a point in an adjacent foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or from any point in the United States to a point in an adjacent foreign country, or for transportation wholly within a Territory, or any common carrier, railroad, or transportation company delivering said property so received and transported shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property

caused by it or by any such common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made is declared to be unlawful and void: *Provided,* That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by the bill of lading of the carrier by water and by and under the laws and regulations applicable to transportation by water, and the liability of the initial or delivering carrier shall be the same as that of such carrier by water: *Provided, however,* That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first, to baggage carried on passenger trains or boats, or trains or boats carrying passengers; second, to property, except ordinary livestock, received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the Interstate Commerce Commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and shall not, so far as relates to values, be held to be a violation of section 10 of this title; and any tariff schedule which may be filed with the Commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the Commission is empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term "ordinary livestock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided further,* That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further,* That all actions brought under and by virtue of this paragraph against the delivering carrier shall be brought, and may be maintained, if in a district court of the United States, only in a district, and if in a State court, only in a State through or into which the defendant carrier operates a line of railroad: *Provided further,* That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than nine months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *And provided further,* That for the purposes of this paragraph and of paragraph (12) of this section the delivering carrier shall be construed to be the carrier performing the line-haul service nearest to the point of destination and not a carrier performing merely a switching service at the point of destination: *And provided further,* That the liability imposed by this paragraph shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as in this chapter provided.

(12) Recovery by initial or delivering carrier from connecting carrier.

The common carrier, railroad, or transportation company issuing such receipt or bill of lading, or delivering such property so received and transported, shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained, the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any action at law brought by the owners of such property. (Feb. 4, 1887, ch. 104, pt. I, § 20, 24 Stat. 386; June 29, 1906, ch. 3591, § 7, 34 Stat. 593; Feb. 25, 1909, ch. 193, 35 Stat. 649; June 18, 1910, ch. 309, § 14, 36 Stat. 555; Mar. 4, 1915, ch. 176, § 1, 38 Stat. 1196; Aug. 9, 1916, ch. 301, 39 Stat. 441; Feb. 28, 1920, ch. 91, §§ 434—438, 41 Stat. 493, 494; July 3, 1926, ch. 761, 44 Stat. 835; Mar. 4, 1927, ch. 510, § 3, 44 Stat. 1448; Apr. 23, 1930, ch. 208, 46 Stat. 251; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, § 13, 54 Stat. 916; June 3, 1948, ch. 386, 62 Stat. 295; Aug. 2, 1949, ch. 379, §§ 7—9, 63 Stat. 486.)

REFERENCES IN TEXT

This Act, referred to in par. (8), means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13, and 19 of this title.

"Said statutes," referred to in pars. (9) and (10), refers to statutes supplementary to or amendatory of this chapter.

CODIFICATION

Par. (1) was covered by parts of pars. (1) and (2) before amendment by act Sept. 18, 1940. Former par. (1) was incorporated in pars. (1) and (3) by the amendment.

Par. (2) was par. (2) in part before amendment by act Sept. 18, 1940. Former par. (2) was incorporated in pars. (1) and (2) by the amendment.

Par. (3) was par. (1) in part before amendment by act Sept. 18, 1940. Former par. (3) was incorporated in par. (7) (e) by the amendment.

Par. (4) was par. (5) in part before amendment by act Sept. 18, 1940. Former par. (4), relating to administration of oath, was omitted from section by the amendment.

Par. (5) was par. (5) in part before amendment by act Sept. 18, 1940. Former par. (5) was incorporated in pars. (4) and (5) by the amendment.

Par. (6) added by act Sept. 18, 1940. Former par. (6) was incorporated in par. (7) (a) by the amendment.

Par. (7) was covered by pars. (3) and (6)—(8) before amendment by act Sept. 18, 1940. Former par. (7) was incorporated in par. (7), subd. (b), by the amendment.

Par. (8) added by act Sept. 18, 1940. Former par. (8) was incorporated in par. (7) (f) by the amendment.

AMENDMENTS

1949—Par. (1). Act Aug. 2, 1949, § 7, made par. (1) applicable to associations or organizations maintained by or in the interest of carriers subject to this chapter.

Par. (5). Act Aug. 2, 1949, § 8, included associations within its provisions.

Par. (8). Act Aug. 2, 1949, § 9, defined term "association".

1948—Par. (12). Act June 3, 1948, included recovery of any expense reasonably incurred by the carrier defending the suit in any action at law brought by the owners of the damaged or lost property.

1940—Par. (1). Act Sept. 18, 1940, § 13(a), required periodical or special reports in addition to annual reports, included lessors as well as carriers, authorized classifying carriers and lessors, and required report annually on affairs of carrier and lessor in such form and detail as prescribed by Commission.

Par. (2). Act Sept. 18, 1940, § 13(a), changed period for annual reports of required information and omitted provisions relating to forfeitures.

Par. (3). Act Sept. 18, 1940, § 13(a), authorized Commission to prescribe uniform system of accounts.

Par. (4). Act Sept. 18, 1940, § 13(a), provided for depreciation charges.

Par. (5). Act Sept. 18, 1940, § 13(a), applied to lessors as well as carriers and authorized Commission, special agents, accountants, or examiners to inspect and copy accounts, books, etc., and to inspect and examine lands, buildings, and equipment.

Par. (6). Act Sept. 18, 1940, § 13(a), provided for inspection and copying of accounts, books, etc., of persons furnishing cars or protection against elements, gave Commission authority to prescribe form of accounts, records, etc., and to have access to them through special agents, accountants, or examiners.

Par. (7). Act Sept. 18, 1940, § 13(a), provided for various penalties and forfeitures in connection with accounts, records, reports, etc.

Par. (8). Act Sept. 18, 1940, § 13(a), provided for definition of terms.

Par. (11). Act Sept. 18, 1940, § 13(b), proviso relating to liability of carrier by water, provided that such liability shall be determined by the bill of lading as well as under laws and regulations applicable to transportation by water.

1935—Act Aug. 9, 1935, substituted "this part" for "this Act" in the original Interstate Commerce Act.

1930—Par. (11). Act Apr. 23, 1930, in proviso relating to time for notice and filing of claims, omitted provision for notice of claim and extended time for filing claim from four months to nine months, and omitted proviso fixing three-year limitation period for instituting suit for recovery of damages caused by carelessness of negligence to property in transit.

1927—Par. (11). Act Mar. 4, 1927, inserted proviso relating to venue of actions against delivering carrier, amended proviso relating to no notice required of claim, if loss due to negligence, etc. in transit, to provide a three year limitation for institution of suit, and inserted proviso construing delivering carrier.

Par. (12). Act Mar. 4, 1927, extended recovery of payments to delivering carriers.

1926—Par. (11). Act July 3, 1926, added proviso relating to liability for property reconsigned or diverted in accordance with applicable tariffs.

1920—Pars. (1)—(4). Act Feb. 28, 1920, § 434, numbered pars. (1)—(4) as "(1)"—"(4)", respectively.

Par. (5). Act Feb. 28, 1920, § 435, numbered par. (5) as "(5)", provided for depreciation charges and made applicable to accounts, etc., kept during period of Federal control by Act Feb. 28, 1920, § 435.

Pars. (6)—(10). Act Feb. 28, 1920, § 436, numbered pars. (6)—(10) as "(6)"—"(10)", respectively.

Par. (11). Act Feb. 28, 1920, §§ 436—438, proviso in par. (11) relating to liability of carrier by water and amended proviso relating to period for notice and filing of claims and institution of suits to provide that period of limitations be computed from time of disallowance of claim by carrier.

Par. (12). Act Feb. 28, 1920, § 436, numbered par. (12) as "(12)".

1916—Par. (11). Act Aug. 9, 1916, provided, in proviso relating to declared value of goods hidden from view, that ban on limitation of liability did not apply to passenger baggage or shipments of property if rates were based on declared values, authorized filing of tariff schedules establishing rates based on declared value, and defined "ordinary live stock".

1915—Par. (11). Act Mar. 4, 1915, made par. applicable to transportation of property between Territories and District of Columbia and from United States to adjacent foreign countries, inserted provision declaring any limitation of liability to be unlawful and void except as to goods on which a declared value has been stated in writing and as to which the Commission may establish rates dependent upon declared value, and added provisos relating to time for giving notice and filing of claims and institution of suits, and dispensing with necessity for notice and filing of claim where loss or injury was due to delay or damage in loading or unloading or damage in transit due to negligence.

1910—Par. (2). Act June 18, 1910, changed period for annual reports of statistics and authorized Commission to require periodical and special reports in addition to monthly reports.

1909—Par. (7). Act Feb. 25, 1909, added proviso authorizing Commission to permit destruction of old records.

1906—Pars. (1) and (2). Act June 29, 1906, amended pars. (1) and (2) generally.

Pars. (3)—(12). Act June 29, 1906, added pars. (3)—(12).

CROSS REFERENCES

Bills of lading, see section 81 et seq. of this title.

Control defined, see section 1(3) of this title.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Forfeitures, recovery of, see section 16 (9), (10) of this title.

Motor vehicle common carriers, application of pars. (11) and (12), see section 319 of this title.

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

Non-removable actions, see section 1445(b) of Title 28, Judiciary and Judicial Procedure.

Orders, writs and process under this section may run, be served, and be returnable anywhere in United States, see section 2321 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Application of, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of rule 81 on this section, see note by Advisory Committee under rule 81.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 19a, 319, 1013 of this title; title 15 sections 77s, 78m; title 28 sections 1445, 2321, 2323.

§ 20a. Securities of carriers; issuance, etc.

(1) Carrier defined.

As used in this section, the term "carrier" means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this chapter, or any corporation organized for the purpose of engaging in transportation by railroad subject to this chapter, or a sleeping-car company which is subject to this chapter.

(2) Issuance of securities; assumption of obligations; authorization.

It shall be unlawful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed "securities")

or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the Commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the Commission by order authorizes such issue or assumption. The Commission shall make such order only if it finds that such issue or assumption: (a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose: *Provided,* That nothing in this section is to be construed as applying to securities issued or obligations or liabilities assumed by the United States or any instrumentality thereof, or by the District of Columbia or any instrumentality thereof, or by any State of the United States, or by any political subdivision or municipal corporation of any State, or by any instrumentality of one or more States, political subdivisions thereof, or municipal corporations.

(3) Scope of Commission's authority.

The Commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the Commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the paragraph (2) of this section.

(4) Form and contents of application; oath and signature.

Every application for authority shall be made in such form and contain such matters as the Commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

(5) Disposition of securities described in application, etc.

Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or other disposition, file with the Commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the Commission.

(6) Notice of application to governors of States; intervention; hearings.

Upon receipt of any such application for authority the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commissions, public service, or utilities commissions, or other appropriate State authorities of the State shall have the right to make before the Commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceedings. The Commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

(7) Jurisdiction of Commission as exclusive and plenary.

The jurisdiction conferred upon the Commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

(8) Guaranty of securities.

Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

(9) Issue of short-term notes; certificate of notification; proviso.

The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per centum of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within ten days after the making of such notes the carrier issuing the same shall file with the Commission a certificate of notification, in such form as may from time to time be determined and prescribed by the Commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: *Provided,* That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

(10) Reports by carriers as to securities or proceeds.

The Commission shall require periodical or special reports from each carrier issuing any securities, including such notes, which shall show, in such detail as the Commission may require, the disposition made of such securities and the application of the proceeds thereof.

(11) Securities issued contrary to law void; effect; penalty.

Any security issued or any obligation or liability assumed by a carrier, for which under the provi-

sions of this section the authorization of the Commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption, shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney, or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the Commission's order or orders in the premises, or any application not authorized by the Commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

(12) Restrictions on actions of officers and directors; penalty.

It shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. It shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court. (Feb. 4, 1887, ch. 104, pt. I, § 20a, as added Feb. 28, 1920, ch. 91, § 439, 41 Stat. 494, and amended Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 2, 1949, ch. 739, § 10, 63 Stat. 487; July 24, 1965, Pub. L. 89–86, § 1, 79 Stat. 263.)

AMENDMENTS

1965—Par. (2). Pub. L. 89–86 added proviso prohibiting construction of the section in a manner which would apply its provisions to securities issued or obligations or liabilities assumed by the United States or any instrumentality thereof, or by the District of Columbia, or any instrumentality thereof, or by any state, political subdivision or municipal corporation thereof, or by any instrumentality of one or more states, political subdivisions thereof, or municipal corporations.

1949—Par. (1). Act Aug. 2, 1949, included sleeping car companies within section.

CROSS REFERENCES

Combinations and consolidations of carriers, see section 5 of this title.

Issue of securities under reorganization proceedings, see section 205 of Title 11, Bankruptcy.

Motor Carrier Act, application of this section to, see section 314 of this title.

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 20b, 314 of this title; title 11 section 205; title 15 section 77c.

§ 20b. Modification of railroad financial structures.

(1) Approval and authorization of Commission; exclusion of equipment-trust securities.

It shall be lawful (any express provision contained in any mortgage, indenture, deed of trust, corporate charter, stock certificate, or other instrument or any provision of State law to the contrary notwithstanding), with the approval and authorization of the Commission, as provided in paragraph (2) of this section, for a carrier as defined in section 20a (1) of this title to alter or modify (a) any provision of any class or classes of its securities as defined in section 20a (2) of this title being hereinafter in this section sometimes called "securities"; or (b) any provision of any mortgage, indenture, deed of trust, corporate charter, or other instrument pursuant to which any class of its securities shall have been issued or by which any class of its obligations is secured (hereinafter referred to as instruments): *Provided,* That the provisions of this section shall not apply to any equipment-trust certificates in respect of which a carrier is obligated, or to any evidences of indebtedness of a carrier the payment of which is secured in any manner solely by equipment, or to any instrument, whether an agreement, lease, conditional-sale agreement, or otherwise, pursuant to which such equipment-trust certificates or such evidences of indebtedness shall have been issued or by which they are secured.

(2) Application; public hearing; findings; submission of plan to security holders; order of Commission; force and effect.

Whenever an alteration or modification is proposed under paragraph (1) of this section, the carrier

seeking authority therefor shall, pursuant to such rules and regulations as the Commission shall prescribe, present an application to the Commission. Upon presentation of any such application, the Commission may, in its discretion, but need not, as a condition precedent to further consideration, require the applicant to secure assurances of assent to such alteration or modification by holders of such percentage of the aggregate principal amount or number of shares outstanding of the securities affected by such alteration or modification as the Commission shall in its discretion determine. If the Commission shall not require the applicant to secure any such assurances, or when such assurances, as the Commission may require shall have been secured, the Commission shall set such application for public hearing and the carrier shall give reasonable notice of such hearing in such manner, by mail, advertisement, or otherwise, as the Commission may find practicable and may direct, to holders of such of its classes of securities and to such other persons in interest as the Commission shall determine to be appropriate and shall direct. If the Commission, after hearing, in addition to making (in any case where such alteration or modification involves an issuance of securities) the findings required by paragraph (2) of section 20a of this title, not inconsistent with paragraph (1) of this section shall find that, subject to such terms and conditions and with such amendments as it shall determine to be just and reasonable, the proposed alteration or modification—

(a) is within the scope of paragraph (1) of this section:

(b) will be in the public interest;

(c) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration; and

(d) will not be adverse to the interests of any creditor of the carrier not affected by such modification or alteration,

then (unless the applicant, carrier shall withdraw its application) the Commission shall cause the carrier, in such manner as it shall direct, to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any) to the holders of each class of its securities affected thereby, for acceptance or rejection. The Commission shall have the power to make such general rules and regulations and such special requirements in any particular case in respect to the solicitation of assents, opposition, assurances of assent, acceptance, approval, or disapproval of such holders (whether such solicitation is made before or after approval of the proposed alteration or modification by the Commission), as it shall deem necessary or desirable; and no solicitation shall be made, and no letter, circular, advertisement, or other communication, or financial or statistical statement, or summary thereof, shall be used in any such solicitation, in contravention of such rules, regulations, or special requirements. The Commission may direct that the assents (and any revocations thereof) of such holders to the proposed alteration or modification shall be addressed to a bank or trust company, approved by it, which is incorporated under the laws of the United States or any State thereof, and which has a capital and surplus of at least $2,000,000, and is a member of the Federal Reserve System. Any bank or trust company so approved shall certify to the Commission the result of such submission and the Commission may, in its discretion, rely upon such certification as conclusive evidence in determining the result of such submission. If the Commission shall find that as a result of such submission the proposed alteration or modification has been assented to by the holders of at least 75 per centum of the aggregate principal amount or number of shares outstanding of each class of securities affected thereby (or as to any class (i) where 75 per centum thereof is held by fewer than twenty-five holders, or (ii) which is entitled to vote for the election of directors of the carrier and the assents of the holders of 25 per centum or more thereof are determined by the Commission to be within the control of the carrier or of any person or persons controlling the carrier, such larger percentage, if any, as the Commission may determine to be just and reasonable and in the public interest), the Commission shall enter an order approving and authorizing the proposed alteration or modification upon the terms and conditions and with the amendments, if any, so determined to be just and reasonable. Such order shall make provision as to the time when such alteration or modification shall become and be binding, which may be upon publication of a declaration to that effect by the carrier, or otherwise, as the Commission may determine. Any alteration or modification which shall become and be binding pursuant to the approval and authority of the Commission hereunder shall be binding upon each holder of any security of the carrier of each class affected by such alteration or modification, and upon any trustee or other party to any instrument under which any class of obligations shall have been issued or by which it is secured, and when any alteration or modification shall become and be binding the rights of each such holder and of any such trustee or other party shall be correspondingly altered or modified.

(3) When class of securities affected; what constitutes outstanding securities; assent to modification.

For the purposes of this section a class of securities shall be deemed to be affected by any modification or alteration proposed only (a) if a modification or alteration is proposed as to any provision of such class of securities, or (b) if any modification or alteration is proposed as to any provision of any instrument pursuant to which such class of securities shall have been issued or shall be secured: *Provided,* That in any case where more than one class of securities shall have been issued and be outstanding or shall be secured pursuant to any instrument, any alteration or modification proposed as to any provision of such instrument which does not relate to all of the classes of securities issued thereunder, shall be deemed to affect only the class or classes of securities to which such alteration or modification is related. For the purpose of the finding of the Commission referred to in paragraph (2) of this section as to whether the required percentage of the aggregate principal amount of number of shares outstanding of each class of securities affected by any

proposed alteration or modification has assented to the making of such alteration or modification, any security which secures any evidence or evidences of indebtedness of the carrier or of any company controlling or controlled by the carrier shall be deemed to be outstanding unless the Commission in its discretion determines that the proposed alteration or modification does not materially affect the interests of the holder or holders of the evidence or evidences of indebtedness secured by such security. Whenever any such pledged security is, for said purposes, to be deemed outstanding, assent in respect of such security, as to any proposed alteration or modification, may be given only (any express or implied provision in any mortgage, indenture, deed of trust, note, or other instrument to the contrary notwithstanding) as follows: (a) Where such security is pledged as security under a mortgage, indenture, deed of trust, or other instrument, pursuant to which any evidences of indebtedness are issued and outstanding, by the holders of a majority in principal amount of such evidences of indebtedness, or (b) where such security secures an evidence or evidences of indebtedness not issued pursuant to such a mortgage, indenture, deed of trust, or other instrument, by the holder or holders of such evidence or evidences of indebtedness; and in any such case the Commission, in addition to the submission referred to in paragraph (2) of this section, shall cause the carrier in such manner as it shall direct to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any, as the Commission shall have determined to be just and reasonable) for acceptance or rejection, to the holders of the evidences of indebtedness issued and outstanding pursuant to such mortgage, indenture, deed of trust, or other instrument, or to the holder or holders of such evidence or evidences of indebtedness not so issued, and such proposed alteration or modification need not be submitted to the trustee of any such mortgage, indenture, deed of trust, or other instrument, but assent in respect of any such security shall be determined as hereinbefore in this section provided. For the purposes of this section a security (other than a security entitled to vote for the election of directors of the carrier) or an evidence of indebtedness shall not be deemed to be outstanding if, in the determination of the Commission, the assent of the holder thereof to any proposed alteration or modification is within the control of the carrier or of any person or persons controlling the carrier. The Commission shall, for the purposes of this section, divide the securities to be affected by any proposed alteration or modification into such classes as it shall determine to be just and reasonable.

(4) Modification of securities of carrier acting as guarantor, endorser, surety, or otherwise; person deemed carrier.

(a) Any authorization and approval hereunder of any alteration or modification of a provision of any class of securities of a carrier or of a provision of any instrument pursuant to which a class of securities has been issued, or by which it is secured, shall be deemed to constitute authorization and approval of a corresponding alteration or modification of the obligation of any other carrier which has assumed liability in respect of such class of securities as guarantor, endorser, surety, or otherwise: *Provided,* That such other carrier consents in writing to such alteration or modification of such class of securities in respect of which it has assumed liability or of the instrument pursuant to which such class of securities has been issued or by which it is secured and, such consent having been given, any such corresponding alteration or modification shall become effective, without other action, when the alteration or modification of such class of securities or of such instrument shall become and be binding.

(b) Any person who is liable or obligated contingently or otherwise on any class or classes of securities issued by a carrier shall, with respect to such class or classes of securities, for the purposes of this section, be deemed a carrier.

(5) Authority of section as exclusive and plenary.

The authority conferred by this section shall be exclusive and plenary and any carrier, in respect of any alteration or modification authorized and approved by the Commission hereunder, shall have full power to make any such alteration or modification and to take any actions incidental or appropriate thereto, and may make any such alteration or modification and take any such actions, and any such alteration or modification may be made without securing the approval of the Commission under section 208 of Title 11 or other paragraph of this section, and without securing approval of any State authority, and any carrier and its officers and employees and any other persons, participating in the making of an alteration or modification approved and authorized under the provisions of this section or the taking of any such actions, shall be, and they are, relieved from the operation of all restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to make and carry into effect the alteration or modification so approved and authorized in accordance with the conditions and with the amendments, if any, imposed by the Commission. Any power granted by this section to any carrier shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State. The provisions of this section shall not affect in any way the negotiability of any security of any carrier or of the obligation of any carrier which has assumed liability in respect thereto.

(6) Reports to Commission from carrier.

The Commission shall require periodical or special reports from each carrier which shall hereafter secure from the Commission approval and authorization of any alteration or modification under this section, which shall show, in such detail as the Commission may require, the action taken by the carrier in the making of such alteration or modification.

(7) Section as permissive.

The provisions of this section are permissive and not mandatory and shall not require any carrier to obtain authorization and approval of the Commission hereunder for the making of any alteration or modification of any provision of any of its securities or of any class thereof or of any provision of any mortgage, indenture, deed of trust, corporate

charter, or other instrument, which it may be able lawfully to make in any other manner, whether by reason of provisions for the making of such alteration or modification in any such mortgage, indenture, deed of trust, corporate charter, or other instrument, or otherwise: *Provided,* That the provisions of paragraph (2) of section 20a of this title, if applicable to such alteration or modification made otherwise than pursuant to the provisions of this section, shall continue to be so applicable.

(8) Law governing applications; supplemental orders.

The provisions of paragraph (6) of section 20a of this title, except the provisions of paragraph (6) of said section in respect of hearings, shall apply to applications made under this section. In connection with any order entered by the Commission pursuant to paragraph (2) of this section, the Commission may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any such order, subject always to the requirements of paragraph (2) of this section.

(9) Solicitation of proxies.

The provisions of subsection (a) of section 78n of Title 15 shall not apply to any solicitation in connection with a proposed alteration or modification pursuant to this section.

(10) Rules and regulations.

The Commission shall have the power to make such rules and regulations appropriate to its administration of the provisions of this section as it shall deem necessary or desirable.

(11) Issuance of securities; law governing.

Any issuance of securities under this section which shall be found by the Commission to comply with the requirements of paragraph (2) of section 20a of this title shall be deemed to be an issuance which is subject to the provisions of section 20a of this title within the meaning of section 77c (a) (6) of Title 15. Section 77e of Title 15 shall not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, any carrier which are issued by committees in proceedings under this section, and said certificates of deposit and transactions therein shall, for the purposes of said Securities Act, be deemed to be added to those exempted by sections 77c and 77e of Title 15.

(12) Taxes on issuance, transfer, or exchange of securities.

The provisions of sections 1801, 1802, 3481, and 3482 of Title 26 and any amendments thereto, unless specifically providing to the contrary, shall not apply to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any alteration or modification effected pursuant to this section.

(13) Conditions permitting modification and adjustment procedure to carriers in receivership or reorganization proceedings.

The Commission shall not approve an application filed under this section by any carrier while in equity receivership or in process of reorganization under section 205 of Title 11, except that the Commission may approve an application filed by a carrier which, on April 9, 1948, is in equity receivership and with respect to which no order confirming the sale of the carrier's property has been entered, or is in process of reorganization under section 205 of Title 11 and with respect to which no order confirming a plan shall have been entered, or, such an order having been entered, if an appeal from said order is pending on said date in a court of appeals or the matter is pending in the Supreme Court on a petition to review any order of a court of appeals dealing with said order of confirmation or the time within which to make such appeal or to file such petition has not expired, if prior to the filing of such application with the Commission such carrier shall have applied for and been granted permission to file such application by the district judge before whom the equity receivership or section 205 of Title 11 proceeding is pending. Any such carrier applying for permission to file such application shall file with the court as a prerequisite to the granting of such permission (1) a copy of the proposed application, (2) a copy of the proposed plan of alteration or modification of its securities, and (3) assurances satisfactory to the court of the acceptance of such plan from holders of at least 25 per centum of the aggregate amount of all securities, including not less than 25 per centum of the aggregate amount of all creditors' claims, affected by such plan. An order of a district judge granting or withholding such permission shall be final and shall not be subject to review. Upon granting of such permission, such proceeding, so far as it relates to a plan of reorganization, shall be suspended until the Commission shall have notified the court that (a) the application filed by such carrier under this section has been dismissed or denied by the Commission or withdrawn, (b) the Commission has approved and authorized an alteration or modification under this section with respect to the securities of such carrier, or (c) twelve months have elapsed since the filing of such application and no such alteration or modification has been approved and authorized by the Commission. Upon receipt by the court of notification that such application has been dismissed or denied or withdrawn or that twelve months have elapsed and no alteration or modification has been approved and authorized, the equity receivership or section 205 of Title 11 proceeding shall be resumed as though permission to file application under this section had not been granted. Upon receipt by the court of notification that the Commission has authorized and approved such alteration or modification of the carrier's securities under this section as, in the judgment of the court, makes further receivership or section 205 of Title 11 proceeding unnecessary, the court shall enter an order restoring custody of the property to the debtor, and making such other provision as may be necessary to terminate the equity receivership or section 205 of Title 11 proceeding. (Feb. 4, 1887, ch. 104, pt. I, § 20b, as added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163, and amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 16, 1957, Pub. L. 85–150, §§ 1, 2, 71 Stat. 369.)

REFERENCES IN TEXT

Said Securities Act, referred to in par. (11), is the Securities Act of 1933, which is classified to sections 77a—77aa of Title 15, Commerce and Trade.

Sections 1801, 1802, 3481, and 3482 of Title 26, referred to in par. (12), are references to such sections in Internal Revenue Code, 1939, which were repealed by section 7851 of Title 26, I.R.C. 1954. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of such Title 26. Provisions corresponding to the enumerated sections are as follows:

I.R.C. 1939	*I.R.C. 1954*
1801	4311—4315, 4381.
1802	4301, 4302, 4304, 4321—4323, 4341—4344, 4351—4353, 4381.
3481	4331, 4332, 4341—4344, 4351—4353.
3482	4361, 4362.

AMENDMENTS

1957—Par. (2). Pub. L. 85-150, § 1, empowered Commission to make rules, regulations, and special requirements as to solicitation made both before and after approval of proposed alteration or modification, directed addressing of assents and revocations to an approved bank or trust company for certification, and prescribed percentages in excess of the 75 percent requisite for approval of proposals if it determines that the assents of the holders of 25 percent or more of the securities of any class entitled to vote for directors are subject to control by the carrier.

Par. (3). Pub. L. 85-150, § 2, inserted "(other than a security entitled to vote for the election of directors of the carrier)" and added "The Commission shall, for the purposes of this section, divided the securities to be affected by any proposed alteration or modification into such classes as it shall determine to be just and reasonable.".

CHANGE OF NAME

Par. (13) amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "court of appeals" for "circuit court of appeals".

EFFECTIVE DATE OF 1957 AMENDMENT

Section 3 of Pub. L. 85-150 provided that: "The amendments made by this Act [to pars. (2) and (3) of this section] shall take effect on the first day of the fourth month following the month in which this Act is enacted [Aug. 16, 1957]."

SEPARABILITY OF PROVISIONS

Section 4 of act Apr. 9, 1948, provided that: "If any provision of this Act [this section and section 208 of Title 11], or the application thereof to any person or circumstances, is held invalid, the remainder of this Act [this section and section 208 of Title 11], and the application of such provision to other persons or circumstances, shall not be affected thereby."

CONGRESSIONAL DECLARATION OF PURPOSE OF ACT APR. 9, 1948

Section 1 of act Apr. 9, 1948, provided: "That it is hereby declared to be in aid of the national transportation policy of the Congress, as set forth in the preamble of the Interstate Commerce Act, as amended [chapters 1, 8, 12, 13, and 19 of this title], in order to promote the public interest in avoiding the deterioration of service and the interruption of employment which inevitably attend the threat of financial difficulties and which follow upon financial collapse and in order to promote the public interest in increased stability of values of railroad securities with resulting greater confidence therein of investors, to assure, insofar as possible, continuity of sound financial condition of common carriers subject to part I of said Act [this chapter], to enhance the marketability of railroad securities impaired by large and continuing accumulations of interest on income bonds and dividends on preferred stock and to enable said common carriers, insofar as possible, to avoid prospective financial difficulties, inability to meet debts as they mature, and insolvency. To assist in accomplishing these ends and because certain classes of the securities of such carriers are in the usual case held by a very large number of holders, and, further, to enable modification and reformation of provisions of the aforesaid classes of securities and of provisions of the instruments pursuant to which they are issued or by which they are secured in cases where such modification and reformation shall have become necessary or desirable in the public interest in order to avoid obstruction to or interference with the economical, efficient, and orderly conduct by such carriers of their affairs, it is deemed necessary to provide means, in the manner and with the safeguards herein provided, for the alteration and modification, without the assent of every holder thereof, of the provisions of such classes of securities and of the instruments pursuant to which they are outstanding or by which they are secured."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 354.

§ 20c. Recordation of railroad equipment trust agreements and other evidences of equipment indebtedness.

Any mortgage, lease, equipment trust agreement, conditional sale agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock, used or intended for use in connection with interstate commerce, or any assignment of rights or interest under any such instrument, or any supplement or amendment to any such instrument or assignment (including any release, discharge or satisfaction thereof, in whole or in part), may be filed with the Commission, provided such instrument, assignment, supplement or amendment is in writing, executed by the parties thereto, and acknowledged or verified in accordance with such requirements as the Commission shall prescribe; and any such instrument or other document, when so filed with the Commission, shall constitute notice to and shall be valid and enforceable against all persons including, without limitation, any purchaser from, or mortgagee, creditor, receiver, or trustee in bankruptcy of, the mortgagor, buyer, lessee or bailee of the equipment covered thereby, from and after the time such instrument or other document is so filed with the Commission; and such instrument or other document need not be otherwise filed, deposited, registered or recorded under the provisions of any other law of the United States of America, or of any State (or political subdivision thereof), territory, district or possession thereof, respecting the filing, deposit, registration or recordation of such instruments or documents. The Commission shall establish and maintain a system for the recordation of each such instrument or document, filed pursuant to the provisions of this section, and shall cause to be marked or stamped thereon, a consecutive number, as well as the date and hour of such recordation, and shall maintain, open to public inspection, an index of all such instruments or documents, including any assignment, amendment, release, discharge or satisfaction thereof, and shall record, in such index the names and addresses of the principal debtors, trustees, guarantors and other parties thereto, as well as such other facts as may be necessary to facilitate the determination of the rights of the parties to such transactions. (Feb. 4, 1887, ch. 104, pt. I, § 20c, as added July 16, 1952, ch. 881, 66 Stat. 724.)

§ 21. Annual reports of Commission.

The Commission shall, on or before the 3d day of January of each year, make a report which shall be transmitted to Congress and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such informa-

tion and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission. (Feb. 4, 1887, ch. 104, pt. I, § 21, 24 Stat. 387; Mar. 2, 1889, ch. 382, § 8, 25 Stat. 862; May 23, 1935, ch. 136, 49 Stat. 287.)

AMENDMENTS

1935—Act May 23, 1935, changed date for annual report from Dec. 1, to Jan. 3.

1889—Act Mar. 2, 1889, provided for direct report by Commission to Congress instead of to Secretary of the Interior and transmission by him to Congress and added provision that report contain information regarding names and compensation of employees.

CROSS REFERENCES

Printing and distribution of Commission reports, see section 1323 of Title 44, Public Printing and Documents.

§ 22. Restrictions; quotations of rates for United States Government.

(1) Nothing in this chapter shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the transportation of persons for the United States Government free or at reduced rates, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this chapter shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of Veterans' Administration facilities or State Homes for Disabled Volunteer Soldiers and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this chapter shall be construed to prohibit any common carrier from establishing by publication and filing in the manner prescribed in section 6 of this title reduced fares for application to the transportation of (a) personnel of United States armed services or of foreign armed services, when such persons are traveling at their own expense, in uniform of those services, and while on official leave, furlough, or pass; or (b) persons discharged, retired, or released from United States armed services within thirty days prior to the commencement of such transportation and traveling at their own expense to their homes or other prospective places of abode; nothing in this chapter shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the free carriage, storage, or handling by a carrier of the household goods and other personal effects of its own officers or employees when such goods and effects must necessarily be moved from one place to another as a result of a change in the place of employment of such officers or employees while in the service of the carrier, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies; nothing in this chapter shall be construed to prohibit any common carrier from carrying any totally blind person accompanied by a guide or seeing-eye dog or other guide dog specially trained and educated for that purpose or from carrying a disabled person accompanied by an attendant if such person is disabled to the extent of requiring such attendant, at the usual and ordinary fare charged to one person, under such reasonable regulations as may have been established by the carrier: *Provided,* That no pending litigation shall in any way be affected by this chapter: *Provided further,* That nothing in this chapter shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this chapter, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section 6 of this title; and all the provisions of said section relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section 10 of this title shall apply to any violation of the requirements of this proviso. Nothing in this chapter shall prevent any carrier or carriers subject to this chapter from giving reduced rates for the transportation of property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or distaster, if such reduced rates have first been authorized by order of the Commission (with or without a hearing); but in any such order the Commission shall (1) define such section, (2) specify the period during which such reduced rates are to remain in effect, and (3) clearly define the class or classes of persons entitled to such reduced rates: *Provided,* That any such order may define the class or classes entitled to such reduced rates as being

persons designated as being in distress and in need of relief by agents of the United States or any State authorized to assist in relieving the distress caused by any such calamitous visitation or disaster. No carrier subject to the provisions of this chapter shall be deemed to have violated the provisions of such chapter with respect to undue or unreasonable preference or unjust discrimination by reason of the fact that such carrier extends such reduced rates only to the class or classes of persons defined in the order of the Commission authorizing such reduced rates.

(2) All quotations or tenders of rates, fares or charges under paragraph (1) of this section for the transportation, storage, or handling of property or the transportation of persons free or at reduced rates for the United States Government, or any agency or department thereof, including quotations or tenders for retroactive application whether negotiated or renegotiated after the services have been performed, shall be in writing or confirmed in writing and a copy or copies thereof shall be submitted to the Commission by the carrier or carriers offering such tenders or quotations in the manner specified by the Commission and only upon the submittal of such a quotation or tender made pursuant to an agreement approved by the Commission under section 5b of this title shall the provisions of paragraph (9) of said section 5b apply, but said provisions shall continue to apply as to any agreement so approved by the Commission under which any such quotation or tender (a) was made prior to August 31, 1957 or (b) is on or after August 31, 1957 made and for security reasons, as hereinafter provided, is not submitted to the Commission: *Provided,* That nothing in this paragraph shall affect any liability or cause of action which may have accrued prior to August 31, 1957. Submittal of such quotations or tenders to the Commission shall be made concurrently with submittal to the United States Government, or any agency or department thereof, for whose account the quotations or tenders are offered or for whom the proposed services are to be rendered. Such quotations or tenders shall be preserved by the Commission for public inspection. The provisions of this paragraph requiring submissions to the Commission shall not apply to any quotation or tender which, as indicated by the United States Government, or any agency or department thereof, to any carrier or carriers, involves information the disclosure of which would endanger the national security. (Feb. 4, 1887, ch. 104, pt. I, § 22, 24 Stat. 387; Mar. 2, 1889, ch. 382, § 9, 25 Stat. 862; Feb. 8, 1895, ch. 61, 28 Stat. 643; Aug. 18, 1922, ch. 280, 42 Stat. 827; Feb. 26, 1927, ch. 217, 44 Stat. 1247; Mar. 4, 1927, ch. 510, § 1, 44 Stat. 1446; June 27, 1934, ch. 847, title V, § 511, 48 Stat. 1264; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; July 5, 1937, ch. 432, 50 Stat. 475; Aug. 25, 1937, ch. 776, 50 Stat. 809; Sept. 18, 1940, ch. 722, title I, § 3 (c—e), 54 Stat. 900; Sept. 27, 1944, ch. 423, 58 Stat. 751; July 27, 1956, ch. 759, 70 Stat. 702; Aug. 31, 1957, Pub. L. 85-246, 71 Stat. 564; Sept. 2, 1958, Pub. L. 85-857, § 13(a), 72 Stat. 1264.)

AMENDMENTS

1958—Pub. L. 85-857 substituted "inmates of Veterans' Administration facilities or State Homes" for "inmates of the National Homes or State Homes", in par. (1).

1957—Pub. L. 85-246 designated existing provisions as par. (1) and added par. (2).

1956—Act July 27, 1956, inserted after "or other guide dog specially trained and educated for that purpose" a comma and the words "or from carrying a disabled person accompanied by an attendant if such person is disabled to the extent of requiring such attendant,".

1944—Act Sept. 27, 1944, inserted provision authorizing establishment of reduced fares for transportation of personnel of armed services while on leave, furlough, or pass, or when returning to their homes after discharge, retirement, or release.

1940—Act Sept. 18, 1940, inserted provisions authorizing transportation of Government employees at free or reduced rates and for free carriage, storage, or handling of household and personal effects of officers and employees of carrier who may be transferred to new places of employment, repealed provision relating to reduced rates for transporting commodities to improve housing conditions, struck out (1) at beginning of section, and repealed pars. (2) and (3), relating to issuance of interchangeable mileage tickets.

1937—Act Aug. 25, 1937, provided in provision of par. (1), relating to reduced transportation charges in case of earthquake, flood, etc., that order of Commission authorizing such reduced rates shall also define and specify the classes of persons entitled thereto.

Act July 5, 1937, inserted provision in par. (1) authorizing blind persons to be accompanied by guide dogs.

1934—Act June 27, 1934, added provision authorizing carriers to give reduced rates for transportation of commodities specified by Commission.

1927—Act Mar. 4, 1927, added provision to par. (1) authorizing reduced rates for transporting property for relief in case of earthquake, flood, etc.

Act Feb. 26, 1927, inserted provision in par. (1) authorizing the carrying of blind person and guide on one fare.

1922—Act Aug. 18, 1922, designated section as par. (1) and added pars. (2) and (3), requiring issuance of interchangeable mileage or scrip coupon tickets, providing for discretionary exemption from such issuance, prescribing the making of rules and regulations governing the issuance and use of such tickets, and providing penalty for refusal to issue or accept such tickets.

1895—Act Feb. 8, 1895, added proviso authorizing issuance of joint interchangeable mileage tickets and requiring filing of joint tariffs of rates, fares, or charges on which such tickets are based.

1889—Act Mar. 2, 1889, inserted provisions authorizing free carriage of destitute and homeless persons transported by charitable societies and reduced rates to municipal governments for transportation of indigent persons or inmates of homes for disabled soldiers and sailors.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

CROSS REFERENCES

Motor vehicle common carriers, application to, see section 317(b) of this title.

Rates on Government traffic, see section 65 of this title.

Free transportation for passengers, see section 1, par. (7) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 66, 317, 906, 1004 of this title.

§ 23. Mandamus to obtain equal facilities for shippers.

The district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having

interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided,* That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided,* That the remedy given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement. (Feb. 4, 1887, ch. 104, pt. I, § 23; Mar. 2, 1889, ch. 382, § 10, 25 Stat. 862; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 16, 1942, ch. 318, § 5, 56 Stat. 301.)

REFERENCES IN TEXT

The act to which this is a supplement and all acts amendatory thereof, referred to in the text, means the Interstate Commerce Act, which is classified to this chapter and chapters 8, 12, 13, and 19 of this title.

CODIFICATION

Section is from section 10 of act Mar. 2, 1889, which was renumbered to be section 23 of the Interstate Commerce Act of Feb. 4, 1887, by act May 16, 1942. Act Mar. 3, 1911 conferred upon district courts the powers and duties previously conferred upon circuit courts.

Another section 23 was contained in the Interstate Commerce Act as originally enacted by act Feb. 4, 1887, ch. 104, 24 Stat. 387. Such section appropriated funds for the fiscal year ending June 30, 1888.

CROSS REFERENCES

Orders, writs and process under this section may run, be served, and be returnable anywhere in United States, see section 2321 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Abolition of writ of mandamus and obtaining of similar relief by appropriate action or motion, see rule 81 (b) of Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 sections 2321, 2323.

§ 25. Repealed. Sept. 18, 1940, ch. 722, title I, § 14 (a), 54 Stat. 919.

Section, act Feb. 4, 1887, ch. 104, pt. I, § 25, as added by act Feb. 28, 1920, ch. 91, § 441, 41 Stat. 497, and amended Apr. 16, 1936, ch. 229, § 10, 49 Stat. 1212, related to schedules and rates of water carriers in foreign commerce and is now covered by chapter 12 of this title.

§ 26. Safety appliances, methods, and systems.

(a) Definition of carrier.

The term "carrier" as used in this section includes any carrier by railroad subject to this chapter (including any terminal or station company), and any receiver or any other individual or body, judicial or otherwise, when in the possession of the business of a carrier subject to this section: *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway unless such railway is operated as a part of a general steam-railroad system of transportation, but shall not exclude any part of a general steam-railroad system of transportation now or hereafter operated by any other motive power.

(b) Order to install systems, etc.; modification; negligence of carrier.

The Secretary of Transportation may, after investigation, if found necessary in the public interest, order any carrier within a time specified in the order, to install the block signal system, interlocking, automatic train stop, train control, and/or cab-signal devices, and/or other similar appliances, methods, and systems intended to promote the safety of railroad operation, which comply with specifications and requirements prescribed by the Secretary, upon the whole or any part of its railroad such order to be issued and published a reasonable time (as determined by the Secretary) in advance of the date for its fulfillment: *Provided,* That block signal systems, interlocking, automatic train stop, train control, and cab-signal devices in use on August 26, 1937, or such systems or devices hereinafter installed may not be discontinued or materially modified by carriers without the approval of the Secretary: *Provided further,* That a carrier shall not be held to be negligent because of its failure to install such systems, devices, appliances, or methods upon a portion of its railroad not included in the order, and any action arising because of an accident occurring upon such portion of its railroad shall be determined without consideration of the use of such systems, devices, appliances, or methods upon another portion of its railroad.

(c) Modification of rules, standards, and instructions.

Each carrier by railroad may from time to time change the filed rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by this section but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have been filed with and approved by the Secretary of Transportation: *And provided further,* That the Secretary may on his own motion, upon good cause shown, revise, amend, or modify the rules, standards, and instructions prescribed by him under this subsection, and as revised, amended, or modified they shall be obligatory upon the carrier after a copy thereof shall have been served as above provided.

(d) Inspection by Secretary of Transportation; personnel.

The Secretary of Transportation is authorized to inspect and test any systems, devices, and appliances referred to in this section used by any such carrier and to determine whether such systems, devices, and appliances are in proper condition to operate and provide adequate safety. For these purposes the Secretary is authorized to employ persons familiar with the subject. Such persons shall be in the classified service and shall be appointed after competitive examination according to the law and the rules of the Civil Service Commission governing the classified service. No person interested, either directly or indirectly, in any patented article required to be used on or in connection with any of such systems, de-

vices, and appliances or who has any financial interest in any carrier or in any concern dealing in railway supplies shall be used for such purpose.

(e) Unlawful use of system, etc.

It shall be unlawful for any carrier to use or permit to be used on its line any system, device, or appliance covered by this section unless such apparatus, with its controlling and operating appurtenances, is in proper condition and safe to operate in the service to which it is put, so that the same may be used without unnecessary peril to life and limb, and unless such apparatus, with its controlling and operating appurtenances, has been inspected from time to time in accordance with the provisions of this section and is able to meet the requirements of such test or tests as may be prescribed in the rules and regulations provided for in this section.

(f) Report of failure of system, etc., and accidents.

Each carrier shall report to the Secretary of Transportation in such manner and to such extent as may be required by the Secretary, failures of such systems, devices, or appliances to indicate or function as intended; and in case of accident resulting from failure of any such system, device, or appliance to indicate or function as intended, and resulting in injury to person or property which is reportable under the rules of the Secretary, a statement forthwith must be made in writing of the fact of such accident by the carrier owning or maintaining such system, device, or appliance to the Secretary; whereupon the facts concerning such accident shall be subject to investigation as provided in sections 40 to 42 of Title 45.

(g) Duties and powers of Secretary of Transportation.

It shall be the duty of the Secretary of Transportation to see that the requirements of this section and the orders, rules, regulations, standards, and instructions made, prescribed, or approved hereunder are observed by carriers, and all powers granted prior to August 26, 1937, to the Secretary are extended to him in the execution of this section.

(h) Penalties; enforcement.

Any carrier which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty of $100 for each such violation and $100 for each and every day such violation, refusal, or neglect continues, to be recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed. It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred; and it shall be the duty of the Commission to lodge with the proper United States attorneys information of any violations of this section coming to its knowledge. (Feb. 4, 1887, ch. 104, pt. I, § 25, formerly § 26, as added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498, and amended Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Aug. 26, 1937, ch. 818, 50 Stat. 835, renumbered Sept. 18, 1940, ch. 722, title I, § 14 (b), 54 Stat. 919.)

CODIFICATION

Provisions in subsec. (c) for the initial filing with the Interstate Commerce Commission of rules, standards, and instructions by each carrier by railroad within six months of Aug. 26, 1937, have been omitted as executed.

AMENDMENTS

1937—Act Aug. 26, 1937, divided section into subsections and amended section generally.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" and "Secretary" have been substituted for "Interstate Commerce Commission" and "Commission" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof under this section relating generally to safety appliances. See section 1655(e)(6)(A) of this title.

CROSS REFERENCES

Civil-service laws, generally, see Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 26a. State or subdivision income tax withholding on compensation paid to interstate railroad, express company, or sleeping car company employees.

(a) Withholding where employee earns more than 50 per centum of compensation paid by carrier to him or where employee resides; filing of information return by carrier.

No part of the compensation paid by any railroad, express company, or sleeping car company, subject to the provisions of this chapter, to an employee (1) who performs his regularly assigned duties as such an employee on a locomotive, car, or other trackborne vehicle in more than one State, or (2) who is engaged principally in maintaining roadways, signals, communications, and structures or in operating motortrucks out of railroad terminals in more than one State, shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: *Provided, however,* That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or any subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall any such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of residence and the State or subdivision for which the withholding of such tax has been required under this subsection.

(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.

(1) For the purposes of subsection (a)(1) of this section, an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision thereof in which the mileage traveled by him in such State or subdivision is more than 50 per centum of the total mileage traveled by him in the calendar year while so employed.

(2) For the purposes of subsection (a)(2) of this section, an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision thereof in which the time worked by him in such State or subdivision is more than 50 per centum of the total time worked by him in the calendar year while so employed.

(c) Definitions.

For the purposes of this section the term "State" also means the District of Columbia; and the term "compensation" shall mean all moneys received for services rendered by an employee, as defined in subsection (a) of this section, in the performance of his duties and shall include wages and salary. (Feb. 4, 1887, ch. 104, pt. I, § 26, as added Dec. 23, 1970, Pub. L. 91-569, § 1, 84 Stat. 1499.)

EFFECTIVE DATE

Section 5 of Pub. L. 91-569 provided that: "The amendments made by this Act [enacting this section and sections 325a, 922b, and 1512 of this title, amending section 302 of this title, and enacting provisions set out as notes under this section] shall become effective on the first day of the first calendar year beginning after the date of enactment of this Act [Dec. 23, 1970]."

SEPARABILITY OF PROVISIONS

Section 6 of Pub. L. 91-569 provided that: "If any provision of this Act [enacting this section and sections 325a, 922b, and 1512 of this title, amending section 302 of this title, and enacting provisions set out as notes under this section] or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or other circumstances shall not be affected thereby."

§ 27. Short title.

This chapter may be cited as part I of the Interstate Commerce Act. (Feb. 4, 1887, ch. 104, pt. I, § 27, added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 499, amended Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543, renumbered § 26 and amended Sept. 18, 1940, ch. 722, title I, § 14(c), 54 Stat. 919, renumbered § 27, Dec. 23, 1970, Pub. L. 91-569, § 1, 84 Stat. 1499.)

AMENDMENTS

1940—Act Sept. 18, 1940, renumbered this section to be section 26 of act Feb. 4, 1887, and changed the style of citing the chapter from "Interstate Commerce Act" to "part I of the Interstate Commerce Act." Section 1 of act Sept. 18, 1940, amended the Interstate Commerce Act by inserting before Part I thereof (this chapter) the following provision entitled "Short Title": "This Act [chapters 1, 8, 12, 13, and 19 of this title] may be cited as the Interstate Commerce Act."

1935—Act Aug. 9, 1935, made this chapter Part I of the Interstate Commerce Act, and provided that "such part I may continue to be cited as the 'Interstate Commerce Act'."

INTERSTATE COMMERCE ACT

The Interstate Commerce Act originally consisted of but one part, set out in this chapter. This section was added to the original act of Feb. 4, 1887, as section 27 of that act by act of Feb. 28, 1920, and provided that the act [this chapter] might be cited as the "Interstate Commerce Act." A new part, designated part II, was added to the original act by act of Aug. 9, 1935, and set out in this code as chapter 8 of this title. The sections in existence prior to Aug 9, 1935, were redesignated part I. Said sections were amended by the act of Aug. 9, 1935, by substituting for the words "this act" [translated in this code as "this chapter"], wherever they occurred, the words "this part." Said sections continued to be cited as the "Interstate Commerce Act," part II being cited as the "Motor Carrier Act, 1935." The act of Sept. 18, 1940, amended this section by renumbering it as section 26 of the original act and providing that the sections set out in this chapter might be cited as "part I of the Interstate Commerce Act." Section 1 of the act Sept. 18, 1940 amended the Interstate Commerce Act by inserting before part I thereof (this chapter) a provision that chapters 1, 8, 12, 13 and 19 of this title "may be cited as the Interstate Commerce Act."

Parts II and III of the Interstate Commerce Act, see chapters 8 and 12 of this title.

Part IV of the Interstate Commerce Act, see chapter 13 of this title.

Part V of the Interstate Commerce Act, see chapter 19 of this title.

Chapter 2.—LEGISLATION SUPPLEMENTARY TO "INTERSTATE COMMERCE ACT"

Sec.
41. Liability of corporation carriers and agents; offenses and penalties.
(1) Liability of corporation common carriers; offenses; penalties; jurisdiction.
(2) Liabilities for acts of agents; departure from published rates.
(3) Receiving rebates; additional penalty and recovery thereof.
42. Parties included in proceedings to enforce law.
43. Proceedings in equity to enforce tariffs, etc.; United States attorneys; damages; witnesses; precedence.
44. Expedition of actions by United States involving general public importance.
45. Appeals to Supreme Court.
46. Neglect or refusal to attend and testify, or to answer lawful inquiries, or to produce books, etc.; offense; punishment.
47, 48. Repealed.
49. Mandamus to obtain equal facilities for shippers.
50. Agent in Washington for service; service in default of designation.
51. Proceedings relating to rail and water routes; orders.
52. Railroads to serve employees in valuation work; compensation.
53. Exception to law prohibiting free transportation.
54. Repealed.
55. Policy in making rate adjustments; investigation of rates authorized.
56. Repealed.
57. Auditing accounts of Commission.
58. Repealed.
59. Drought relief rates; carrier protected upon compliance with request of Federal agent.
60. Divesting prison-made goods of interstate character.
61 to 64. Repealed.
65. Government traffic; rates.
65a. Same; readjustment of fares, rates, and charges to shippers.
66. Government traffic; payment for transportation; deduction of overcharges.
67. Transferred.

§ 41. Liability of corporation carriers and agents; offenses and penalties.

(1) Liability of corporation common carriers; offenses; penalties; jurisdiction.

Anything done or omitted to be done by a corporation common carrier, subject to the Act to regulate commerce and the Acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said Acts or under sections 41, 42, or 43 of this title, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said Acts or by sections 41, 42, or 43 of this title, with reference to such persons, except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said Acts to file and

publish the tariffs or rates and charges as required by said Acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said Act to regulate commerce and the Acts amendatory thereof whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said Act to regulate commerce and the Acts amendatory thereof, or whereby any other advantage is given or discrimination is practiced. Every person or corporation, whether carrier or shipper, who shall, knowingly, offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of sections 41, 42, or 43 of this title or of the Act to regulate commerce and the Acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

(2) Liabilities for acts of agents; departure from published rates.

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the Act to regulate commerce or Acts amendatory thereof, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under sections 41, 42, or 43 of this title, shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section.

(3) Receiving rebates; additional penalty and recovery thereof.

Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of sections 41, 42, or 43 of this title, or for whom as consignor or consignee, any such carrier shall transport property from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or foreign country, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in said sections, shall in addition to any penalty provided by said sections forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the Attorney General of the United States is authorized and directed, whenever he has reasonable grounds to believe that any such person, corporation, or company has knowingly received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction, a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be. (Feb. 19, 1903, ch. 708, § 1, 32 Stat. 847; June 29, 1906, ch. 3591, § 2, 34 Stat. 587.)

REFERENCES IN TEXT

The Act to regulate commerce, referred to in text, means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

AMENDMENTS

1906—Act June 29, 1906, amended section generally and divided section into subsections.

CROSS REFERENCES

Free transportation for passengers prohibited, jurisdiction of offenses, see section 1(7) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 43, 1021 of this title.

§ 42. Parties included in proceedings to enforce law.

In any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceeding be instituted before the Interstate Commerce Commission or be begun originally in any district court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or

shall be authorized by law with respect to carriers. (Feb. 19, 1903, ch. 708, § 2, 32 Stat. 848; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CHANGE OF NAME

"District court" was substituted for "circuit court" to conform to act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts.

CROSS REFERENCES

Free transportation for passengers prohibited, jurisdiction of offenses, see section 1(7) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 41, 1021 of this title.

§ 43. Proceedings in equity to enforce tariffs, etc.; United States attorneys; damages; witnesses; precedence.

Whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the district court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several United States attorneys, whenever the Attorney General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by sections 41, 42, or 43 of this title shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said Act approved February 4, 1887, entitled An Act to regulate commerce and the Acts amendatory thereof. And in proceedings under sections 41, 42, or 43 of this title and the Acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction. The provisions of sections 44 and 45 of this title shall apply to any case prosecuted under the direction of the Attorney General in the name of the Interstate Commerce Commission. (Feb. 19, 1903, ch. 708, § 3, 32 Stat. 848; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646; § 1, 62 Stat. 909; Oct. 15, 1970, Pub. L. 91–452, title II, § 244, 84 Stat. 931.)

REFERENCES IN TEXT

The Act approved February 4, 1887 entitled An Act to regulate commerce, referred to in text, means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

AMENDMENTS

1970—Pub. L. 91–452 struck out the provisions that the claim that any compelled testimony or evidence which tends to criminate the person giving such evidence would not excuse such person from testifying or such corporation from producing its books and papers, but that no person would be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, etc., for which he testifies or produces evidence in such proceeding.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" and "district attorneys of the United States". See section 501 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Attendance and examination of witnesses, depositions, see section 12 of this title.

Free transportation for passengers prohibited, jurisdiction of offenses, see section 1(7) of this title.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Orders, writs, and process under this section may run, be served, and be returnable anywhere in United States, see section 2321 of Title 28, Judiciary and Judicial Procedure.

Suits for recovery of damages, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 41, 48, 1021, of this title; title 28 sections 2321, 2323.

§ 44. Expedition of actions by United States involving general public importance.

In any civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, "An Act to regulate commerce", approved February 4, 1887, or any other Acts having a like purpose that hereafter may be enacted, wherein the United States is plaintiff, the Attorney General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge) of the circuit in which the case is pending. Upon receipt of the copy of such certificate, it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a

circuit judge, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. (Feb. 11, 1903, ch. 544, § 1, 32 Stat. 823; June 25, 1910, ch. 428, 36 Stat. 854; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Apr. 6, 1942, ch. 210, § 1, 56 Stat. 198; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

REFERENCES IN TEXT

The Act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, referred to in text, means the Sherman Act, which is classified to sections 1—7 of Title 15, Commerce and Trade.

An Act to regulate commerce, approved February 4, 1887, referred to in text, means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

CODIFICATION

The words "(including the District of Columbia)." following "of the circuit in which the case is pending" have been deleted as superfluous in view of act June 25, 1948, ch. 646, § 1, 62 Stat. 870, which includes the District of Columbia within the eleven judicial circuits of the United States. See section 41 of Title 28, Judiciary and Judicial Procedure.

Section is also set out as section 28 of Title 15, Commerce and Trade.

AMENDMENTS

1942—Act Apr. 6, 1942, amended section generally.

1911—Act Mar. 3, 1911, omitted proviso clause relating to appeals pending at time section was enacted.

1910—Act June 25, 1910, added provisions for designation of district judges to sit in case full court is not made up due to absence or disqualification of circuit judges and for reargument in event judges sitting are equally divided in opinion.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "chief judge of the circuit" for "senior circuit judge".

Act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts, substituted "district court" for "circuit court".

PENDING CASES, EFFECT OF AMENDMENT

Section 2 of act Apr. 6, 1942, provided that: "The amendment made by section 1 of this Act [amending Title 15, § 28, and Title 49, § 44] shall not apply to any case with respect to which the Attorney General has filed a certificate prior to the date of the enactment of this Act and in which the court has already been constituted."

CROSS REFERENCES

Composition and procedure of three-judge district court, see section 2284 of Title 28, Judiciary and Judicial Procedure.

Single judge's powers in action in three-judge district court for interlocutory injunction and final hearing under this section, see section 2284 of Title 28.

FEDERAL RULES OF CIVIL PROCEDURE

Assignment of cases for trial, see rule 40, Title 28, Appendix, Judiciary and Judicial Procedure.

Stay of proceedings to enforce judgment, see rule 62.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43 of this title; title 47 section 401.

§ 45. Appeals to Supreme Court.

In every civil action brought in any district court of the United States under any of said Acts, wherein the United States is complainant, an appeal from the final judgment of the district court will lie only to the Supreme Court. (Feb. 11, 1903, ch. 544, § 2, 32 Stat. 823; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 9, 1944, ch. 239, 58 Stat. 272; June 25, 1948, ch. 646, § 17, 62 Stat. 989.)

REFERENCES IN TEXT

The phrase, "said Acts," in this section has reference to civil actions "under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, 'An Act to regulate commerce', approved February 4, 1887, or any other Acts having a like purpose that hereafter may be enacted," as this phrase is set out in section 44 of this title. See reference in text note under section 44 of this title.

CODIFICATION

Section is also set out as section 29 of Title 15, Commerce and Trade.

AMENDMENTS

1948—Act June 25, 1948, struck out provisions relating to time for appeal, procedure, etc., as being covered by sections 2101 and 2109 of Title 28, Judiciary and Judicial Procedure.

1944—Act June 9, 1944, provided for certification of case to circuit court of appeals when there was no quorum of Justices of the Supreme Court qualified to participate in the consideration of the case and for designation of circuit judges in the event of disqualification from hearing the case.

CHANGE OF NAME

Act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts, substituted "district court" for "circuit court".

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section shall be effective Sept. 1, 1948.

EFFECTIVE DATE OF 1944 AMENDMENT

The last par. of act June 9, 1944, provided that: "This Act [this section] shall apply to every case pending before the Supreme Court of the United States on the date of its enactment [June 9, 1944]."

CROSS REFERENCES

Direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

Time for appeal to Supreme Court, see section 2101 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43 of this title; title 47 section 401.

§ 46. Neglect or refusal to attend and testify, or to answer lawful inquiries, or to produce books, etc.; offense; punishment.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Commission shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than $100 nor more than $5,000, or by imprisonment for not more than one year or by both such fine and imprisonment. (Feb. 11, 1893, ch. 83, 27 Stat. 443; Oct. 15, 1970, Pub. L. 91–452, title II, § 245, 84 Stat. 931.)

REFERENCES IN TEXT

The Act to regulate commerce, approved February 4, 1887, referred to in text, means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

AMENDMENTS

1970—Pub. L. 91–452 struck out the provisions which related to the immunity from prosecution of any person compelled to testify or produce evidence, documentary or otherwise, before the Interstate Commerce Commission,

or in obedience to its subpoena, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of chapter 1 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Atomic Energy Commission studies and investigations, section as applicable, see section 2201(c) of Title 42, The Public Health and Welfare.

Attendance of witnesses and production of documents, see section 12 of this title.

Commodity Exchange Act, provisions relating to immunity of witnesses as applicable to, see section 15 of Title 7, Agriculture.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Perjury and subornation of perjury, see sections 1621 and 1622 of Title 18, Crimes and Criminal Procedure.

Self-incrimination, see Const. Amend. 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48, 916, 1017 of this title; title 7 section 15; title 18 section 835, section 45–1607 of the District of Columbia Code.

§§ 47, 48. Repealed. Pub. L. 91–452, title II, §§ 209, 210, Oct. 15, 1970, 84 Stat. 929.

Section 47, act Feb. 25, 1903, ch. 755, § 1, 32 Stat. 904, granted immunity from prosecution to witnesses testifying or producing evidence, documentary or otherwise, in any proceeding, suit, or prosecution under chapters 1, 8, 12, 13, and 19 of this title. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Section 48, act June 30, 1906, ch. 3920, 34 Stat. 798, provided that, under the immunity provisions of sections 43 and 46 and former section 47 of this title, immunity was to extend only to a natural person who, in obedience to a subpoena, testified or produced evidence.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Repeal of sections by Pub. L. 91–452 not to affect any immunity to which any individual was entitled by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 49. Mandamus to obtain equal facilities for shippers.

CODIFICATION

Section transferred to section 23 of this title in accordance with act May 16, 1942, ch. 318, § 5, 56 Stat. 301.

§ 50. Agent in Washington for service; service in default of designation.

It shall be the duty of every common carrier subject to the provisions of chapter 1 of this title to designate in writing an agent in the city of Washington, District of Columbia, upon whom service of all notices and processes may be made for and on behalf of said common carrier in any proceeding or suit pending before the Interstate Commerce Commission or before the district court, and to file such designation in the office of the secretary of the Interstate Commerce Commission, which designation may from time to time be changed by like writing similarly filed; and thereupon service of all notices and processes may be made upon such common carrier by leaving a copy thereof with such designated agent at his office or usual place of residence in the city of Washington, with like effect as if made personally upon such common carrier, and in default of such designation of such agent, service of any notice or other process in any proceeding before said Interstate Commerce Commission or district court may be made by posting such notice or process in the office of the secretary of the Interstate Commerce Commission. (June 18, 1910, ch. 309, § 6, 36 Stat. 544; Oct. 22, 1913, ch. 32, 38 Stat. 219.)

CODIFICATION

Words "district court" substituted for "commerce court" under authority of act Oct. 22, 1913, which abolished the commerce court and transferred its jurisdiction to the several district courts and repealed all acts or parts of acts insofar as they related to the establishment of the commerce court.

CROSS REFERENCES

Service of orders of Commission and notices of proceedings, see section 16(5) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16 of this title.

§ 51. Proceedings relating to rail and water routes; orders.

The orders of the Interstate Commerce Commission relating to paragraphs (14)—(16) of section 5 of this title and paragraph (11) of section 6 of this title shall only be made upon formal complaint or in proceedings instituted by the Commission of its own motion and after full hearing. The orders provided for in said paragraphs shall be served in the same manner and enforced by the same penalties and proceedings as are the orders of the Commission made under the provisions of section 15 of this title, and they may be conditioned for the payment of any sum or the giving of security for the payment of any sum or the discharge of any obligation which may be required by the terms of said order. (Aug. 24, 1912, ch 390, § 11, 37 Stat. 568.)

REFERENCES IN TEXT

The words, "paragraphs 14—16 of section 5 of this title and paragraph 11 of section 6 of this title" and "said paragraphs," set out in text, originally read "this section," referring to section 11 of act of August 24, 1912. Such section 11, besides containing the provisions of this section, also amended sections 5 and 6 of this title by adding paragraphs originally numbered 10, 11, and 12 to section 5 and paragraph 13 to section 6. Said paragraphs 10, 11, and 12 of section 5 were renumbered 19, 20, and 21, respectively, by act June 16, 1933, ch. 91, title II, § 203, 48 Stat. 220; and their subject matter was

carried into paragraphs 14, 15, and 16 of section 5 by act Sept. 18, 1940, ch. 722, § 7, 54 Stat. 905. Said paragraph 13 of section 6 of this title was renumbered paragraph 11 of that section by act Sept. 18, 1940, ch. 722, § 8 (c), 54 Stat. 910.

CODIFICATION

Section is last paragraph of Panama Canal Act of 1912.

§ 52. Railroads to serve employees in valuation work; compensation.

It shall be the duty of every common carrier by railroad whose property is being valued under section 19a of this title to transport the engineers, field parties, and other employees of the United States who are actually engaged in making surveys and other examination of the physical property of said carrier necessary to execute said section from point to point on said railroad as may be reasonably required by them in the actual discharge of their duties; and, also, to move from point to point and store at such points as may be reasonably required the cars of the United States which are being used to house and maintain said employees; and, also, to carry the supplies necessary to maintain said employees and the other property of the United States actually used on said railroad in said work of valuation. The service above required shall be regarded as a special service and shall be rendered under such forms and regulations and for such reasonable compensation as may be prescribed by the Interstate Commerce Commission and as will insure an accurate record and account of the service rendered by the railroad, and such evidence of transportation, bills of lading, and so forth, shall be furnished to the Commission as may from time to time be required by the Commission. (Aug. 1, 1914, ch. 223, § 1, 38 Stat. 627.)

CODIFICATION

Section is from Sundry Civil Appropriation Act, act Aug. 1, 1914.

§ 53. Exception to law prohibiting free transportation.

Nothing contained in chapter 1 of this title shall be so construed by the Interstate Commerce Commission, or by the courts, as to prevent the lessee of the Cincinnati Southern Railway from complying with its obligation assumed in leasing said railway to furnish free transportation to the trustees of said Cincinnati Southern Railway, their officers and agents: *Provided,* That the free transportation referred to shall be furnished only when persons entitled thereto are traveling on the business of the company. (Feb. 17, 1917, ch. 84, 39 Stat. 922.)

§ 54. Repealed. May 29, 1928, ch. 901, § 1 (114), 45 Stat. 994.

Section, act Mar. 4, 1915, ch. 147, § 1, 38 Stat. 1140, related to statements showing employments under appropriations.

§ 55. Policy in making rate adjustments; investigation of rates authorized.

It is declared to be the true policy in rate making to be pursued by the Interstate Commerce Commission in adjusting freight rates, that the conditions which at any given time prevail in our several industries should be considered insofar as it is legally possible to do so, to the end that commodities may freely move.

The Interstate Commerce Commission is authorized and directed to make a thorough investigation of the rate structure of common carriers subject to chapter 1 of this title, in order to determine to what extent and in what manner existing rates and charges may be unjust, unreasonable, unjustly discriminatory, or unduly preferential, thereby imposing undue burdens, or giving undue advantage as between the various localities and parts of the country, the various classes of traffic, and the various classes and kinds of commodities, and to make, in accordance with law, such changes, adjustments, and redistribution of rates and charges as may be found necessary to correct any defects so found to exist. In making any such change, adjustment, or redistribution the Commission shall give due regard, among other factors, to the general and comparative levels in market value of the various classes and kinds of commodities as indicated over a reasonable period of years to a natural and proper development of the country as a whole, and to the maintenance of an adequate system of transportation. In the progress of such investigation the Commission shall, from time to time, and as expeditiously as possible, make such decisions and orders as it may find to be necessary or appropriate upon the record then made in order to place the rates upon designated classes of traffic upon a just and reasonable basis with relation to other rates. Such investigation shall be conducted with due regard to other investigations or proceedings affecting the rate adjustments which may be pending before the Commission.

In view of the existing depression in agriculture, the Commission is directed to effect with the least practicable delay such lawful changes in the rate structure of the country as will promote the freedom of movement by common carriers of the products of agriculture affected by that depression, including livestock, at the lowest possible lawful rates compatible with the maintenance of adequate transportation service: *Provided,* That no investigation or proceeding resulting from the adoption of this section shall be permitted to delay the decision of cases, on January 30, 1925, pending before the Commission involving rates on products of agriculture, and that such cases shall be decided in accordance with this section. (Jan. 30, 1925, ch. 120, 43 Stat. 801.)

CROSS REFERENCES

National Transportation Policy, see note preceding section 1 of this title.

§ 56. Repealed. May 29, 1928, ch. 901, § 1 (113), 45 Stat. 994.

Section, act Oct. 2, 1888, ch. 1069, 25 Stat. 530, related to inclusion of statement of expenditures of Commission in annual report to Congress.

§ 57. Auditing accounts of Commission.

Expenses of the Interstate Commerce Commission shall be audited by the General Accounting Office. (Mar. 2, 1889, ch. 411, § 1, 25 Stat. 954; June 10, 1921, ch. 18, § 304, 42 Stat. 24.)

CODIFICATION

Words "General Accounting Office" were substituted for "proper accounting officer of the Treasury" to conform to act June 10, 1921, which transferred the powers and duties of the six auditors of the Treasury Department to the General Accounting Office and is set out as section 44 of Title 31, Money and Finance.

Section is from Sundry Civil Appropriation Act, 1890.

§ 58. Repealed. June 30, 1949, ch. 288, title VI, § 602 (a) (27), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a), (b), 64 Stat. 583.

Section, act Aug. 1, 1914, ch. 223, § 1, 38 Stat. 627, related to exchange of typewriters, adding machines, and other devices, and is now covered by chapter 10 of Title 40, Public Buildings, Property, and Works.

§ 59. Drought relief rates; carrier protected upon compliance with request of Federal agent.

CODIFICATION

Section, act June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1056, related to the drought emergency existing in June 1934.

§ 60. Divesting prison-made goods of interstate character.

Five years after January 19, 1929, all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal and/or reformatory institutions, except commodities manufactured in Federal penal and correctional institutions for use by the Federal Government, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise. (Jan. 19, 1929, ch. 79, §§ 1, 2, 45 Stat. 1084.)

CROSS REFERENCES

Offenses in transporting convict-made goods, see sections 1761 and 1762 of Title 18, Crimes and Criminal Procedure.

§§ 61 to 64. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Sections 61—64, act July 24, 1935, ch. 412, §§ 1—4, 49 Stat. 494, related to interstate transportation of convict-made goods, and are now covered by sections 1761 and 1762 of Title 18, Crimes and Criminal Procedure.

§ 65. Government traffic; rates.

(a) Notwithstanding any other provision of law, but subject to the provisions of sections 1 (7) and 22 of the Interstate Commerce Act, as amended, the full applicable commercial rates, fares, or charges shall be paid for transportation by any common carrier subject to such Act of any persons or property for the United States, or on its behalf, and the rate determined by the Interstate Commerce Commission as reasonable therefor shall be paid for the transportation by railroad of the United States mail: *Provided, however,* That any carrier by railroad and the United States may enter into contracts for the transportation of the United States mail for less than such rate: *Provided further,* That section 5 of Title 41, shall not after September 18, 1940, be construed as requiring advertising for bids in connection with the procurement of transportation services when the services required can be procured from any common carrier lawfully operating in the territory where such services are to be performed.

(b) If any carrier by railroad furnishing such transportation, or any predecessor in interest, shall have received a grant of lands from the United States to aid in the construction of any part of the railroad operated by it, the provisions of law with respect to compensation for such transportation shall continue to apply to such transportation as though subsection (a) of this section had not been enacted until such carrier shall file with the Secretary of the Interior, in the form and manner prescribed by him, a release of any claim it may have against the United States to lands, interests in lands, compensation, or reimbursement on account of lands or interests in lands which have been granted, claimed to have been granted, or which it is claimed should have been granted to such carrier or any such predecessor in interest under any grant to such carrier or such predecessor in interest as aforesaid. Such release must be filed within one year from September 18, 1940. Nothing in this section shall be construed as requiring any such carrier to reconvey to the United States lands which have been heretofore patented or certified to it, or to prevent the issuance of patents confirming the title to such lands as the Secretary of the Interior shall find have been heretofore sold by any such carrier to an innocent purchaser for value or as preventing the issuance of patents to lands listed or selected by such carrier, which listing or selection has heretofore been fully and finally approved by the Secretary of the Interior to the extent that the issuance of such patents may be authorized by law. (Sept. 18, 1940, ch. 722, title III, § 321, 54 Stat. 954; Dec. 12, 1945, ch. 573, § 1, 59 Stat. 606.)

REFERENCES IN TEXT

Sections 1(7) and 22 of the Interstate Commerce Act, as amended, referred to in subsec. (a), are classified to sections 1(7) and 22 of this title.

Such Act, referred to in subsec. (a), means the Interstate Commerce Act, which is classified to chapters 1, 8, 12, 13, and 19 of this title.

CODIFICATION

Former section 65, act Jan. 19, 1929, ch. 79, § 1, 45 Stat. 1084, is now section 60.

AMENDMENTS

1945—Subsec. (a). Act Dec. 12, 1945, struck out "except that the foregoing provisions shall not apply to the transportation of military or naval property of the United States moving for military or naval and not for civil use or to the transportation of members of the military or naval forces of the United States (or property of such members) when such members are traveling on official duty;" following "or on its behalf".

EFFECTIVE DATE OF 1945 AMENDMENT

Section 2 of act Dec. 12, 1945, provided that: "The amendment made by section 1 of this Act [amending this section] shall take effect October 1, 1946: *Provided, however,* That any travel or transportation specifically contracted for prior to such effective date shall be paid for at the rate, fare, or charge in effect at the time of entering into such contract of carriage or shipment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 65a of this title.

§ 65a. Same; readjustment of fares, rates, and charges to shippers.

The Interstate Commerce Commission, in the exercise of its power to prescribe just and reasonable rates, fares, and charges, shall give due consideration to the increased revenues which carriers will receive as a result of the enactment of section 65 of this title, so that such increased revenues will be reflected in appropriate readjustments in rates, fares, and charges to shippers. (Dec. 12, 1945, ch. 573, § 3, 59 Stat. 607.)

CODIFICATION

Section was not enacted as a part of either the Interstate Commerce Act or the Transportation Act of 1940.

§ 66. Government traffic; payment for transportation; deduction of overcharges.

Payment for transportation of the United States mail and of persons or property for or on behalf of the United States by any common carrier subject to the Interstate Commerce Act, as amended, or the Civil Aeronautics Act of 1938, shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is reserved to the United States Government to deduct the amount of any overpayment by any such carrier from any amount subsequently found to be due such carrier. The term "overcharges" shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Interstate Commerce Commission and the Civil Aeronautics Board and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 22 of this title: *Provided, however,* That such deductions shall be made within three years (not including any time of war) from the time of payment of bills: *Provided further,* That every claim cognizable by the General Accounting Office for charges for transportation within the purview of this section shall be forever barred unless such claim shall be received in the General Accounting Office within three years (not including any time of war) from the date of (1) accrual of the cause of action thereon, or (2) payment of charges for the transportation involved, or (3) subsequent refund for overpayment of such charges, or (4) deduction made pursuant to this section, whichever is later. (Sept. 18, 1940, ch. 722, title III, § 322, 54 Stat. 955; Aug. 26, 1958, Pub. L. 85–762, § 2, 72 Stat. 860.)

REFERENCES IN TEXT

The Interstate Commerce Act, as amended, referred to in text, is classified to chapters 1, 8, 12, 13 and 19 of this title.

The Civil Aeronautics Act of 1938, referred to in text, was repealed and is now covered by chapter 20 of this title.

CODIFICATION

Former section 66, act Sept. 18, 1940, ch. 722, title III, § 321, 54 Stat. 954, is now section 65 of this title.

AMENDMENTS

1958—Pub. L. 85–762 substituted "overcharges by" for "overpayment to" and added sentence defining "overcharges".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 3 of Pub. L. 85–762 provided in part that: "The provision of this Act which amends section 322 of the Transportation Act of 1940 [this section] shall apply only to transportation performed and payment made therefor subsequent to the effective date of this Act [August 26, 1958]."

CROSS REFERENCES

Overpayment for transportation services, relief from liability of certifying officer, see section 142b of Title 2, The Congress, and section 82c of Title 31, Money and Finance.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1, 304a, 908, 1006a of this title; title 2 section 142b; title 31 section 82c.

§ 67. Transferred.

CODIFICATION

Section, act Sept. 18, 1940, ch. 722, title III, § 322, 54 Stat. 955, is now section 66 of this title.

Chapter 3.—TERMINATION OF FEDERAL CONTROL

§§ 71 to 80. Omitted.

Sections 71 and 72, act Feb. 28, 1920, ch. 91, §§ 2, 202, 41 Stat. 457, related to definitions and funds available.

Section 73, acts Feb. 28, 1920, ch. 91, § 204, 41 Stat. 460; Mar. 4, 1927, ch. 510, § 4, 44 Stat. 1450; Jan. 7, 1941, ch. 938, 54 Stat. 1226, related to reimbursement of deficits during Federal control.

Section 74, acts Feb. 28, 1920, ch. 91, § 206, 41 Stat. 461; Feb. 24, 1922, ch. 70, §§ 1, 2, 42 Stat. 393; Mar. 3, 1923, ch. 233, 42 Stat. 1443; Mar. 4, 1927, ch. 510, § 5, 44 Stat. 1450, related to causes of actions arising out of Federal control.

Section 75, act May 8, 1920, ch. 172, 41 Stat. 590, related to certificate of amounts due from carrier to President and deduction of amounts so certified.

Sections 76 to 78, act Feb. 28, 1920, ch. 91, §§ 208, 209, 211, 41 Stat. 464, related to continuance of existing rates, guaranty to carriers after termination of Federal control, and execution of powers of President.

Section 79, act Feb. 28, 1920, ch. 91, § 212, as added Feb. 26, 1921, ch. 72, 41 Stat. 1145, related to further certificates and warrants.

Section 80, act Feb. 28, 1920, ch. 91, § 213, as added Aug. 13, 1940, ch. 666, 54 Stat. 788, relating to disposition of securities, is now covered by section 316 of Title 40, Public Buildings, Property, and Works.

Chapter 4.—BILLS OF LADING

Sec.
81. Transportation included.
82. Straight bill of lading.
83. Order bill of lading; negotiability.
84. Order bills in parts or sets; liability of carrier.
85. Indorsement on duplicate bill; liability.
86. Indorsement on straight bill.
87. Effect of insertion of name of person to be notified.
88. Duty to deliver goods on demand; refusal.
89. Delivery; when justified.
90. Liability for delivery to person not entitled thereto.
91. Liability for delivery without cancellation of bill.
92. Liability in case of delivery of part of goods.
93. Alteration of bill.
94. Loss, etc., of bill; delivery of goods on order of court.
95. Liability on bill marked "duplicate."
96. Claim of title as excuse for refusal to deliver.
97. Interpleader of conflicting claimants.
98. Reasonable time for procedure allowed in case of adverse claim.
99. Failure to deliver; claim of third person as defense.
100. Loading by carrier; counting packages, etc.; contents of bill.
101. Loading by shipper; contents of bill; ascertainment of kind and quantity on request.
102. Liability for nonreceipt or misdescription of goods.
103. Attachment, etc., of goods delivered to carrier.
104. Remedies of creditor of owner of order bill.
105. Lien of carrier.
106. Liability after sale to satisfy lien, etc.
107. Negotiation of order bill by delivery.
108. Negotiation of order bill by indorsement.

Sec.
109. Transfer of bill by delivery; negotiation of straight bill.
110. Negotiation of order bill by person in possession.
111. Title and right acquired by transferee of order bill.
112. Rights of transferee of bill without negotiation; notice to carrier.
113. Compelling indorsement of order bill transferred by delivery.
114. Warranties arising out of transfer of bill.
115. Liability of indorser of bill.
116. Warranties by mortgagee, etc., receiving payment of bill.
117. Negotiation of bill; impairment of validity.
118. Negotiation of bill by seller, mortgagor, etc., to person without notice.
119. Rights of bona fide purchaser as affected by seller's lien or right of stoppage.
120. Rights of mortgagee or lien holder; limitation.
121. Offenses; penalty.
122. Terms defined.
123. Retroactive effect.
124. Invalidity of part of chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 46 section 1303.

§ 81. Transportation included.

Bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this chapter. (Aug. 29, 1916, ch. 415, § 1, 39 Stat. 538.)

EFFECTIVE DATE

Section 56 of act Aug. 29, 1916, provided that this chapter shall take effect on and after Jan. 1, 1917.

SHORT TITLE

Sections 81—124 of this title are commonly known as the "Pomerene Bills of Lading Act".

CROSS REFERENCES

Initial carrier's liability to holder of bill of lading, see section 20 (11) of this title.

§ 82. Straight bill of lading.

A bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill. (Aug. 29, 1916, ch. 415, § 2, 39 Stat. 539.)

§ 83. Order bill of lading; negotiability.

A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill or in any notice, contract, rule, regulation, or tariff that it is nonnegotiable shall be null and void and shall not affect its negotiability within the meaning of this chapter unless upon its face and in writing agreed to by the shipper. (Aug. 29, 1916, ch. 415, § 3, 39 Stat. 539.)

§ 84. Order bills in parts or sets; liability of carrier.

Order bills issued in a State for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however,* That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Puerto Rico, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing. (Aug. 29, 1916, ch. 415, § 4, 39 Stat. 539; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

The Philippine Islands were omitted from text on authority of 1946 Proc. No. 2695, which granted independence to the Philippines, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and under which section it is set out as a note.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959 upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 85. Indorsement on duplicate bill; liability.

When more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word "duplicate", or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however,* That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Puerto Rico, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do. (Aug. 29, 1916, ch. 415, § 5, 39 Stat. 539; May 17, 1932, ch. 190, 47 Stat. 158.)

CODIFICATION

The Philippine Islands were omitted from text on the authority of 1946 Proc. No. 2695, which granted independence to the Philippines, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and under which section it is set out as a note.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959 upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48,

Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 86. Indorsement on straight bill.

A straight bill shall have placed plainly upon its face by the carrier issuing it "nonnegotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgments of an informal character. (Aug. 29, 1916, ch. 415, § 6, 39 Stat. 539.)

§ 87. Effect of insertion of name of person to be notified.

The insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods. (Aug. 29, 1916, ch. 415, § 7, 39 Stat. 539.)

§ 88. Duty to deliver goods on demand; refusal.

A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods or, if the bill is an order bill, by the holder thereof, if such a demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;

(b) Possession of the bill of lading and an offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure. (Aug. 29, 1916, ch. 415, § 8, 39 Stat. 539.)

§ 89. Delivery; when justified.

A carrier is justified, subject to the provisions of sections 90 to 92 of this title, in delivering goods to one who is—

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a straight bill for the goods, or

(c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him, or in blank by the consignee, or by the mediate or immediate indorsee of the consignee. (Aug. 29, 1916, ch. 415, § 9, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90, 99 of this title.

§ 90. Liability for delivery to person not entitled thereto.

Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of section 89 of this title; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Such request or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods. (Aug. 29, 1916, ch. 415, § 10, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 91. Liability for delivery without cancellation of bill.

Except as provided in section 106 of this title, and except when compelled by legal process, if a carrier delivers goods for which an order bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto. (Aug. 29, 1916, ch. 415, § 11, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 92. Liability in case of delivery of part of goods.

Except as provided in section 106 of this title, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto. (Aug. 29, 1916, ch. 415, § 12, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 93. Alteration of bill.

Any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill, shall be void whatever be the nature and purpose of the change, and the bill shall be enforceable according

to its original tenor. (Aug. 29, 1916, ch. 415, § 13, 39 Stat. 540.)

§ 94. Loss, etc., of bill; delivery of goods on order of court.

Where an order bill has been lost, stolen, or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss, theft, or destruction and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees: *Provided,* A voluntary indemnifying bond without order of court shall be binding on the parties thereto.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carrier from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods. (Aug. 29, 1916, ch. 415, § 14, 39 Stat. 540.)

§ 95. Liability on bill marked "duplicate."

A bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed, plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability. (Aug. 29, 1916, ch. 415, § 15, 39 Stat. 541.)

§ 96. Claim of title as excuse for refusal to deliver.

No title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien. (Aug. 29, 1916, ch. 415, § 16, 39 Stat. 541.)

§ 97. Interpleader of conflicting claimants.

If more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for nondelivery of the goods or as an original suit, whichever is appropriate. (Aug. 29, 1916, ch. 415, § 17, 39 Stat. 541.)

CROSS REFERENCES

Interpleader in federal district court, see sections 1335, 1397, and 2361 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under Rule 22, see note by Advisory Committee under rule 22, Title 28, Appendix, Judiciary and Judicial Procedure.

Interpleader, see rule 22.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 98. Reasonable time for procedure allowed in case of adverse claim.

If someone other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods, either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead. (Aug. 29, 1916, ch. 415, § 18, 39 Stat. 541.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 99. Failure to deliver; claim of third person as defense.

Except as provided in sections 89, 97, and 98 of this title, no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand. (Aug. 29, 1916, ch. 415, § 19, 39 Stat. 541.)

§ 100. Loading by carrier; counting packages, etc.; contents of bill.

When goods are loaded by a carrier, such carrier shall count the packages of goods if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading or in any notice, receipt, contract, rule, regulation, or tariff, "Shipper's weight, load, and count", or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him, or in case of bulk freight and freight not concealed by packages the description made by him. If so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein. (Aug. 29, 1916, ch. 415, § 20, 39 Stat. 541.)

§ 101. Loading by shipper; contents of bill; ascertainment of kind and quantity on request.

When package freight or bulk freight is loaded by a shipper and the goods are described in a bill of lading merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill of lading that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill of lading, such statements, if true, shall not make liable the carrier issuing the bill of lading, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may also by inserting in the bill of lading the words "Shipper's weight, load, and count", or other words of like purport, indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the nonreceipt or by the misdescription of the goods described in the bill of lading: *Provided, however,* Where the shipper of bulk freight

installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier, then the carrier, upon written request of such shipper and when given a reasonable opportunity so to do, shall ascertain the kind and quantity of bulk freight within a reasonable time after such written request, and the carriers shall not in such cases insert in the bill of lading the words "Shipper's weight", or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein. (Aug. 29, 1916, ch. 415, § 21, 39 Stat. 541.)

§ 102. Liability for nonreceipt or misdescription of goods.

If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations, the carrier shall be liable to (a) the owner of goods covered by a straight bill subject to existing right of stoppage in transitu or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, or upon the shipment being made upon the date therein shown, for damages caused by the nonreceipt by the carrier of all or part of the goods upon or prior to the date therein shown, or their failure to correspond with the description thereof in the bill at the time of its issue. (Aug. 29, 1916, ch. 415, § 22, 39 Stat. 542; Mar. 4, 1927, ch. 510, § 6, 44 Stat. 1450.)

AMENDMENTS

1927—Act Mar. 4, 1927, inserted provisions relating to reliance upon date of shipment shown in bill.

§ 103. Attachment, etc., of goods delivered to carrier.

If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they can not thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court. (Aug. 29, 1916, ch. 415, § 23, 39 Stat. 542.)

§ 104. Remedies of creditor of owner of order bill.

A creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process. (Aug. 29, 1916, ch. 415, § 24, 39 Stat. 542.)

§ 105. Lien of carrier.

If an order bill is issued the carrier shall have a lien on the goods therein mentioned for all charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill and all other charges incurred in transportation and delivery, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier. (Aug. 29, 1916, ch. 415, § 25, 39 Stat. 542.)

§ 106. Liability after sale to satisfy lien, etc.

After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be an order bill. (Aug. 29, 1916, ch. 415, § 26, 39 Stat. 542.)

CROSS REFERENCES

Liability for delivery without cancellation of bill, see sections 91 and 92 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 91, 92 of this title.

§ 107. Negotiation of order bill by delivery.

An order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank. (Aug. 29, 1916, ch. 415, § 27, 39 Stat. 542.)

§ 108. Negotiation of order bill by indorsement.

An order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner. (Aug. 29, 1916, ch. 415, § 28, 39 Stat. 543.)

§ 109. Transfer of bill by delivery; negotiation of straight bill.

A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby. A straight bill can not be negotiated free from existing equities, and the indorsement of such a bill gives the transferee no additional right. (Aug. 29, 1916, ch. 415, § 29, 39 Stat. 543.)

§ 110. Negotiation of order bill by person in possession.

An order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery. (Aug. 29, 1916, ch. 415, § 30, 39 Stat. 543.)

§ 111. Title and right acquired by transferee of order bill.

A person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him. (Aug. 29, 1916, ch. 415, § 31, 39 Stat. 543.)

§ 112. Rights of transferee of bill without negotiation; notice to carrier.

A person to whom a bill has been transferred, but not negotiated, acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods. (Aug. 29, 1916, ch. 415, § 32, 39 Stat. 543.)

§ 113. Compelling indorsement of order bill transferred by delivery.

Where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced. (Aug. 29, 1916, ch. 415, § 33, 39 Stat. 543.)

§ 114. Warranties arising out of transfer of bill.

A person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

(a) That the bill is genuine;

(b) That he has a legal right to transfer it;

(c) That he has knowledge of no fact which would impair the validity or worth of the bill;

(d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby. (Aug. 29, 1916, ch. 415, § 34, 39 Stat. 543.)

§ 115. Liability of indorser of bill.

The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations. (Aug. 29, 1916, ch. 415, § 35, 39 Stat. 544.)

§ 116. Warranties by mortgagee, etc., receiving payment of bill.

A mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or warrant the genuineness of such bill or the quantity or quality of the goods therein described. (Aug. 29, 1916, ch. 415, § 36, 39 Stat. 544.)

§ 117. Negotiation of bill; impairment of validity.

The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, loss, theft, or conversion. (Aug. 29, 1916, ch. 415, § 37, 39 Stat. 544.)

§ 118. Negotiation of bill by seller, mortgagor, etc., to person without notice.

Where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold, mortgaged, or pledged the order bill representing such goods, continues in possession of the order bill the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, sale have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation. (Aug. 29, 1916, ch. 415, § 38, 39 Stat. 544.)

§ 119. Rights of bona fide purchaser as affected by seller's lien or right of stoppage.

Where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such

bill is first surrendered for cancellation. (Aug. 29, 1916, ch. 415, § 39, 39 Stat. 544.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 120 of this title.

§ 120. Rights of mortgagee or lien holder; limitation.

Except as provided in section 119 of this title, nothing in this chapter shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this chapter, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them. (Aug. 29, 1916, ch. 415 § 40, 39 Stat. 544.)

§ 121. Offenses; penalty.

Any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding $5,000, or both. (Aug. 29, 1916, ch. 415, § 41, 39 Stat. 544.)

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 122. Terms defined.

In this chapter, unless the context of subject matter otherwise requires—

"Action" includes counterclaim, set-off, and suit in equity.

"Bill" means bill of lading, governed by this chapter.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation or which have been or are about to be transported.

"Holder" of a bill means a person who has both actual possession of such bill and a right of property therein.

"Order" means an order by indorsement on the bill.

"Person" includes a corporation or partnership, or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"State" includes any Territory, District, insular possession, or isthmian possession. (Aug. 29, 1916, ch. 415, § 42, 39 Stat. 545.)

§ 123. Retroactive effect.

CODIFICATION

Section, act Aug. 29, 1916, ch. 415, § 43, 39 Stat. 545, provided that provisions of this chapter should not apply to bills made and delivered prior to January 1, 1917.

§ 124. Invalidity of part of chapter.

The provisions and each part thereof and the sections and each part thereof of this chapter are independent and severable, and the declaring of any provision or part thereof, or provisions or part thereof, or section or part thereof, or sections or part thereof, unconstitutional shall not impair or render unconstitutional any other provision or part thereof or section or part thereof. (Aug. 29, 1916. ch. 415, § 44, 39 Stat. 545.)

Chapter 5.—INLAND WATERWAYS TRANSPORTATION

GENERALLY

Sec.
141. Repealed.
142. Development of water transportation; duties of Secretary of Commerce.
143. Operation of boats, etc., by Secretary of War on New York State Barge Canal discontinued.

INLAND WATERWAYS CORPORATION

151 to 157. Repealed.

GENERALLY

§ 141. Repealed. Pub. L. 88–67, § 1(2), July 19, 1963, 77 Stat. 81.

Section, acts Feb. 28, 1920, ch. 91, § 201, 41 Stat. 458; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1392; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided for transfer of Government-owned boats, barges, etc., on inland waters, to Secretary of Commerce, payments after such transfer, construction of terminal facilities by Secretary of Commerce, transportation facilities on Mississippi River, application of other laws and employment of personnel.

§ 142. Development of water transportation; duties of Secretary of Commerce.

It is declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

It shall be the duty of the Secretary of Commerce, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs, and switches connecting with such terminals, with a view to devising the types most appropriate for different locations,

and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of Commerce to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

The words "inland waterway" as used in this section shall be construed to include the Great Lakes. (Feb. 28, 1920, ch. 91, § 500, 41 Stat. 499; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F. R. 2732, 53 Stat. 1434.)

TRANSFER OF FUNCTIONS

The Inland Waterways Corporation and all of its functions and obligations were transferred to the Department of Commerce, and all functions and duties of the Secretary of War with regard to the Corporation were transferred to the Secretary of Commerce by 1939 Reorg. Plan No. II, § 6, set out in the Appendix to Title 5, Government Organization and Employees.

§ 143. Operation of boats, etc., by Secretary of War on New York State Barge Canal discontinued.

CODIFICATION

Section, act Feb. 27, 1921, ch. 81, 41 Stat. 1149, provided for discontinuance of authority of the Secretary of War to operate transportation facilities under section 141 of this title upon the New York State Barge Canal and for the sale of such facilities.

INLAND WATERWAYS CORPORATION

§§ 151 to 157. Repealed. Pub. L. 88–67, § 1(1), July 19, 1963, 77 Stat. 81.

Section 151, act June 3, 1924, ch. 243, § 1, 43 Stat. 360; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, created the Inland Waterways Corporation, to be governed and directed by the Secretary of Commerce.

Section 152, acts June 3, 1924, ch. 243, § 2, 43 Stat. 360; May 29, 1928, ch. 891, § 1, 45 Stat. 978; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided that the capital stock of the Inland Waterways Corporation be $15,000,000.

Section 153, acts June 3, 1924, ch. 243, § 3, 43 Stat. 361; May 29, 1928, ch. 891, § 2, 45 Stat. 978; June 16, 1934, ch. 545, 48 Stat. 968; Aug. 29, 1935, ch. 802, 49 Stat. 958; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Feb. 4, 1887, ch. 104, pt. III, § 320, as added Sept. 18, 1940. ch. 722, title II, § 201, 54 Stat. 950, eff. Oct. 1, 1940, related to operation of transportation and terminal facilities and application of other laws.

Section 154, acts June 3, 1924, ch. 243, § 4, 43 Stat. 361; Feb. 28, 1927, ch. 229, 44 Stat. 1261; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, related to appointment of an Advisory Board its membership, chairman, meetings and duties, and compensation of members.

Section 155, act June 3, 1924, ch. 243, § 5, 43 Stat. 362; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided for the powers of the Inland Waterways Corporation.

Section 156, act June 3, 1924, ch. 243; § 6, 43 Stat. 362; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, related to transfer of assets to the Inland Waterways Corporation, assumption of rights, duties, liabilities, etc., by the Corporation, availability of money to the Corporation for expenditures, claims by or against the Corporation, adjustment of value and appraisal of assets transferred to Corporation and computation of limitations period.

Section 157, act June 3, 1924, ch. 243, § 7, as added June 19, 1937, ch. 368, 50 Stat. 304, and amended 1939 Reorg. Plan No. II § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided for the application of the services and operations of the Inland Waterways Corporation to the Savannah River.

INLAND WATERWAYS CORPORATION: LIQUIDATION; TRANSFER OF FUNCTIONS; DEPOSITS INTO TREASURY; MISCELLANEOUS TRANSFERS FOR LIQUIDATION OR ASSIGNMENT; ABATEMENT OF PROCEEDINGS

Pub. L. 88–67, § 2, July 19, 1963, 77 Stat. 81, provided that:

"(a) For liquidation of the affairs of the Inland Waterways Corporation, and for this purpose only, notwithstanding any other provision of law, the Secretary of Commerce shall have all functions, powers, duties, authority, rights and immunities which were vested in, or available or applicable to the Corporation on the day before the date of enactment of this Act [July 19, 1963] (except requirements relating to service in contracts for sale of facilities of the Inland Waterways Corporation which are deemed to be modified by section 1 hereof [repealing sections 141 and 151—157 of this title]) which shall be performed, exercised, and administered by the Secretary of Commerce in the same manner and to the same extent as if the same were performed, exercised, and administered by the Corporation. The Secretary of Commerce shall assume and be subject in his official capacity to all rights and benefits, all liabilities and commitments, whether arising out of contract or otherwise, of the Corporation, but he shall pay into the Treasury, as miscellaneous receipts, all future receipts and all remaining funds of the Corporation transferred to, or received by, him. To assist in his liquidation of the Corporation, the books of account, records, documents, assets, and liabilities of every kind and nature, including but not limited to, all funds, notes (and accrued interest thereon), mortgages, deeds of trust, contracts, commitments, claims, and causes of action of Inland Waterways Corporation are transferred to the Secretary of Commerce for liquidation or assignment.

"(b) No suit, action, or other proceeding lawfully commenced by or against Inland Waterways Corporation before the date of enactment of this Act [July 19, 1963] shall abate by reason of this Act; but the court may, on motion or supplemental petition filed at any time within twelve months after such dissolution and showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the United States in such court. After the date of enactment of this Act [July 19, 1963], any suit, action, or other proceeding which, but for this Act, would be commenced by or against the Corporation, shall be commenced by or against the United States in a Federal court of competent jurisdiction."

Chapter 6.—AIR COMMERCE

AIR COMMERCE ACT OF 1926

Sec.
171 to 184. Repealed.

SUPPLEMENTAL LEGISLATION

201. Repealed.

PUBLIC AIRPORTS

211. Lease of contiguous public lands for public airports; authority of Secretary of the Interior.
212. Same; terms of lease.

Sec.
213. Same; cancellation of leases made under law in force May 24, 1928.
214. Beacon lights and other air-navigation facilities; establishment on unreserved and unappropriated lands.

INTERNATIONAL TECHNICAL COMMITTEE OF AERIAL LEGAL EXPERTS

231. Annual appropriation for expenses of participation by United States.

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

241. National Advisory Committee for Aeronautics.
242 to 244. Repealed.
245. Payment of retired Army or Navy officer performing service for committee.
246. Transfer of aircraft, supplies, and equipment by Army and Navy.

CROSS REFERENCES

Detail of Army officers to promote civil aviation, see section 292c of Title 10, Army.

AIR COMMERCE ACT OF 1926

§ 171. Repealed. Pub. L. 85-726, title XIV, § 1401(a), Aug. 23, 1958, 72 Stat. 806.

Section, act May 20, 1926, ch. 344, § 1, 44 Stat. 568, defined terms "air commerce" and "interstate or foreign air commerce". See section 1301 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of this section shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§§ 172 to 173a. Repealed. June 23, 1938, ch. 601, § 1107 (k), 52 Stat. 1029.

Section 172, acts May 20, 1926, ch. 344, § 2, 44 Stat. 569; June 19, 1934, ch. 654, §§ 1, 2, 48 Stat. 1113, related to promotion of air commerce.

Section 173, acts May 20, 1926, ch. 344, § 3, 44 Stat. 569; Feb. 28, 1929, ch. 369, 45 Stat. 1404; June 19, 1934, ch. 654, §§ 3—7, 48 Stat. 1113, 1114, related to regulating powers of the Secretary of Commerce over aircraft. Similar provisions are now covered in sections 1401—1404 and 1421—1430 of this title.

Section 173a, acts May 20, 1926, ch. 344, § 3a, as added June 19, 1934, ch. 654, § 8, 48 Stat. 1114, related to compliance with subpenas. Similar provisions are now contained in section 1484 of this title.

§§ 174 to 177. Repealed. Pub. L. 85-726, title XIV, § 1401(a), Aug. 23, 1958, 72 Stat. 806.

Section 174, act May 20, 1926, ch. 344, § 4, 44 Stat. 570, authorized the President to set apart and protect airspace reservations in the United States for national defense or other governmental purposes.

Section 175, acts May 20, 1926, ch. 344, § 5 (a)—(d), (f), 44 Stat. 570; June 19, 1934, ch. 654, § 9, 48 Stat. 1115; June 23, 1938, ch. 601, § 1107(i) (1), (2), (k), 52 Stat. 1028, 1029; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to availability of government facilities for public use, and to the sale of fuel and supplies; service and shelter, and is now covered by section 1507 of this title.

Section 176, acts May 20, 1926, ch. 344, § 6, 44 Stat. 572; June 23, 1938, ch. 601, § 1107(i) (1), (3, 4, 5), 52 Stat. 1028; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Aug. 8, 1953, ch. 379, 67 Stat. 489, related to foreign aircraft, and is now covered by section 1508 of this title.

Section 177, acts May 20, 1926, ch. 344, § 7, 44 Stat. 572; 1940 Reorg. Plan No. V, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238; July 1, 1944, ch. 373, title VIII, § 813, 54 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; 1946 Reorg. Plan No. 3, § 102, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1097; Aug. 5, 1950, ch. 591, § 1, 64 Stat. 414; Oct. 11, 1951, ch. 495, § 3, 65 Stat. 407; June 27, 1952, ch. 477, title IV, § 403(a)(26), 66 Stat. 279, related to application of existing laws relating to foreign commerce, and is now covered by section 1509 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§ 178. Repealed. June 23, 1938, ch. 601, § 1107 (k), 52 Stat. 1029.

Section, act May 20, 1926, ch. 344, § 8, 44 Stat. 573, related to appointment of an additional Assistant Secretary of Commerce.

§§ 179 to 184. Repealed. Pub. L. 85-726, title XIV, § 1401(a), Aug. 23, 1958, 72 Stat. 806.

Section 179, acts May 20, 1926, ch. 344, § 9, 44 Stat. 573; June 19, 1934, ch. 654, § 10, 48 Stat. 1115; June 23, 1938, ch. 601, § 1107(i) (1), (6, 7), 52 Stat. 1028; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, defined terms used in former sections 171-184, and is now covered by section 1301 of this title.

Section 180, acts May 20, 1926, ch. 344, § 10, 44 Stat. 574; June 23, 1938, ch. 601, § 1107(i)(1), (8), 52 Stat. 1028, defined the term "navigable airspace", and is now covered by section 1301(24) of this title.

Section 181, acts May 20, 1926, ch. 344, § 11, 44 Stat. 574; June 19, 1934, ch. 654, §§ 11, 12, 48 Stat. 1115; June 19, 1934, ch. 656, § 2, 48 Stat. 1116; June 23, 1938, ch. 601, §§ 1107(i) (1), (9), 1107(k), 52 Stat. 1028, 1029; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; 1940 Reorg. Plan No. V, § 1, eff. June 15, 1940, 5 F.R. 2223, 54 Stat. 1238; July 1, 1944, ch. 373, title VIII, § 813, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; 1946 Reorg. Plan No. 3, § 102, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1097; Aug. 5, 1950, ch. 591, § 2, 64 Stat. 414, related to penalties for violations of former sections 171-184 of this title, and is now covered by sections 1472 and 1473 of this title.

Sections 182—184, act May 20, 1926, ch. 344, §§ 12—14, 44 Stat. 575, 576, related to separability provisions, prescribed effective date, and contained short title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUPPLEMENTAL LEGISLATION

§ 201. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, act July 3, 1926, ch. 807, 44 Stat. 915, related to detail of Air Force officers to promote civil aviation.

PUBLIC AIRPORTS

§ 211. Lease of contiguous public lands for public airports; authority of Secretary of the Interior.

The Secretary of the Interior is authorized, in his discretion and under such regulations as he may prescribe, to lease for use as a public airport any contiguous public lands, unreserved and unappropriated, not to exceed two thousand five hundred and

sixty acres in area, subject to valid rights in such lands under the public-land laws. (May 24, 1928, ch. 728, § 1, 45 Stat. 728; Aug. 16, 1941, ch. 354, 55 Stat. 621.)

AMENDMENTS

1941—Act Aug. 16, 1941, increased area of land authorized for lease as airport from six hundred and forty acres to two thousand five hundred and sixty acres.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 212 of this title.

§ 212. Same; terms of lease.

Any lease under section 211 of this title shall be for a period not to exceed twenty years, subject to renewal for like periods upon agreement of the Secretary of the Interior and the lessee. Any such lease shall be subject to the following conditions:

(a) That an annual rental of such sum as the Secretary of the Interior may fix for the use of the lands shall be paid to the United States.

(b) That the lessee shall maintain the lands in such condition, and provide for the furnishing of such facilities, service, fuel, and other supplies, as are necessary to make the lands available for public use as an airport of a rating which may be prescribed by the Administrator of the Federal Aviation Agency.

(c) That the lessee shall make reasonable regulations to govern the use of the airport, but such regulations shall take effect only upon approval by the Administrator of the Federal Aviation Agency.

(d) That all departments and agencies of the United States operating aircraft (1) shall have free and unrestricted use of the airport, and (2) with the approval of the Secretary of the Interior, shall have the right to erect and install therein such structures and improvements as the heads of such departments and agencies deem advisable, including facilities for maintaining supplies of fuel, oil, and other materials for operating aircraft.

(e) That whenever the President may deem it necessary for military purposes, the Secretary of the Army may assume full control of the airport. (May 24, 1928, ch. 728, § 2, 45 Stat. 728; June 23, 1938, ch. 601, § 1107 (b), 52 Stat. 1027; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(a), 72 Stat. 806.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1958—Pub. L. 85–726 substituted "Administrator of the Federal Aviation Agency" for "Civil Aeronautics Authority" in subsecs. (b) and (c).

1938—Act June 23, 1938, changed the words "Secretary of Commerce" to read "Civil Aeronautics Authority".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

REPEALS

Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, repealed act June 23, 1938, ch. 601, 52 Stat. 977, cited to the credit of this section.

SECRETARY OF THE AIR FORCE

For transfer of certain real property and functions relating to real property, insofar as they pertain to the Air Force, from the Secretary of the Army and Department of the Army to the Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 14 [§ 2(17)], eff. July 1, 1948.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 213 of this title.

§ 213. Same; cancellation of leases made under law in force May 24, 1928.

With the consent of the lessee, the Secretary of the Interior is authorized to cancel any lease of public lands for use as public aviation fields or airports, made under law in force May 24, 1928, and to lease such lands to the lessee upon the conditions prescribed by section 212 of this title. (May 24, 1928, ch. 728, § 3, 45 Stat. 729.)

§ 214. Beacon lights and other air-navigation facilities; establishment on unreserved and unappropriated lands.

The Secretary of the Interior is authorized, in his discretion and under such rules as he may prescribe, to grant permission for the establishment of beacon lights and other air-navigation facilities, except terminal airports, upon tracts of unreserved and unappropriated public lands of the United States of appropriate size, and may withdraw the lands for such purposes. (May 24, 1928, ch. 728, § 4, 45 Stat. 729.)

INTERNATIONAL TECHNICAL COMMITTEE OF AERIAL LEGAL EXPERTS

§ 231. Annual appropriation for expenses of participation by United States.

Not to exceed the sum of $6,500, or so much thereof as may be necessary, is authorized to be appropriated annually for the expenses of participation by the Government of the United States in the meetings of the International Technical Committee of Aerial Legal Experts and/or of the commissions established by that committee, including traveling expenses; personal services in the District of Columbia and elsewhere without reference to chapter 51 and subchapter III of chapter 53 of Title 5; rent; purchase of necessary books and documents; printing and binding; official cards; entertainment; and such other expenses as may be authorized by the Secretary of State. (Feb. 14, 1931, ch. 189, 46 Stat. 1162; Aug. 7, 1935, ch. 455, § 1, 49 Stat. 540; Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

AMENDMENTS

1949—Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923", which for purposes of classification, has been translated as "chapter 51 and subchapter III of chapter 53 of Title 5".

1935—Act Aug. 7, 1935, amended section generally, and among other changes, increased annual appropriation from $250 to $6,500.

REPEALS

Portion of this section relating to stenographic and other services by contract was repealed by act Oct. 10, 1940, and is now covered by section 6a of Title 41, Public Contracts.

Section 2 of act Aug. 7, 1935, terminating appropriations of this section on June 30, 1941, was repealed by act June 11, 1940, ch. 306, 54 Stat. 263.

APPROPRIATIONS

Appropriations pursuant to this section were made in the following acts:

1941—June 28, 1941, ch. 258, title I, 55 Stat. 272.
1940—May 14, 1940, ch. 189, title I, 54 Stat. 188.
1939—June 29, 1939, ch. 248, 53 Stat. 892.
1938—Apr. 27, 1938, ch. 180, 52 Stat. 254.
1937—June 16, 1937, ch. 359, 50 Stat. 267.
1936—May 15, 1936, ch. 405, 49 Stat. 1316.
1934—Apr. 7, 1934, ch. 104, 48 Stat. 534.
1933—Mar. 1, 1933, ch. 144, 47 Stat. 1376.
1932—July 1, 1932, ch. 361, 47 Stat. 486.

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

§ 241. National Advisory Committee for Aeronautics.

CODIFICATION

Section was transferred to section 151 of Title 50, War and National Defense, and is now covered by chapter 26 of Title 42, The Public Health and Welfare.

§§ 242 to 244. Repealed. May 25, 1948, ch. 335, § 3 (a)—(c), 62 Stat. 267.

Section 242, acts July 1, 1918, ch. 113, § 1, 40 Stat. 650; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to office space for Advisory Committee.

Section 243, act Mar. 3, 1915, ch. 83, 38 Stat. 930, related to annual reports.

Section 244, act Apr. 22, 1926, ch. 171, § 1, 44 Stat. 314, related to the Langley Memorial Aeronautical Laboratory.

§ 245. Payment of retired Army or Navy officer performing service for committee.

CODIFICATION

Section was transferred to section 156 of Title 50, War and National Defense, and is now covered by chapter 26 of Title 42, The Public Health and Welfare.

§ 246. Transfer of aircraft, supplies, and equipment by Army and Navy.

CODIFICATION

Section, which was from appropriation acts July 30, 1947, ch. 359, title I, § 101, 61 Stat. 600; Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 188; Aug. 24, 1949, ch. 506, title I, § 101, 63 Stat. 646; Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 711, was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268.

Chapter 7.—COORDINATION OF INTERSTATE RAILROAD TRANSPORTATION

§§ 250, 251. Omitted.

CODIFICATION

Sections, act June 16, 1933, ch. 91, prec § 1, title I, § 1, 48 Stat. 211, formed part of the Emergency Railroad Transportation Act, 1933. See Codification Note under former sections 265 to 268 of this title set out below.

CROSS REFERENCES

Establishment of National Railroad Passenger Corporation, see section 501 et seq. of Title 45, Railroads.

§ 252. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

Section, act June 16, 1933, ch. 91, title I, § 2, provided for a Federal Coordinator of Transportation.

§§ 253 to 263. Omitted.

CODIFICATION

Sections 250—268, acts June 16, 1933, ch. 91, §§ 1—17 and 209, 48 Stat. 211; June 13, 1934, ch. 498, 48 Stat. 954; June 14, 1935, ch. 247, 49 Stat. 376, were known as the Emergency Railroad Transportation Act, 1933. Originally scheduled to expire at the end of one year after June 16, 1933, they were first extended for one year after June 16, 1934, by Proc. No. 2082, May 2, 1934, and then until June 17, 1936, by act June 14, 1935, ch. 247, § 1, 49 Stat. 276.

A communication from the office of the Interstate Commerce Commission dated Aug. 11, 1939, stated that "the office of Federal Coordinator of Transportation no longer exists and the staff of employees has been completely liquidated * * * and no business is being conducted under the Emergency Railroad Transportation Act, 1933."

§ 264. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

Section, acts June 16, 1933, ch. 91, title I, § 14, 48 Stat. 216; June 13, 1934, ch. 498, 48 Stat. 954, provided for the payment of the expenses of the Federal Coordinator of Transportation.

§§ 265 to 268. Omitted.

CODIFICATION

Sections, act June 16, 1933, ch. 91, title I, §§ 15-17, title II, § 209, 48 Stat. 216, 217, 221, formed part of the Emergency Railroad Transportation Act, 1933. See Codification Note under former sections 265 to 268 of this title set out above.

Chapter 8.—INTERSTATE COMMERCE ACT, PART II; MOTOR CARRIERS

Sec.
301. Short title.
302. Application of provisions.
303. Definitions and exceptions.
(a) Definitions.
(b) Vehicles excepted from operation of law.
(c) Certificate or permit; transportation within scope, and in furtherance, of primary business enterprise.
304. Powers and duties of Commission.
(a) Powers and duties generally.
(b) Classification of motor carriers.
(c) Investigation of complaints; orders.
(d) Application of sections 14 and 16 (13) of this title.
(e) Regulations governing use of vehicles owned by others.
(f) Exceptions to regulations for use of vehicles owned by others.
304a. Actions for recovery of charges; limitation of actions; definition; effective date; action by or against United States.
305. Administration.
(a) Joint boards; composition; references of matters to boards.
(b) Creation of joint board; rules and procedure; nominations for membership; procedure on failure of board to act.
(c) Place of holding hearings.
(d) Oaths; attendance of witnesses and production of documents.
(e) Notice of proceedings and opportunity for hearing.
(f) Joint hearings with State authorities; offices for boards and State commissions.
(g) Court review of Commission's orders; compelling Commission to take jurisdiction.
(h) Application of section 17 of this title.
(i) Pecuniary interest in motor carrier under investigation forbidden.
(j) Employees, examiners, attorneys, etc.; authority to employ.
305a. Joint Board, transportation requests.

Sec.
306. Certificate of convenience and necessity.
(a) Necessity for; carriers in bona fide operation on June 1, 1935; traffic moving to and from Territories and possessions; "grandfather" provisions.
(b) Application for certificate; form and contents.
307 Issuance of certificate.
(a) Issuance authorized to qualified applicants for regular routes and between fixed termini.
(b) Certificate not to confer proprietary or property rights in highway.
308. Terms and conditions of certificate.
(a) Specification of routes and termini; extension of routes; restriction on additions to equipment.
(b) Deviation from route.
(c) Transportation of special or chartered parties; date of filing or reissuance of certificate.
(d) Transportation of baggage, newspapers, express, or mail.
309. Contract carriers by motor vehicle.
(a) Permit to operate; carriers in bona fide operation on July 1, 1935; laws relating to national parks and monuments unaffected; traffic moving to and from Territories and possessions; "grandfather" provisions.
(b) Application for permit; form and contents; issuance of permit; terms and conditions.
310. Dual operations.
310a. Temporary authority.
311. Motor transportation brokers.
(a) License required.
(b) Issuance of license; brokers in operation prior to enactment of section.
(c) Rules and regulations; bond or other security required.
(d) Inspection of accounts, records, etc.
312. Suspension, change, revocation and transfer of certificates, permits, and licenses.
313. Validity and perfection of certain security interests in motor vehicles.
314. Issuance of securities.
315. Security for protection of public.
316. Rates, fares and charges.
(a) Duty to establish reasonable rates, etc.; service and equipment; rules and regulations; reasonable divisions of joint fares.
(b) Rates, facilities for carriers of property.
(c) Through routes and joint rates; "common carriers by water".
(d) Undue preferences or prejudices prohibited.
(e) Complaints to and investigation by Commission; power of Commission to fix reasonable rates, regulations, etc.
(f) Commission empowered to establish just division of joint rates.
(g) New rates; determination of fairness by Commission; suspension.
(h) Good will, earning power or certificate inadmissible in proceedings to determine rates.
(i) Transportation needs and fair return considered in determining rates, etc.
(j) Effect on remedy or right of action.
317. Tariffs of common carriers by motor vehicle.
(a) Filing, posting, and publication.
(b) Deviation from rates and regulations enumerated in tariff forbidden; undue preferences.
(c) Change in tariffs; filing and posting notice; powers of Commission.
(d) Transportation without filing tariff forbidden.
Sec.
318. Schedules of contract carriers by motor vehicle.
(a) Establishment, filing, and publication of schedules and rules affecting rates; notice of and hearing on proposed changes; undue preferences.
(b) Complaints and investigations; hearings and orders of Commission.
(c) New or reduced charges; hearings and orders of Commission; suspension.
319. Application of section 20 (11) and (12) of this title to common carriers by motor vehicle.
320. Accounts, records and reports.
(a) Reports to Commission; copies of contracts; publication of information.
(b) Period covered by report; time of filing; oath.
(c) Depreciation charges.
(d) Accounts, records, etc., form; period of preservation; access to by Commission or agents.
(e) Definitions.
(f) Report of accident as evidence in damage suit.
(g) Inspection, examination, and copying of accounts, books, records, etc.; form of accounts, records, and memorandums.
321. Orders, notices and service of process.
(a) Persons upon whom notice or orders served; manner and time of service.
(b) Effective date and duration of orders of Commission.
(c) Designation of agent for service of process.
(d) "Motor carriers" as including brokers.
322. Unlawful operation.
(a) Violation of chapter or rules or orders; penalty where none otherwise provided.
(b) Jurisdiction of district courts to restrain violations and enforce orders.
(c) Participation in unjust discrimination; evasion of regulations; penalty.
(d) Disclosure of information by agent, accountant, or examiner; penalty.
(e) Disclosure or solicitation of information concerning property in transportation.
(f) Giving information in response to legal process, or to government officers or to other carriers for adjustment of rates permitted.
(g) Failure or refusal to make reports or keep accounts and records; altering or making false report or record; penalty.
(h) Civil action for fines; amount; service of process; payment of costs and expenses.
323. Collection of rates and charges; extension of credit; liability of agent of beneficial owner.
324. Identification plates for interstate motor carriers.
324a. Allowances to shippers for transportation services.
325. Investigation of motor vehicle sizes and weights and qualifications and hours of service of employees.
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(a) Withholding where employee earns more than 50 per centum of compensation paid by carrier to him or where employee resides; filing of information return by carrier.
(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.
(c) Definitions.
326. Separability of provisions.
327. Effective date of chapter.

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act [chapters 1, 8, 12, 13, and 19 of this title] by inserting before part I thereof (chapter 1 of this title) the following provision entitled "National Transportation Policy": "It is hereby declared to be the national transportation policy of the Congress

to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act [chapters 1, 8, 12, 13 and 19 of this title], so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this act [chapters 1, 8, 12, 13 and 19 of this title], shall be administered and enforced with a view to carrying out the above declaration of policy."

INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "part I" and a new part II, comprising this chapter was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV, constituting chapter 13 of this title, was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting chapter 19 of this title, was added by Pub. L. 85-625, § 2, Aug. 12, 1958, 72 Stat. 568.

CROSS REFERENCES

Appeals to Supreme Court, see section 45 of this title.

Combinations and consolidations of carriers, prohibitions, see section 5(1) of this title.

Commission procedure; delegation of duties; rehearings; application to proceedings under this chapter, see section 305(h) of this title.

Exchange of telephone, telegraph, or cable services, see section 1(5½) of this title.

Expedition of actions by United States under this chapter involving general public importance, see section 44 of this title.

Intervention of representatives of employees, see section 17(11) of this title.

Reference of administrative matters to examiners, see section 17 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5, 5b, 17, 902, 903, 1002, 1004, 1007, 1008, 1009, 1010, 1011, 1013, 1014 of this title; title 7 section 225.

§ 301. Short title.

This chapter may be cited as part II of the Interstate Commerce Act. (Feb. 4, 1887, ch. 104, pt. II, § 201, as added Aug. 9, 1935, ch. 498, 49 Stat. 543, and amended Sept. 18, 1940, ch. 722, title I, § 15, 54 Stat. 919.)

AMENDMENTS

1940—Act Aug. 9, 1935, added section to the original Interstate Commerce Act, act Feb. 4, 1887, ch. 104, and provided that this chapter might be cited as the "Motor Carrier Act, 1935." Act Sept. 18, 1940, which added chapter 12 of this title as "part III of the Interstate Commerce Act," changed "Motor Carrier Act, 1935" to part II of the Interstate Commerce Act."

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SHORT TITLE OF INTERSTATE COMMERCE ACT

Section 1 of act Sept. 18, 1940, amended the Interstate Commerce Act by inserting before Part I thereof (chapter 1 of this title) the following provision entitled "Short Title": "This Act [chapters 1, 8, 12, 13 and 19 of this title] may be cited as the Interstate Commerce Act."

INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "Part I" and a new part II, comprising chapter 8 of this title, was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV, constituting chapter 13 of this title was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting this chapter, was added by Pub. L. 85-625, § 2, Aug. 12, 1958, 72 Stat. 568.

§ 302. Application of provisions.

(a) The provisions of this chapter apply to the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce and to the procurement of and the provisions of facilities for such transportation, and the regulation of such transportation, and of the procurement thereof, and the provision of facilities therefor, is vested in the Interstate Commerce Commission.

(b) (1) Nothing in this chapter, except as provided in section 325a of this title, shall be construed to affect the powers of taxation of the several States or to authorize a motor carrier to do an intrastate business on the highways of any State, or to interfere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof.

(2) The requirement by a State that any motor carrier operating in interstate or foreign commerce within the border of that State register its certificate of public convenience and necessity or permit issued by the Commission shall not constitute an undue burden on interstate commerce provided that such registration is accomplished in accordance with standards, or amendments thereto, determined and officially certified to the Commission by the national organization of the State commissions, as referred to in section 305(b) of this title, and promulgated by the Commission. As so certified, such standards, or amendments thereto, shall be promulgated forthwith by the Commission and shall become effective five years from the date of such promulgation. As used in this paragraph, "standards or amendments thereto" shall mean specification of forms and procedures required to evidence the lawfulness of interstate operations of a carrier within a State by (a) filing and maintaining current records of the certificates and permits issued by the Commission, (b) registering and identifying vehicles as operating under such certificates and permits, (c) filing and maintaining evidence of currently effective insurance or qualifications as a self-insurer under rules and regulations of the Commission, and (d) filing designations of local agents for service of process. Different standards may be determined and promulgated for each of the classes of carriers as differences in their operations may warrant. In determining or amending such standards, the national organization of the State commissions shall consult with the Commission and with representatives of motor carriers subject to State registration requirements. To the extent that any State requirements for registration of motor carrier certificates or permits issued by the Commission impose obligations which are in excess of the standards or amendments thereto promulgated under this paragraph, such excessive

requirements shall, on the effective date of such standards, constitute an undue burden on interstate commerce. If the national organization of the State commissions fails to determine and certify to the Commission such standards within eighteen months from September 6, 1965, or if that organization at any time determines to withdraw in their entirety standards previously determined or promulgated, it shall be the duty of the Commission, within one year thereafter, to devise and promulgate such standards, and to review from time to time the standards so established and make such amendments thereto as it may deem necessary, in accordance with the foregoing requirements of this paragraph. Nothing in this paragraph shall be construed to deprive the Commission, when there is a reasonable question of interpretation or construction, of its jurisdiction to interpret or construe certificates of public convenience and necessity, permits, or rules and regulations issued by the Commission, nor to authorize promulgation of standards in conflict with any rule or regulation of the Commission.

(c) Notwithstanding any provision of this section or of section 303 of this title, the provisions of this chapter, except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation and equipment, shall not apply—

(1) to transportation by motor vehicle by a carrier by railroad subject to chapter 1 of this title, or by a water carrier subject to chapter 12 of this title, or by a freight forwarder subject to chapter 13 of this title, incidental to transportation or service subject to such chapters, in the performance within terminal areas of transfer, collection, or delivery services; but such transportation shall be considered to be and shall be regulated as transportation subject to chapter 1 of this title when performed by such carrier by railroad, as transportation subject to chapter 12 of this title, when performed by such water carrier, and as transportation or service subject to chapter 13 of this title when performed by such freight forwarder;

(2) to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to chapter 1 of this title, an express company subject to chapter 1 of this title, a motor carrier subject to this chapter, a water-carrier subject to chapter 12 of this title, or a freight forwarder subject to chapter 13 of this title, in the performance within terminal areas of transfer, collection, or delivery service; but such transportation shall be considered to be performed by such carrier, express company, or freight forwarder as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water, or the freight forwarder transportation or service, to which such services are incidental.

(Feb. 4, 1887, ch. 104, pt. II, § 202, as added Aug. 9, 1935, ch. 498, 49 Stat. 543, and amended Sept. 18, 1940, ch. 722, title I, § 17, 54 Stat. 920; May 16, 1942, ch. 318, § 2, 56 Stat. 300; Sept. 6. 1965, Pub. L. 89–170, § 2, 79 Stat. 648; Dec. 23, 1970, Pub. L. 91–569, § 2(a), 84 Stat. 1500.)

AMENDMENTS

1970—Subsec. (b)(1). Pub. L. 91–569 added, "except as provided in section 325a of this title," following "Nothing in this chapter".

1965—Subsec. (b). Pub. L. 89–170 designated existing provisions as par. (1) and added par. (2).

1942—Subsec. (c). Act May 16, 1942, amended subsec. (c) generally, and among other changes, inserted exception in opening paragraph, and provisions relating to freight forwarders subject to chapter 13 of this title in pars. (1) and (2). Former subsec. (c) is now subsec. (b).

1940—Subsec. (a). Act Sept. 18, 1940, § 17(a), redesignated former subsec. (b) as (a). Former subsection (a), relating to declaration of policy, was repealed by act Sept. 18, 1940, § 17(a). For National transportation policy, see note preceding section 301 of this title.

Subsec. (b). Act Sept. 18, 1940, § 17(a), redesignated former subsec. (c) as (b). Former subsec. (b) is now subsec. (a).

Subsec. (c). Act Sept. 18, 1940, § 17(b), added subsec (c), and redesignated former subsection (c) to be "(b)."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–569 effective January 1, 1971, see section 5 of Pub. L. 91–569, set out as a note under section 26a of this title.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Other exceptions to application of this chapter, see section 303 (b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title.

§ 303. Definitions and exceptions.

(a) Definitions.

As used in this chapter—

(1) The term "person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

(2) The term "board" or "State board" means the commission, board, or official (by whatever name designated in the laws of a State) which, under the laws of any State in which any part of the service in interstate or foreign commerce regulated by this chapter is performed, has or may hereafter have jurisdiction to grant or approve certificates of public convenience and necessity or permits to motor carriers, or otherwise to regulate the business of transportation by motor vehicles, in intrastate commerce over the highways of such State.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "joint board" means any special board constituted as provided in section 305 of this title.

(5) The term "certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by motor vehicle.

(6) The term "permit" means a permit issued under this chapter to contract carriers by motor vehicle.

(7) The term "license" means a license issued under this chapter to a broker.

(8) The term "State" means any of the several States or the District of Columbia; and the term "United States" means the several States and the District of Columbia.

(9) The term "express company" means any common carrier by express subject to the provisions of chapter 1 of this title.

(10) The term "interstate commerce" means commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water: *Provided,* That to the extent that such transportation in "interstate commerce" between points in Alaska and points in other States is performed within a foreign country, the application of this chapter shall not include any requirement as to conduct in such foreign country which is in conflict with a requirement of such foreign country, but shall include as a condition to engaging in such operations within the jurisdiction of the United States, the observance, as to the entire service, of the requirements of this chapter with respect to rates, fares, charges, and practices pertaining to such transportation.

(11) The term "foreign commerce" means commerce, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water, (A) between any place in the United States and any place in a foreign country, or between places in the United States through a foreign country; or (B) between any place in the United States and any place in a Territory or possession of the United States insofar as such transportation takes place within the United States. The term "foreign commerce" also includes transportation between places in a foreign country, or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place within the United States, but only for purposes of the application, to carriers engaged in such transportation, of the following provisions of this chapter: section 315 of this title (which relates to insurance for the protection of the public), section 321 of this title (which relates to designation of an agent for service of process), and those provisions of section 304 of this title which relate to qualifications and maximum hours of service of employees and safety of operation and equipment.

(12) The term "highway" means the roads, highways, streets, and ways in any State.

(13) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(14) The term "common carrier by motor vehicle" means any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes, except transportation by motor vehicle by an express company to the extent that such transportation has heretofore been subject to chapter 1 of this title, to which extent such transportation shall continue to be considered to be and shall be regulated as transportation subject to chapter 1 of this title.

(15) The term "contract carrier by motor vehicle" means any person which engages in transportation by motor vehicle of passengers or property in interstate or foreign commerce, for compensation (other than transportation referred to in paragraph (14) of this subsection and the exception therein), under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

(16) The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

(17) The term "private carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle", who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(18) The term "broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

(19) The "services" and "transportation" to which this chapter applies include all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers, and used in the transportation of passengers or property in interstate or foreign commerce or in the performance of any service in connection therewith.

(20) The term "interstate operation" means any operation in interstate commerce.

(21) The term "foreign operation" means any operation in foreign commerce.

(22) The term "carrier of migrant workers by motor vehicle" means any person, including any "contract carrier by motor vehicle", but not including any "common carrier by motor vehicle", who or which transports in interstate or foreign commerce at any one time three or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except migrant workers transporting themselves or their immediate families.

(23) The term "migrant worker" means any individual proceeding to or returning from employment in agriculture as defined in section 203 (f) of Title 29, or section 3121(g) of Title 26, Internal Revenue Code of 1954.

(b) Vehicles excepted from operation of law.

Nothing in this chapter, except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or (2) taxicabs, or other motor vehicles performing a bona fide taxicab service, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini; or (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles operated, under authorization, regulation, and control of the Secretary of the Interior, principally for the purpose of transporting persons in and about the national parks and national monuments; or (4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities and products thereof, or in the transportation of supplies to his farm; or (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined, but any interstate transportation performed by such a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under this chapter, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 per centum of its total interstate transportation services in any fiscal year, measured in terms of tonnage: *Provided,* That, for the purposes hereof, notwithstanding any other provision of law, transportation performed for or on behalf of the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember: *Provided further,* That any such cooperative association or federation which performs interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, except transportation otherwise exempt under this chapter, shall notify the Commission of its intent to perform such transportation prior to the commencement thereof: *And provided further,* That in no event shall any such cooperative association or federation which is required hereunder to give notice to the Commission transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the total quantity of property transported interstate for itself and its members in such fiscal year; or (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation: *Provided,* That the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": *Provided further, however,* That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned or kippered products); (7) motor vehicles used exclusively in the distribution of newspapers; or (7a) the transportation of persons or property by motor vehicle when incidental to transportation by aircraft; nor, unless and to the extent that the Commission shall from time to time find that such application is necessary to carry out the national transportation policy declared in this Act, shall the provisions of this chapter, except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment apply to: (8) the transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, and provided that the motor carrier engaged in such transportation of passengers over regular or irregular route or routes in interstate commerce is also lawfully engaged in the intrastate transportation of passengers over the entire length of such interstate route or routes in accordance with the laws of each State having jurisdiction; or (9) the casual, occasional, or reciprocal transportation of passengers or property by motor vehicle in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business, unless, in the case of transportation of passengers, such transportation is sold or offered for sale, or provided or procured or furnished or arranged for, by a broker, or by any other person

who sells or offers for sale transportation furnished by a person lawfully engaged in the transportation of passengers by motor vehicle under a certificate or permit issued under this chapter or under a pending application for such a certificate or permit; or (10) the emergency transportation of any accidentally wrecked or disabled motor vehicle in interstate or foreign commerce by towing.

(c) Certificate or permit; transportation within scope, and in furtherance, of primary business enterprise.

Except as provided in section 302 (c) of this title, subsection (b) of this section, in the exception in subsection (a) (14) of this section, and in the second proviso in section 306 (a) (1) of this title, no person shall engage in any for-hire transportation business by motor vehicle, in interstate or foreign commerce, on any public highway or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such person a certificate or a permit issued by the Commission authorizing such transportation, nor shall any person engaged in any other business enterprise transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance, of a primary business enterprise (other than transportation) of such person. (Feb. 4, 1887, ch. 104, pt. II, § 203, as added Aug. 9, 1935, ch. 498, 49 Stat. 544, and amended June 23, 1938, ch. 601, § 1107(j), 52 Stat. 1029; June 29, 1938, ch. 811, §§ 2, 3, 52 Stat. 1237; Sept. 18, 1940, ch. 722, title I, §§ 16, 18, 54 Stat. 919, 920; Sept. 1, 1950, ch. 835, § 1, 64 Stat. 574; July 9, 1952, ch. 599, 66 Stat. 479; July 22, 1954, ch. 563, § 1, 68 Stat. 526; Aug. 3, 1956, ch. 905, § 1, 70 Stat. 958; Aug. 22, 1957, Pub. L. 85-163, § 1(1), (2), 71 Stat. 411; Aug. 12, 1958, Pub. L. 85-625, §§ 7(a), 8, 72 Stat. 573, 574; July 12, 1960, Pub. L. 86-615, § 3, 74 Stat. 384; Dec. 17, 1963, Pub. L. 88-208, 77 Stat. 402; July 26, 1968, Pub. L. 90-433, § 1, 82 Stat. 448.)

REFERENCES IN TEXT

The Agricultural Marketing Act, approved June 15, 1929, as amended, referred to in subsec. (b), is classified to sections 1141, 1141b—1141d, 1141e, 1141f, and 1141h—1141j of Title 12, Banks and Banking.

National transportation policy declared in this Act, referred to in subsec. (b), see note preceding section 301 of this title.

This Act, referred to in subsec. (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13, and 19 of this title.

The second proviso in section 306(a)(1) of this title, referred to in subsec. (c), was eliminated by Pub. L. 87-805, Oct. 15, 1962, § 1, 76 Stat. 911.

AMENDMENTS

1968—Subsec. (b)(5). Pub. L. 90-433 added provisions restricting the exemption for transportation by motor vehicles operated by an agricultural cooperative association, when such vehicles are used to perform transportation for nonmembers, to transportation for nonmembers who are neither farmers, cooperative associations, not federations thereof, where such transportation is incidental to the association's primary transportation operation and necessary for its effective performance, in no event is in excess of 15% of its total transportation service, such percentage to include transportation performed for the United States, and the association notifies the Commission in advance of its intent to perform such transportation.

1963—Subsec. (b). Pub. L. 88-208 added cl. (10) exempting the emergency transportation of any accidentally wrecked or disabled motor vehicle in interstate or foreign commerce by towing.

1960—Subsec. (a)(10). Pub. L. 86-615 inserted proviso clause.

1958—Subsec. (b). Pub. L. 85-625, § 7(a), inserted in cl. (6), the provisos defining "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)".

Subsec. (c). Pub. L. 85-625, § 8, prohibited persons engaged in any other business enterprise from transporting property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance, of a primary business enterprise (other than transportation) of such person.

1957—Subsec. (a) (15). Pub. L. 85-163, § 1 (1), limited the definition of "contract carrier by motor vehicle" to persons contracting with one person or a limited number of persons for furnishing of transportation services through assignment of motor vehicles for a continuing period to the exclusive use of person served, or for furnishing transportation services to meet need of individual customer.

Subsec. (c). Pub. L. 85-163, § 1(2) added subsec. (c).

1956—Subsec. (a) (22), (23). Act Aug. 3, 1956, added subsec. (a) (22).

1954—Subsec. (a)(11). Act July 22, 1954, added the sentence additionally defining "foreign commerce" to include transportation between points in foreign countries, insofar as such transportation takes place within the United States.

1952—Subsec. (b). Act July 9, 1952, provided that horticultural commodities are to be included within the term "agricultural commodities" in clauses (4a) and (6).

1950—Subsec. (a) (8). Act Sept. 1, 1950, § 1(a) defined "United States".

Subsec. (a) (11). Act Sept. 1, 1950, § 1(b), gave the Commission jurisdiction over traffic within the States and the District of Columbia when such traffic originates in or is destined to a Territory or possession of the United States.

1940—Subsec. (a) (13). Act Sept. 18, 1940, § 18 (b)(1), inserted exception concerning trolley busses.

Subsec. (a)(14). Act Sept. 18, 1940, § 18 (a), among other changes, substituted "which holds itself out to the general public to engage in the transportation" for "who or which undertakes, whether directly or by a lease or any other arrangement, to transport" and substituted the exception concerning express companies for "including such motor vehicle operations of carriers by rail or water, and of express or forwarding companies, except to the extent that these operations are subject to the provisions of part I."

Subsec. (a) (15). Act Sept. 18, 1940, § 18 (a), made changes in phraseology, changed the exception as to par. (14) to modify the transportation instead of the person, and omitted "whether directly or by a lease or any other arrangement."

Subsec. (b) (4a). Act Sept. 18, 1940, § 18(b)(3), substituted "when used" for "and used". Former subsec. (b) (4b) is now subsec. (b) (5).

Subsec. (b)(5). Act Sept. 18, 1940, redesignated former subsec. (b)(4b) as (b)(5) and inserted provision relating to a federation of cooperative associations. Former subsec. (b)(5), relating to trolley busses, was stricken out by act Sept. 18, 1940, § 18 (b) (2), and is now covered by subsec. (a) (13) of this section.

Subsec. (b)(6). Act Sept. 18, 1940, § 18(b)(5), inserted "ordinary" preceding "livestock."

Subsec. (b), clause preceding par. (8). Act Sept. 18, 1940, § 16, substituted reference to the National transportation policy declared in the Interstate Commerce Act for a reference to the policy of Congress formerly enumerated in section 302 of this title.

Subsec. (b)(9). Act Sept. 18, 1940, § 18(b)(6), added exception concerning brokers and other persons selling transportation furnished by carriers under this chapter.

1938—Subsec. (a)(13). Act June 29, 1938, § 2, inserted "or any combination thereof determined by the Commission".

Subsec. (b)(6). Act June 29, 1938, § 3, omitted "exclusively" following "used" and added "if such motor vehicles are not used in carrying any other property or passengers, for compensation".

Subsec. (b)(7a). Act June 23, 1938, added subsec. (b)(7a).

EFFECTIVE DATE OF 1950 AMENDMENT

Section 4 of act Sept. 1, 1950, provided in part that the amendment of subsecs. (a) (8) and (a) (11) by section 1 of act Sept. 1, 1950, shall take effect on the 120th day after Sept. 1, 1950.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

REPEALS

Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, repealed act June 23, 1938, ch. 601, 52 Stat. 977, cited to the credit of this section.

TRANSPORTATION OF AGRICULTURAL COMMODITIES BY PERSONS HOLDING CERTIFICATES OR PERMITS ON AUGUST 12, 1958, OR UNDER CERTIFICATES OR PERMITS ISSUED PURSUANT TO APPLICATIONS FILED ON OR BEFORE AUGUST 12, 1958.

Section 7(b) of Pub. L. 85–625 provided that: "Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect [August 12, 1958], authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act [this chapter] by paragraph (a) of this section [amending subsec. (b)(6) of this section], over any route or routes or within any territory, may without making application under that Act [chapters 1, 8, 12, 13 and 19 of this title] engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce."

ISSUANCE OF CERTIFICATES OR PERMITS TO PERSONS TRANSPORTING CERTAIN AGRICULTURAL COMMODITIES ON MAY 1, 1958

Section 7(c) of Pub. L. 85–625 provided that: "Subject to the provisions of section 210 of the Interstate Commerce Act [section 310 of this title], if any person (or its predecessor in interest) was in bona fide operation on May 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that Act [this chapter] by paragraph (a) of this section [amending subsec. (b)(6) of this section], in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on May 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act [this chapter] and within one hundred and twenty days after the date on which this section takes effect [August 12, 1958]. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect [August 12, 1958] is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on May 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within one hundred and twenty days after the date on which this section takes effect [August 12, 1958], continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act [this chapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 304, 309, 320, 322, 1002, 1018 of this title; title 39 section 5201.

§ 304. Powers and duties of Commission.

(a) Powers and duties generally.

It shall be the duty of the Commission—

(1) To regulate common carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(2) To regulate contract carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(3) To establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment. In the event such requirements are established, the term "motor carrier" shall be construed to include private carriers of property by motor vehicle in the administration of subsection (c) of this section and sections 305, 320, 321, 322 (a), (b), (d), (f), and (g), and 324 of this title.

(3a) Notwithstanding any other provision of section 303(b) of this title, to establish for carriers of migrant workers by motor vehicle reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment. Such requirements shall apply to any such carrier only in the case of transportation of any migrant worker for a total distance of more than seventy-five miles, and then only if such transportation is across the boundary line of any State, the District of Columbia, or Territory of the United States, or a foreign country. When such requirements are established, the term "motor carrier" shall be construed to include carriers of migrant workers by motor vehicle in the administration of subsection (c) of this section and sections 305, 320, 321, 322 (a), (b), (d), (f) and (g), and 324 of this title.

(4) To regulate brokers as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to licensing, financial responsibility, accounts, records, reports, operations, and practices of any such person or persons.

(4a) To determine, upon its own motion, or upon application by a motor carrier, a State board, or any other party in interest, whether the transportation in interstate or foreign commerce performed by any motor carrier or class of motor carriers lawfully engaged in operation solely within a single State is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in interstate or foreign commerce in effectuating the national transportation policy declared in this Act. Upon so finding, the Commission shall issue a certificate of exemption to such motor carrier or class of motor carriers which, during the period such certificate shall remain effective and unrevoked, shall exempt such carrier or class of motor carriers from compliance with the provisions of this chapter, and shall attach to such certificate such reasonable terms and conditions as the public interest may require. At any time after the issuance of any such certificate of exemption, the Commission may by order revoke all or any part thereof, if it shall find that the transportation in interstate or foreign commerce performed by the carrier or class of carriers designated in such certificate shall be, or shall have become, or is reasonably likely to become, of such nature, character, or quantity as in fact substantially to affect or impair uniform regulation by the Commission of interstate or foreign transportation by motor carriers in effectuating the national transportation policy declared in this Act. Upon revocation of any such certificate, the Commission shall restore to the carrier or carriers affected thereby, without further proceedings, the authority, if any, to operate in interstate or foreign commerce held by such carrier or carriers at the time the certificate of exemption pertaining to such carrier or carriers became effective. No certificate of exemption shall be denied, and no order of revocation shall be issued, under this subparagraph, except after reasonable opportunity for hearing to interested parties. Where an application is made in good faith for the exemption of a motor carrier under this subparagraph, accompanied by a certificate of a State board of the State in which the operations of such carrier are carried on stating that in the opinion of such board such carrier is entitled to a certificate of exemption under this subparagraph, such carrier shall be exempt from the provisions of this chapter beginning with the sixtieth day following the making of such application to the Commission unless prior to such time the Commission shall have by order denied such application, and such exemption shall be effective until such time as the Commission, after such sixtieth day, may by order deny such application or may by order revoke all or any part thereof as hereinbefore authorized. In any case where a motor carrier has become exempt from the provisions of this chapter as provided in this subparagraph, it shall not be considered to be a burden on interstate or foreign commerce for a State to regulate such carrier with respect to the operations covered by such exemption. Applications under this subparagraph shall be made in writing to the Commission, verified under oath, and shall be in such form and contain such information as the Commission shall by regulations require.

(5) For the purpose of carrying out the provisions pertaining to safety, the Commission may avail itself of the assistance of any of the several research agencies of the Federal Government having special knowledge of any such matter, to conduct such scientific and technical researches, investigations, and tests as may be necessary to promote the safety of operation and equipment of motor vehicles as provided in this chapter; the Commission may transfer to such agency or agencies such funds as may be necessary and available to make this provision effective.

(6) To administer, execute, and enforce all provisions of this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedure for such administration; and

(7) For purposes of the administration of the provisions of this chapter, to inquire into the management of the business of motor carriers and brokers and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of such persons is related to the management of the business of one or more motor carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this chapter; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary.

(b) Classification of motor carriers.

The Commission may from time to time establish such just and reasonable classifications of brokers or of groups of carriers included in the term "common carrier by motor vehicle", or "contract carrier by motor vehicle", as the special nature of the services performed by such carriers or brokers shall require; and such just and reasonable rules, regulations, and requirements, consistent with the provisions of this chapter, to be observed by the carriers or brokers so classified or grouped, as the Commission deems necessary or desirable in the public interest.

(c) Investigation of complaints; orders.

Upon complaint in writing to the Commission by any person, State board, organization, or body politic, or upon its own initiative without complaint, the Commission may investigate whether any motor carrier or broker has failed to comply with any provision of this chapter, or with any requirement established pursuant thereto. If the Commission, after notice and hearing, finds upon any such investigation that the motor carrier or broker has failed to comply with any such provision or requirement, the Commission shall issue an appropriate order to compel the carrier or broker to comply therewith. Whenever the Commission is of opinion

that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss such complaint.

(d) Application of sections 14 and 16 (13) of this title.

The provisions of sections 14 and 16 (13) of this title, relating to reports, decisions, schedules, contracts, and other public records, shall apply in the administration of this chapter.

(e) Regulations governing use of vehicles owned by others.

Subject to the provisions of subsection (f) of this section, the Commission is authorized to prescribe, with respect to the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property—

(1) regulations requiring that any such lease, contract, or other arrangement shall be in writing and be signed by the parties thereto, shall specify the period during which it is to be in effect, and shall specify the compensation to be paid by the motor carrier, and requiring that during the entire period of any such lease, contract, or other arrangement a copy thereof shall be carried in each motor vehicle covered thereby; and

(2) such other regulations as may be reasonably necessary in order to assure that while motor vehicles are being so used the motor carriers will have full direction and control of such vehicles and will be fully responsible for the operation thereof in accordance with applicable law and regulations, as if they were the owners of such vehicles, including the requirements prescribed by or under the provisions of this chapter with respect to safety of operation and equipment and inspection thereof, which requirements may include but shall not be limited to promulgation of regulations requiring liability and cargo insurance covering all such equipment.

(f) Exceptions to regulations for use of vehicles owned by others.

Nothing in this chapter shall be construed to authorize the Commission to regulate the duration of any such lease, contract, or other arrangement for the use of any motor vehicle, with driver, or the amount of compensation to be paid for such use—

(1) where the motor vehicle so to be used is that of a farmer or of a cooperative association or a federation of cooperative associations, as specified in section 303(b) (4a) or (5) of this title, or is that of a private carrier of property by motor vehicle as defined in section 303(a) (17) of this title and is used regularly in the transportation of property of a character embraced within section 303(b) (6) of this title or perishable products manufactured from perishable property of a character embraced within section 303(b) (6) of this title, and such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based; or

(2) where the motor vehicle so to be used is one which has completed a movement covered by section 303(b) (6) of this title and such motor vehicle is next to be used by the motor carrier in a loaded movement in any direction, and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.

(Feb. 4, 1887, ch. 104, pt. II, § 204, as added Aug. 9, 1935, ch. 498, 49 Stat. 546, and amended June 29, 1938, ch. 811, § 4, 52 Stat. 1237; Sept. 18, 1940, ch. 722, title I, §§ 19, 20 (a, b), 54 Stat. 921, 922; Mar. 27, 1942, ch. 199, title I, § 101, 56 Stat. 176; Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958; Aug. 3, 1956, ch. 928, 70 Stat. 983.)

References in Text

National transportation policy declared in the Interstate Commerce Act, referred to in subsec. (a) (4a), see note preceding section 301 of this title.

This Act, referred to in subsec. (a) (4a), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13 and 19 of this title.

Amendments

1956—Subsec. (a) (3a). Act Aug. 3, 1956, c. 905, added subsec. (a) (3a).

Subsecs. (e) and (f). Act Aug. 3, 1956, c. 928, added subsecs. (e) and (f). Former subsecs. (e) and (f) expired by their own terms on Mar. 31, 1947. See 1942 Amendments.

1942—Subsecs. (e) and (f). Act Mar. 27, 1942, added former subsecs. (e) and (f) which related to powers of Commission in case of emergency and change, suspension, and waiver of orders, licenses, etc., and expired by their own terms on Mar. 31, 1947.

1940—Subsec. (a) (3). Act Sept. 18, 1940, § 20(b) (4), struck out reference to subsecs. (d) and (e) of this section and substituted reference to subsec. (c) of this section.

Subsec. (a) (4a). Act Sept. 18, 1940, § 19, added subsec. (a) (4a).

Subsec. (a) (7). Act Sept. 18, 1940, § 20(a), inserted provisions relating to inquiry into management of business of persons controlling or controlled by motor carriers and to obtaining necessary information from them.

Subsec. (b). Act Sept. 18, 1940, § 20(b), redesignated former subsec. (c) as (b), and also repealed former subsec. (b), which related to codes of fair competition under the former National Industrial Recovery Act.

Subsec. (c). Act Sept. 18, 1940, § 20(b), redesignated former subsec. (d) as (c), and also redesignated former subsec. (c) to be "(b)".

Subsec. (d). Act Sept. 18, 1940, § 20(b), redesignated former subsec. (f) as (d), and also redesignated former subsec. (d) to be "(c)".

Subsec. (e). Act Sept. 18, 1940, § 20(b), repealed subsec. (e) which related to reconsideration or rehearing by Commission.

Subsec. (f). Act Sept. 18, 1940, § 20(b), redesignated former subsec. (f) as (d).

1938—Subsec. (a) (6). Act June 29, 1938, omitted "other" following "enforce all".

Effective Date

Effective date of section, see section 327 of this title.

Transfer of Functions

All functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof under subsecs. (a) (3), (a) (3a), and (a) (5), and, to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment, under subsecs. (a) (1) and (a) (2) were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e) (6) (C) of this title.

Carriers of Migrant Farm Workers as Excepted from Exemption of Fair Labor Standards Act

Section 3 of act Aug. 3, 1956, provided that: "Section 13(b) (1) of the Fair Labor Standards Act, as amended [section 213(b) (1) of Title 29, Labor] shall not apply in the case of any employee with respect to whom the

Interstate Commerce Commission has power to establish qualifications and maximum hours of service solely by virtue of section 204(a)(3a) of the Interstate Commerce Act [subsection (a)(3a) of this section]."

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying subsections (a)(2) and (a)(3) of this section, see Pub. L. 86-613, § 17, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

EXPIRATION OF AMENDMENTS MADE BY ACT MAR. 27, 1942

Act Mar. 27, 1942, which amended section by adding subsecs. (e) and (f) expired by its own terms on Mar. 31, 1947.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

Foreign commerce defined, see section 303(a)(11) of this title.

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This secton is referred to in sections 1, 5, 302, 303, 305, 308, 309, 312, 1018, 1655 of this title and in title 29 section 213.

§ 304a. Actions for recovery of charges; limitation of actions; definition; effective date; actions by or against United States.

(1) All actions at law by common carriers by motor vehicle subject to this chapter for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(2) For recovery of reparations, action at law shall be begun against common carriers by motor vehicle subject to this chapter within two years from the time the cause of action accures, and not after, and for recovery of overcharges, action at law shall be begun against common carriers by motor vehicle subject to this part within three years from the time the cause of action accrues, and not after, subject to paragraph (3) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(3) If on or before expiration of the three-year period of limitation in paragraph (2) of this section a common carrier by motor vehicle subject to this chapter begins action under paragraph (1) of this section for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

(4) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(5) The term "reparations" as used in this section means damage resulting from charges for transportation services to the extent that the Commission, upon complaint made as provided in section 316(a) of this title, finds them to have been unjust and unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial.

(6) The term "overcharges" as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Commission.

(7) The provisions of this section shall apply only to cases in which the cause of action may accrue after June 29, 1949.

(8) The provisions of this section shall extend to and embrace all transportation of property or passengers for or on behalf of the United States in connection with any action brought before any court by or against carriers subject to this chapter: *Provided, however,* That with respect to such transportation of property or passengers for or on behalf of the United States the periods of limitation herein provided shall be extended to include three years from the date of (A) payment of charges for the transportation involved, or (B) subsequent refund for overpayment of such charges, or (C) deduction made under section 66 of this title, whichever is later. (Feb. 4, 1887, ch. 104, pt. II, § 204a, as added June 29, 1949, ch. 272, § 1, 63 Stat. 280, and amended Aug. 26, 1958, Pub. L. 85-762, § 1 (3), (4), 72 Stat. 860; Sept. 6, 1965, Pub. L. 89-170, § 6, 79 Stat. 651.)

AMENDMENTS

1965—Par. (2). Pub. L. 89-170, § 6(a), authorized the bringing of actions at law for recovery of reparations within 2 years from the time the cause of action accrues.

Par. (5). Pub. L. 89-170, § 6(b), added par. (5). Former par. (5) redesignated as par. (6).

Par. (6). Pub. L. 89-170, § 6(b), redesignated former par. (5) as par. (6). Former par. (6) redesignated as par. (7).

Par. (7). Pub. L. 89-170, § 6(b), designated former par. (6) as par. (7). Former par. (7) redesignated as par. (8).

Par. (8). Pub. L. 89-170, § 6(b), redesignated former par. (7) as par. (8)

1958—Pars. (1), (2), and (3). Pub. L. 85-762, § 1(3), substituted three-year limitations for the former two-year limitations.

Par. (7). Pub. L. 85-762, § 1(4), added par. (7).

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of this section by Pub. L. 85-762 applicable only to cause of action which accrues on or after Aug. 26, 1958, see note set out under section 16 of this title.

§ 305. Administration.

(a) Joint boards; composition; references of matters to boards.

The Commission shall, when operations of motor carriers or brokers conducted or proposed to be conducted involve not more than three States, and the Commission may, in its discretion, when operations of motor carriers or brokers conducted or proposed to be conducted involve more than three States, refer to a joint board for appropriate proceedings thereon, any of the following matters arising in the administration of this chapter with respect to such operations as to which a hearing is required or in the judgment of the Commission is desirable: Applications for certificates, permits, or licenses; the suspension, change, or revocation of such certificates, permits, or licenses; applications for the approval and authorization of consolidations, mergers, and acquisitions of control or operating contracts; complaints as to violations by motor carriers or brokers of the requirements established under section 304 (a) of this title;

and complaints as to rates, fares, and charges of motor carriers or the practices of brokers: *Provided, however,* That if the Commission is prevented by legal proceedings from referring a matter to a joint board, it may determine such matter as provided in section 17 of this title. The Commission, in its discretion, may also refer to a joint board any investigation and suspension proceeding or other matter not specifically mentioned above which may arise under this chapter. The joint board to which any such matter is referred shall be composed solely of one member from each State within which the motor-carrier or brokerage operations involved in such matter are or are proposed to be conducted: *Provided,* That the Commission may designate an examiner or examiners to advise with and assist the joint board under such rules and regulations as it may prescribe. In acting upon matters so referred, joint boards shall be vested with the same rights, duties, powers, and jurisdiction as are hereinbefore vested in members or examiners of the Commission to whom a matter is referred for hearing and the recommendation of an appropriate order thereon: *Provided, however,* That a joint board may, in its discretion, report to the Commission its conclusions upon the evidence received, if any, without a recommended order. Orders recommended by joint boards shall be filed with the Commission, and shall become orders of the Commission and become effective in the same manner, and shall be subject to the same procedure, as provided in the case of orders recommended by members or examiners under section 17 of this title. If a joint board to which any matter has been referred shall report its conclusions upon the evidence without a recommended order, such matter shall thereupon be decided by the Commission, giving such weight to such conclusions as in its judgment the evidence may justify.

(b) Creation of joint board; rules and procedure; nominations for membership; procedure on failure of board to act.

Whenever there arises in the administration of this chapter any matter that the Commission is required to refer to a joint board, or that the Commission determines, in its discretion, to refer to a joint board, the Commission shall, if no joint board eligible to consider said matter is in existence, create a joint board to consider the matter when referred, and to recommend appropriate order thereon. The Commission shall prescribe rules governing meetings and procedure of joint boards and may, in the event of legal proceedings preventing reference to a joint board, determine the matter as provided in section 17 of this title. Except as hereinafter provided, a joint board shall consist of a member from each State in which the motor carrier or brokerage operations involved are or are proposed to be conducted. The member from any such State shall be nominated by the board of such State from its own membership or otherwise; or if there is no board in such State or if the board of such State fails to make a nomination when requested by the Commission, then the Governor of such State may nominate such member. The Commission is authorized to appoint as a member upon the joint board any such nominee approved by it. If both the board and the Governor of any State shall fail to nominate a joint board member when requested, then the joint board shall be constituted without a member from such State, if members for two or more States shall have been nominated and approved by the Commission. All decisions and recommendations by joint boards shall be by majority vote: *Provided, however,* That in any matter where only one member shall participate in a hearing such member shall constitute a quorum and make recommendation of an order thereon. If the board of each State from which a member of a joint board is entitled to be appointed shall waive action on any matter referred to such joint board, or if any joint board fails or refuses to act, or is unable to agree upon any matter submitted to it within forty-five days after the matter is referred to it or such other period as the Commission may authorize, or if a member shall not be nominated for more than one State (except only when the operations proposed shall be into or through territory foreign to the United States), then such matter shall be decided as in the case of any matter not required to be referred to a joint board. The failure of a duly appointed member of a joint board to participate in any hearing on a matter referred to such joint board, after notice thereof, shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed, but shall not affect the duty and power of the remaining members or member of said joint board, if any, to proceed with said hearing, to consider such matter, and to make recommendation of an order thereon. When any proceeding required to be referred to a joint board shall involve operations of a motor carrier conducted or proposed to be conducted into or through territory foreign to the United States, if a single State shall be involved, or if only one State shall make nomination of a joint board member through its Governor or State board, then the Commission, in such case, may receive from that State the nomination of not more than three members and may appoint such nominees to constitute the joint board. Members of joint boards when administering the provisions of this part shall receive such allowances for travel and subsistence expenses as the Commission shall provide. A joint board shall continue in existence for the consideration of matters referred to it by the Commission until such time as its existence may be terminated by the Commission. A substitution of membership upon a joint board from any State may be made at any time by nomination and appointment in the same manner as an original nomination and appointment.

(c) Place of holding hearings.

Where practicable and as the Commission may by rule or order direct, hearings by any member, examiner, or joint board upon any matter referred to him or to such board shall be held at such places within the United States as are convenient to the parties.

(d) Oaths; attendance of witnesses and production of documents.

So far as may be necessary for the purposes of this chapter, the Commission and the members and examiners thereof and joint boards shall have the same power to administer oaths, and require by subpena the attendance and testimony of witnesses

and the production of books, papers, tariffs, contracts, agreements, and documents, and to take testimony by deposition, relating to any matter under investigation, as the Commission has in a matter arising under chapter 1 of this title; and any person subpenaed or testifying in connection with any matter under investigation under this chapter shall have the same rights, privileges, and immunities and be subject to the same duties, liabilities, and penalties as though such matter arose under chapter 1 of this title, unless otherwise provided in this chapter.

(e) Notice of proceedings and opportunity for hearing.

In accordance with rules prescribed by the Commission, reasonable notice shall be afforded, in connection with any proceeding under this chapter, to interested parties and to the board of any State, or to the governor if there be no board, in which the motor carrier operations involved in the proceeding are or are proposed to be conducted, and opportunity for intervention in any such proceeding for the purpose of making representations to the Commission or for participating in a hearing, if a hearing is held, shall be afforded to all interested parties.

(f) Joint hearings with State authorities; offices for boards and State commissions.

The Commission is authorized to confer with or to hold joint hearings with any authorities of any State in connection with any matter arising in any proceedings under this chapter. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities as fully as may be practicable, in the enforcement or administration of any provision of this chapter. In addition, the Commission is authorized to make cooperative agreements with the various States to enforce the economic and safety laws and regulations of the various States and the United States concerning highway transportation. From any space in the Interstate Commerce Commission Building not required by the Commission, the Government authority controlling the allocation of space in public buildings shall assign for the use of the national organization of the State commissions and of their representatives suitable office space and facilities which shall be at all times available for the use of joint boards created under this chapter and for members and representatives of such boards cooperating with the Commission or with any other Federal commission or department under this or any other Act; and if there be no such suitable space in the Interstate Commerce Commission Building, the same shall be assigned in some other building in convenient proximity thereto.

(g) Court review of Commission's orders; compelling Commission to take jurisdiction.

Any final order made under this chapter shall be subject to the same right of relief in court by any party in interest as is now provided in respect to orders of the Commission made under chapter 1 of this title: *Provided,* That where the Commission, in respect of any matter arising under this chapter, shall have issued a negative order solely because of a supposed lack of power, any such party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of Title 28 and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

(h) Application of section 17 of this title.

All the provisions of section 17 of this title shall apply to all proceedings under this chapter.

(i) Pecuniary interest in motor carrier under investigation forbidden.

No member or examiner of the Commission or member of a joint board shall hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in, any motor carrier or in any carrier by railroad, water, or other form of transportation.

(j) Employees, examiners, attorneys, etc.; authority to employ.

The Commission is authorized to employ, and to fix the compensation of, such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the effective administration of this chapter. (Feb. 4, 1887, ch. 104, pt. II, § 205, as added Aug. 9, 1935, ch. 498, 49 Stat. 548, and amended June 29, 1938, ch. 811, §§ 5—7, 52 Stat. 1237, 1238; Sept. 18, 1940, ch. 722, title I, § 20 (c, d), 54 Stat. 922, 923; May 24, 1949, ch. 139, § 133, 63 Stat. 108; July 26, 1949, ch. 361, 63 Stat. 479; Sept. 6, 1965, Pub. L. 89–170, § 1, 79 Stat. 648.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13 and 19 of this title.

AMENDMENTS

1965—Subsec. (f). Pub. L. 89–170 added provision authorizing the Commission to make cooperative agreements with the various states to enforce the economic and safety laws and regulations of the various states and the United States concerning highway transportation.

1949—Subsec. (b). Act July 26, 1949, clarified the jurisdiction of the board where some members are not present, and permitted the members present to proceed with the hearing, and to make its decision and recommendation to the Commission.

Subsec. (g). Act May 24, 1949, substituted "section 2284 of Title 28" for the "Urgent Deficiency Appropriation Act, October 22, 1913".

1940—Subsec. (a). Act Sept. 18, 1940, § 20(c), redesignated former subsec. (b) as (a).

Former subsec. (a), repealed by act Sept. 18, 1940, § 20 (c), related to procedure on hearings by Commission and referred hearings by Commission member or examiner, and is now covered by section 17 of this title.

Subsec. (b). Act Sept. 18, 1940, § 20 (c) and (d) redesignated former subsec. (c) as (b). Former subsec. (b) redesignated "(a)" by section 20(c) of act Sept. 18, 1940.

Subsec. (c)—(j). Act Sept. 18, 1940, § 20(c), redesignated former subsecs. (d)—(k) as (c)—(j) respectively.

1938—Subsec. (a). Act June 29, 1938, § 5, inserted provision relating to hearing of matters which in the judgment of the Commission are desirable for determination.

Subsec. (b). Act June 29, 1938, § 6 (a, b), amended subsec. (b) as follows: Section 6(a) of the act inserted in first sentence provision relating to required or desirable hearings. Section 6(b) of the act, among other changes, inserted proviso relating to discretionary report of joint board without recommendation, and added provision for decision by Commission of matter reported by joint board without recommendation.

Subsec. (f). Act June 29, 1938, § 7, inserted provisions relating to opportunity to make representations to Commission by intervenors or for participation in hearing.

MOTOR CARRIER CLAIMS COMMISSION

Acts July 2, 1948, ch. 808, 62 Stat. 1222; Aug. 13, 1948, ch. 835, 62 Stat. 1289; May 24, 1949, ch. 138, title I, § 101, 63 Stat. 80; Oct. 10, 1949, ch. 662, title I, § 101, 63 Stat. 743; July 11, 1951, ch. 220, 65 Stat. 116, which created a commission to hear and determine claims against the United States arising out of the taking of possession and control of motor-carrier transportation systems, were repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 654.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Motor carrier construed, see section 304(a)(3), (3a) of this title.

Unifications, mergers, and acquisition of control, notice of application for, see section 5(2)(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5, 17, 302, 303, 304 of this title.

§ 305a. Joint Board, transportation requests.

Joint Board members may use Government transportation requests when traveling in connection with their duties as Joint Board members. (Pub. L. 91-168, title II, § 201, Dec. 26, 1969, 83 Stat. 461.)

CODIFICATION

Section was not enacted as a part of part II of the Interstate Commerce Act, which comprises this chapter.

SIMILAR PROVISIONS

Section was from the Department of Transportation and Related Agencies Appropriation Act, 1970. Similar provisions were contained in the following acts:

1968—Oct. 4, 1968, Pub. L. 90-550, title I, § 101, 82 Stat. 944.
1967—Nov. 3, 1967, Pub. L. 90-121, title I, § 101, 81 Stat. 349.
1966—Sept. 6, 1966, Pub. L. 89-555, title I, § 101, 80 Stat. 675.
1965—Aug. 16, 1965, Pub. L. 89-128, title I, § 101, 79 Stat. 533.
1964—Aug. 30, 1964, Pub. L. 88-507, title I, § 101, 78 Stat. 657.
1963—Dec. 19, 1963, Pub. L. 88-215, title I, § 101, 77 Stat. 439.
1962—Oct. 3, 1962, Pub. L. 87-741, title I, § 101, 76 Stat. 730.
1961—Aug. 17, 1961, Pub. L. 87-141, title I, § 101, 75 Stat. 354.
1960—July 12, 1960, Pub. L. 86-826, title I, § 101, 74 Stat. 435.
1959—Sept. 14, 1959, Pub. L. 86-225, title I, § 101, 73 Stat. 509.
1958—Aug. 28, 1958, Pub. L. 85-844, title I, § 101, 72 Stat. 1071.
1957—June 29, 1957, Pub. L. 85-69, title I, § 101, 71 Stat. 233.
1956—June 27, 1956, ch. 452, title I, § 101, 70 Stat. 346.
1955—June 30, 1955, ch. 244, title I, § 101, 69 Stat. 207.
1954—June 24, 1954, ch. 359, title I, § 101, 68 Stat. 284.
1953—July 31, 1953, ch. 302, title I, § 101, 67 Stat. 308.
1952—July 5, 1952, ch. 578, title I, § 101, 66 Stat. 404.
1951—Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 276.
1950—Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 710.
1949—Aug. 24, 1949, ch. 506, title I, § 101, 63 Stat. 645.
1948—Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 187.
1947—July 30, 1947, ch. 359, title I, § 101, 61 Stat. 598.
1946—Mar. 28, 1946, ch. 113, title I, § 101, 60 Stat. 71.
1945—May 3, 1945, ch. 106, title I, § 101, 59 Stat. 120.
1944—June 27, 1944, ch. 286, title I, § 101, 58 Stat. 373.
1943—June 26, 1943, ch. 145, title I, § 101, 57 Stat. 183.
1942—June 27, 1942, ch. 450, § 1, 56 Stat. 413.
1941—Apr. 5, 1941, ch. 40, § 1, 55 Stat. 114.
1940—Apr. 18, 1940, ch. 107, § 1, 54 Stat. 133.
1939—Mar. 16, 1939, ch. 11, § 1, 53 Stat. 534.
1938—May 23, 1938, ch. 259, § 1, 52 Stat. 420.
1937—June 28, 1937, ch. 396, § 1, 50 Stat. 338.
May 14, 1937, ch. 179, 50 Stat. 136.

§ 306. Certificate of convenience and necessity.

(a) Necessity for; carriers in bona fide operation on June 1, 1935; traffic moving to and from Territories and possessions; "grandfather" provisions.

(1) Except as otherwise provided in this section and in section 310a of this title, no common carrier by motor vehicle subject to the provisions of this chapter shall engage in any interstate or foreign operations on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however,* That, subject to section 310 of this title, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instances as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate was made to the Commission as provided in subsection (b) of this section and within one hundred and twenty days after October 1, 1935, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operations to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 307(a) of this title and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful.

(2) Unless otherwise specifically indicated in such certificate, the holder of any certificate heretofore issued under this chapter, or hereafter issued under this chapter pursuant to an application filed on or before September 1, 1950, authorizing the holder thereof to engage as a common carrier by motor vehicle in the transportation in interstate or foreign commerce of passengers or property over any route or routes or within any territory, may without making application under this section engage, to the same extent and subject to the same terms, conditions, and limitations, as a common carrier by motor vehicle in the transportation of passengers or property, as the case may be, over such route or routes or within such territory, in commerce between places in the United States and places in Territories or possessions of the United States.

(3) Subject to the provisions of section 310 of this title, if any person (or its predecessor in interest) was in bona fide operation on March 1, 1950, over

any route or routes or within any territory, as a common carrier engaged in the transportation of passengers or property by motor vehicle in commerce between any place in the United States and any place in a Territory or possession of the United States, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on March 1, 1950, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Commission shall issue a certificate authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after September 1, 1950. Pending the determination of any such application, the continuance of such operation without a certificate shall be lawful. Any carrier which, on September 1, 1950, is engaged in an operation of the character specified in the foregoing provisions of this subparagraph, but was not engaged in such operation on March 1, 1950, may under such regulations as the Commission shall prescribe, if application for a certificate is made to the Commission within one hundred and twenty days after September 1, 1950, continue such operation without a certificate pending the determination of such application in accordance with section 307 (a) of this title.

(4) Subject to the provisions of section 310 of this title, any common carrier by motor vehicle which, on July 12, 1960, is the holder of a certificate or certificates described in paragraph (2) of this subsection or issued under paragraph (3) of this subsection or section 307(a) of this title, authorizing transportation by motor vehicle between places in the United States of passengers or property in commerce between the United States and the Territory of Alaska, and on August 26, 1958, it or its predecessor in interest was engaged in the transportation of passengers or property as a common carrier by motor vehicle between places in the United States and places in Alaska, and such operations have been continued since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which the carrier or its predecessor in interest had no control, shall be issued a certificate authorizing transportation to or from the points or areas in Alaska served by it, from or to all points in the other States of the United States designated in the above-mentioned certificate or certificates held by the carrier, of passengers or the class or classes of commodities specified therein, to the extent that under the said certificate or certificates the carrier, prior to the date of admission of Alaska into the Union, was authorized to perform within the States all transportation required for through motor vehicle transportation by the carrier to or from places in the Territory of Alaska, without requiring further proof that public convenience and necessity will be served thereby and without further proceedings, if application for such certificate is made to the Commission as provided herein on or before December 31, 1960. Pending the determination of such application, the continuance of such operations without a certificate shall be lawful. Applications for certificates under this paragraph shall be made in writing to the Commission and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as shall be required by the Commission.

(5) Subject to the provisions of section 310 of this title, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any route or routes, or in any area or areas, as a common carrier engaged in the transportation in interstate or foreign commerce of passenges or property by motor vehicle between places in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operation in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a certificate shall be issued authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceeding, if application for such certificate is made as provided herein on or before December 31, 1960: *Provided, however,* That common carriers of passengers by motor vehicle shall as a condition precedent to the establishment of rights hereunder show compliance with the applicable acts of the Territory of Alaska, and the rules and regulations of the Alaska Bus Commission. Pending the determination of any such application the continuance of such operation without a certificate shall be lawful. Applications for certificates under this paragraph shall be made to the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require.

(6) On and after October 15, 1962 no certificate of public convenience and necessity under this chapter shall be required for operations in interstate or foreign commerce by a common carrier by motor vehicle operating solely within a single State and not controlled by, controlling, or under a common control with any carrier engaged in operations outside such State, if such carrier has obtained from the commission of such State authorized to issue such certificates, a certificate of public convenience and necessity authorizing motor vehicle common carrier operations in intrastate commerce and such certificate recites that it was issued after notice to interested persons through publication in the Federal Register of the filing of the application and of the desire of the applicant also to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority granted, that reasonable opportunity was afforded interested persons to be heard, that the State commission has duly considered the question of the

proposed interstate and foreign operations and has found that public convenience and necessity require that the carrier authorized to engage in intrastate operations also be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized to be conducted. Such operations in interstate and foreign commerce shall, however, be subject to all other applicable requirements of this and the regulations prescribed hereunder. Such rights to engage in operations in interstate or foreign commerce shall be evidenced by appropriate certificates of registration issued by the Commission which shall be valid only so long as the holder is a carrier engaged in operations solely within a single State, not controlled by, controlling, or under a common control with a carrier engaged in operations outside such State, and except as provided in section 5 of this title and in the conditions and limitations stated herein, may be transferred pursuant to such rules and regulations as may be prescribed by the Commission, but may not be transferred apart from the transfer of the corresponding intrastate certificate, and the transfer of the intrastate certificate without the interstate or foreign rights shall terminate the right to engage in interstate or foreign commerce. The termination, restriction in scope, or suspension of the intrastate certificate shall on the 180th day thereafter terminate or similarly restrict the right to engage in interstate or foreign commerce unless the intrastate certificate shall have been renewed, reissued, or reinstated or the restrictions removed within said one hundred eighty-day period. Such rights shall be subject to suspension or termination by the Commission in accordance with the provisions of this governing the suspension and termination of certificates issued by the Commission. The Commission may impose reasonable requirements with respect to the filing with it of certified copies of such State certificates and other appropriate statements and data, and compliance with applicable requirements established by and under the authority of statutes applicable to interstate and foreign operations administered by the Commission as conditions precedent to engaging in interstate and foreign operations under the authority of such State certificate. In accordance with such reasonable rules as may be prescribed by the Commission, any party in interest, who or which opposed in the State commission proceeding the authorization of operations in interstate or foreign commerce, may petition the Commission for reconsideration of the decision of the State commission authorizing operations in interstate or foreign commerce, and upon such reconsideration upon the record made before the State commission, the Commission may affirm, reverse, or modify the decision of the State commission, but only with respect to the authorization of operations in interstate and foreign commerce.

(7) (A) In the case of any person who or which on October 15, 1962, was in operation solely within a single State as a common carrier by motor vehicle in intrastate commerce (excluding persons controlled by, controlling, or under a common control with, a carrier engaged in operations outside such State), and who or which was also lawfully engaged in such operations in interstate or foreign commerce under the certificate exemption provisions of the second proviso of paragraph (1) of this subsection, as in effect immediately before October 15, 1962, or who or which would have been so lawfully engaged in such operations but for the pendency of litigation to determine the validity of such person's intrastate operations to the extent such litigation is resolved in favor of such person, and has continued to so operate since October 15, 1962 (or if engaged in furnishing seasonal service only, was lawfully engaged in such operations in the year 1961 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person had no control, the Commission shall issue to such person a certificate of registration authorizing the continuance of such transportation in interstate and foreign commerce if application and proof of operations are submitted as provided in this subsection. Such certificate of registration shall not exceed in scope the services authorized by the State certificate to be conducted in intrastate commerce, and shall be subject to the same terms, conditions, and limitations as are contained in or attached to the State certificate except to the extent that such terms, conditions, or limitations are inconsistent with the requirements established by or under this Act. If the effectiveness of the State certificate is limited to a specified period of time, the certificate of registration issued under this paragraph (7) shall be similarly limited. Operations in interstate and foreign commerce under such certificates of registration shall be subject to all other applicable requirements of this and the regulations prescribed hereunder. Certificates of registration shall be valid only so long as the holder is a carrier engaged in operation solely within a single State, not controlled by, controlling, or under a common control with a carrier engaged in operation outside such State, and except as provided in section 5 of this title and in the conditions and limitations stated herein, may be transferred pursuant to such rules and regulations as may be prescribed by the Commission, but may not be transferred apart from the transfer of the corresponding intrastate certificate, and the transfer of the intrastate certificate without the interstate or foreign rights shall terminate the right to engage in interstate or foreign commerce. The termination, restriction in scope, or suspension of the intrastate certificate shall on the 180th day thereafter terminate or similarly restrict the right to engage in interstate or foreign commerce unless the intrastate certificate shall have been renewed, reissued, or reinstated or the restrictions removed within said one hundred and eighty-day period. Such certificates of registration shall be subject to suspension or termination by the Commission in accordance with the provisions of this Act governing the suspension and termination of certificates of public convenience and necessity issued by the Commission.

(B) All rights to engage in operations in interstate and foreign commerce under the provisions of the

second proviso of paragraph (1) of this subsection, as in effect immediately before October 15, 1962, shall cease and terminate, but any carrier lawfully engaged in interstate and foreign operations on October 15, 1962, or any carrier who would have been so lawfully engaged in such operations but for the pendency of litigation to determine the validity of such person's intrastate operations to the extent such litigation is resolved in favor of such person, pursuant to such provisions, may continue such operations for 120 days after October 15, 1962, and, if an appropriate application for a certificate of registration is filed within such period, such operations may be continued pending the determination of such application. The Commission shall prescribe the form of such application, the information and documents to be furnished, the manner of filing, and the persons to whom or the manner of giving notice to interested persons of such filings. Issues arising in the determination of such applications shall be determined in the most expeditious manner and, so far as practicable and legally permissible, without formal hearings or other proceedings. A notice of intent to engage in interstate and foreign operations accompanied by certified copies of effective, lawfully issued or acquired State certificates filed with the Commission as evidence of authority to operate in interstate or foreign commerce under the provisions of the second proviso of paragraph (1) of this subsection, as in effect immediately before October 15, 1962, shall be conclusive proof that the applicant is lawfully engaged in interstate and foreign operations and the scope thereof.

(b) Application for certificate; form and contents.

Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulation, require. Any person, not included within the provisions of subsection (a) of this section, who or which is engaged in transportation in interstate or foreign commerce as a common carrier by motor vehicle on October 1, 1935 may continue such operation for a period of one hundred and twenty days thereafter without a certificate and, if application for such certificate is made to the Commission within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission. (Feb. 4, 1887, ch. 104, pt. II, § 206, as added Aug. 9, 1935, ch. 498, 49 Stat. 551, and amended June 29, 1938, ch. 811, § 8, 52 Stat. 1238; Sept. 18, 1940, ch. 722, title I, § 20(e), 54 Stat. 923; Sept. 1, 1950, ch. 835, § 2, 64 Stat. 574; July 12, 1960, Pub. L. 86-615, § 1, 74 Stat. 382; Oct. 15, 1962, Pub. L. 87-805, §§ 1, 2, 76 Stat. 911.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a) (6), (7) (A), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13, and 19 of this title.

For second proviso of par. (1) of subsec. (a), as in effect immediately before Oct. 15, 1962, referred to in subsec. (a)(7) (A), (B), see 1962 Amendment note below.

AMENDMENTS

1962—Subsec. (a)(1). Pub. L. 87-805, § 1, deleted at the end of the par. *"And provided further,* That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this chapter."

Subsec. (a) (6), (7). Pub. L. 87-805, § 2, added pars. (6) and (7).

1960—Subsec. (a). Pub. L. 86-615 added pars. (4) and (5).

1950—Subsec. (a). Act Sept. 1, 1950, inserted "(1)" after "(a)" and added subpars. (2) and (3).

1940—Subsec. (a). Act Sept. 18, 1940, inserted "and has so operated since that time" preceding "except in either instance", in first sentence.

1938—Subsec. (a). Act June 29, 1938, inserted exception clause at beginning of subsec.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 4 of act Sept. 1, 1950, provided in part that the amendment of subsec. (a) by section 2 of act Sept. 1, 1950, shall take effect on Sept. 1, 1950.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 308, 312, 322, 1655 of this title.

§ 307. Issuance of certificate.

(a) Issuance authorized to qualified applicants for regular routes and between fixed termini.

Subject to section 310 of this title, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however,* That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

(b) Certificate not to confer proprietary or property rights in highway.

No certificate issued under this chapter shall confer any proprietary or property rights in the use of the public highways. (Feb. 4, 1887, ch. 104, pt. II, § 207, as added Aug. 9, 1935, ch. 498, 49 Stat. 551.)

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 308, 1655 of this title.

§ 308. Terms and conditions of certificate.

(a) Specification of routes and termini; extension of routes; restriction on additions to equipment.

Any certificate issued under section 306 or 307 of this title shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under section 304 (a) (1) and (6) of this title: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require.

(b) Deviation from route.

A common carrier by motor vehicle operating under any such certificate may occasionally deviate from the route over which, and/or the fixed termini between which, it is authorized to operate under the certificate, under such general or special rules and regulations as the Commission may prescribe.

(c) Transportation of special or chartered parties; date of filing or reissuance of certificate.

Any common carrier by motor vehicle transporting passengers under a certificate issued under this part pursuant to an application filed on or before January 1, 1967, or under any reissuance of the operating rights contained in such certificate, may transport in interstate or foreign commerce to any place special or chartered parties under such rules and regulations as the Commission shall have prescribed.

(d) Transportation of baggage, newspapers, express, or mail.

A certificate for the transportation of passengers may include authority to transport in the same vehicle with the passengers, newspapers, baggage of passengers, express, or mail, or to transport baggage of passengers in a separate vehicle. (Feb. 4, 1887, ch. 104, pt. II, § 208, as added Aug. 9, 1935, ch. 498, 49 Stat. 552; Nov. 10, 1966, Pub. L. 89-804, 80 Stat. 1521.)

AMENDMENTS

1966—Pub. L. 89-804 limited transportation of special or chartered parties, under rules and regulations the Commission has prescribed, where the certificate of a common carrier was issued under this part pursuant to an application filed on or before January 1, 1967, or where there has been a reissuance of the operating rights contained in such certificate.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

§ 309. Contract carriers by motor vehicle.

(a) Permit to operate; carriers in bona fide operation on July 1, 1935; laws relating to national parks and monuments unaffected; traffic moving to and from Territories and possessions; "grandfather" provisions.

(1) Except as otherwise provided in this section and in section 310a of this title, no person shall engage in the business of a contract carrier by motor vehicle in interstate or foreign commerce on any public highway or within any reservation under the exclusive jurisdiction of the United States unless there is in force with respect to such carrier a permit issued by the Commission, authorizing such person to engage in such business: *Provided,* That, subject to section 310 of this title, if any such carrier or a predecessor in interest was in bona fide operation as a contract carrier by motor vehicle on July 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or, if engaged in furnishing seasonal service, only, was in bona fide operation on July 1, 1935, during the season ordinarily covered by its operations, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such permit, without further proceedings, if application for such permit was made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after October 1, 1935, and if such carrier was registered on July 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such permit. Otherwise the application for such permit shall be decided in accordance with the procedure provided for in paragraph (b) of this section and such permit shall be issued or denied accordingly. Pending determination of any such application the continuance of such operation shall be lawful. Any person, not included within the foregoing provisions of this paragraph, who or which is engaged in transportation as a contract carrier by motor vehicle on October 1, 1935, may continue such operation for a period of one hundred and twenty days thereafter without a permit and, if application for such permit is made within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission: *Provided further,* That nothing in this chapter shall be construed to repeal, amend, or otherwise modify any act or acts relating to national parks and national monuments under the administrative jurisdiction of the Secretary of the Interior, or to withdraw such authority or control as may by law be held by the Secretary of the Interior with respect to the admission and operation of motor vehicles in any national park or national monument of the United States.

(2) Unless otherwise specifically indicated in such permit, the holder of any permit heretofore issued under this chapter, or hereafter issued under this chapter pursuant to an application filed on or before September 1, 1950, authorizing the holder thereof to engage as a contract carrier by motor vehicle in the transportation in interstate or foreign commerce of

passengers or property over any route or routes or within any territory, may without making application under this chapter engage, to the same extent and subject to the same terms, conditions, and limitations, as a contract carrier by motor vehicle in the transportation of passengers or property, as the case may be, over such route or routes or within such territory, in commerce between places in the United States and places in Territories or possessions of the United States.

(3) Subject to the provisions of section 310 of this title, if any person (or its predecessor in interest) was in bona fide operation on March 1, 1950, over any route or routes or within any territory, as a contract carrier engaged in the transportation of passengers or property by motor vehicle in commerce between any place in the United States and any place in a Territory or possession of the United States, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on March 1, 1950, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Commission shall issue a permit authorizing such operations without further proceedings, if application for such permit is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after September 1, 1950. Pending the determination of any such application, the continuance of such operation without a permit shall be lawful. Any carrier which, on September 1, 1950, is engaged in an operation of the character specified in the foregoing provisions of this subparagraph, but was not engaged in such operation on March 1, 1950, may under such regulations as the Commission shall prescribe, if application for a permit is made to the Commission within one hundred and twenty days after September 1, 1950, continue such operation without a permit pending the determination of such application in accordance with subsection (b) of this section.

(4) Subject to the provisions of section 310 of this title, any contract carrier by motor vehicle which, on July 12, 1960, is the holder of a permit or permits described in paragraph (2) of this subsection or issued under paragraph (3) of this subsection or under subsection (b) of this section, authorizing transportation by motor vehicle between places in the United States of passengers or property in commerce between the United States and the Territory of Alaska, and on August 26, 1958, it or its predecessor in interest was engaged in the transportation of passengers or property as a contract carrier by motor vehicle between places in the United States and places in Alaska, and such operations have been continued since that time (or if engaged in the furnishing of seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which the carrier or its predecessor in interest had no control, shall be issued a permit authorizing transportation to or from the points or areas in Alaska served by it, from or to all points in the other States of the United States designated in the above-mentioned permit or permits held by the carrier, of passengers or the class or classes of commodities specified therein, to the extent that under the said permit or permits the carrier, prior to the date of admission of Alaska into the Union, was authorized to perform within the United States all transportation required for through motor vehicle transportation by the carrier to or from places in the Territory of Alaska, without further proceedings, if application for such permit is made to the Commission as provided herein on or before December 31, 1960. Pending the determination of such application, the continuance of such operation without a permit shall be lawful. Applications for permits under this paragraph shall be made in writing to the Commission and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as shall be required by the Commission.

(5) Subject to the provisions of section 310 of this title, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any route or routes, or in any area or areas, as a contract carrier engaged in the transportation in interstate or foreign commerce of passengers or property by motor vehicle between places in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations without further proceedings, if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operation without a permit shall be lawful. Applications for permits under this paragraph shall be made to the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require.

(b) Application for permit; form and contents; issuance of permit; terms and conditions.

Applications for such permits shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission may, by regulations, require. Subject to section 310 of this title, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the applications or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this chapter and the lawful requirements, rules, and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit,

will be consistent with the public interest and the national transportation policy declared in this Act; otherwise such application shall be denied. In determining whether issuance of a permit will be consistent with the public interest and the national transportation policy declared in this Act, the Commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed, the effect which granting the permit would have upon the services of the protesting carriers and the effect which denying the permit would have upon the applicant and/or its shipper and the changing character of that shipper's requirements. The Commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and it shall attach to it at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, and limitations, consistent with the character of the holder as a contract carrier, including terms, conditions and limitations respecting the person or persons and the number or class thereof for which the contract carrier may perform transportation service, as may be necessary to assure that the business is that of a contract carrier and within the scope of the permit, and to carry out with respect to the operation of such carrier the requirements established by the Commission under section 304(a) (2) and (6) of this title: *Provided,* That within the scope of the permit and any terms, conditions or limitations attached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require: *Provided further,* That no terms, conditions or limitations shall be imposed in any permit issued on or before August 22, 1957 which shall restrict the right of the carrier to substitute similar contracts within the scope of such permit; or to add contracts within the scope of such permit unless upon investigation on its own motion or petition of an interested carrier the Commission shall find that the scope of the additional operations of the carrier is not confined to those of a contract carrier as defined in section 303(a)(15) of this title, as in force on and after August 22, 1957. (Feb. 4, 1887, ch. 104, pt. II, § 209, as added Aug. 9, 1935, ch. 498, 49 Stat. 552, and amended June 29, 1938, ch. 811, § 9, 52 Stat. 1238; Sept. 18, 1940, ch. 722, title I, § 16, 54 Stat. 919; Sept. 1, 1950, ch. 835, § 3, 64 Stat. 575; Aug. 22, 1957, Pub. L. 85-163, § 2, 71 Stat. 411; July 12, 1960, Pub. L. 86-615, § 2, 74 Stat. 383.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13 and 19 of this title.

National transportation policy declared in this Act, referred to in subsec. (b), see note preceding section 301 of this title.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-615 added pars. (4) and (5).

1957—Subsec. (b). Pub. L. 85-163 required that when Commission issues permits, it consider number of shippers to be served, nature of service proposed, and effect of granting or denying permit, and provided that no terms, conditions, or limitations be imposed in a permit issued on or after August 22, 1957 which would restrict the right to substitute or add similar contracts within its scope, unless the Commission finds that the scope of the additional operations is not confined to those of a contract carrier as defined in section 303(a)(15) of this title.

1950—Subsec. (a). Act Sept. 1, 1950, inserted "(1)" after "(a)" and added subpars. (2) and (3).

1940—Subsec. (b). Act Sept. 18, 1940, inserted provision relating to the national transportation policy declared in the Interstate Commerce Act.

1938—Subsec. (a). Act June 29, 1938, inserted "Except as otherwise provided in this section and in section 310a of this title" at beginning of first sentence.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 4 of act Sept. 1, 1950, provided in part that the amendment of subsec. (a) by section 3 of act Sept. 1, 1950, shall take effect on Sept. 1, 1950.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 312, 322, 1655 of this title.

§ 310. Dual operations.

Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the national transportation policy declared in this Act—

(1) no person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and

(2) no person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory.

(Feb. 4, 1887, ch. 104, pt. II, § 210, as added Aug. 9, 1935, ch. 498, 49 Stat. 554, and amended Sept. 18, 1940, ch. 722, title I, §§ 16, 21(a), 54 Stat. 919, 923.)

REFERENCES IN TEXT

The national transportation policy declared in this act, referred to in open par., is set out as a note preceding section 301 of this title.

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13 and 19 of this title.

AMENDMENTS

1940—Act Sept. 18, 1940, inserted provisions relating to persons controlling, controlled by, or under common control.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 306, 307, 308, 309, 312 of this title.

§ 310a. Temporary authority.

(a) To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier or a contract carrier by motor vehicle, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of one hundred and eighty days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

(b) Pending the determination of an application filed with the Commission for approval of a consolidation or merger of the properties of two or more motor carriers, or of a purchase, lease, or contract to operate the properties of one or more motor carriers, the Commission may, in its discretion, and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of the operation of the motor carrier properties sought to be acquired by the person proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

(c) Transportation service rendered under such temporary authority shall be subject to all applicable provisions of this chapter and to the rules, regulations, and requirements of the Commission thereunder. (Feb. 4, 1887, ch. 104, pt. II, § 210a, as added June 29, 1938, ch. 811, § 10, 52 Stat. 1238, and amended Sept. 18, 1940, ch. 722, title I, § 21 (b), 54 Stat. 923; Mar. 27, 1942, ch. 199, title I, § 102, 56 Stat. 177.)

AMENDMENTS

1942—Subsec. (a). Act Mar. 27, 1942, struck out "but for not more than an aggregate of one hundred and eighty days" following "specify" in second sentence. This amendment expired by its own terms on Mar. 31, 1947, and the words were restored.

1940—Subsec. (b). Act Sept. 18, 1940, struck out "as contemplated in section 313 (a) of this title" following "one or more motor carriers,".

EXPIRATION OF AMENDMENT BY ACT MAR. 27, 1942

Act Mar. 27, 1942, which amended subsec. (a) by striking out the words "but for not more than an aggregate of one hundred and eighty days" following "specify" in the second sentence expired by its own terms on Mar. 31, 1947.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 309, 312, 1655 of this title.

§ 311. Motor transportation brokers.

(a) License required.

No person shall for compensation sell or offer for sale transportation subject to this chapter or shall make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, unless such person holds a broker's license issued by the Commission to engage in such transactions: *Provided, however,* That no such person shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who or which is not the lawful holder of an effective certificate or permit issued as provided in this chapter: *And provided further,* That the provisions of this paragraph shall not apply to any carrier holding a certificate or a permit under the provisions of this chapter or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express, or water.

(b) Issuance of license; brokers in operation prior to enactment of section.

A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the license, is, or will be consistent with the public interest and the national transportation policy declared in this Act; otherwise such application shall be denied. Any broker in operation on October 1, 1935 may continue such operation for a period of one hundred and twenty days thereafter without a license, and if application for such license is made within such period, the broker may, under such regulations as the Commission shall prescribe, continue such operations until otherwise ordered by the Commission.

(c) Rules and regulations; bond or other security required.

The Commission shall prescribe reasonable rules and regulations for the protection of travelers or shippers by motor vehicle, to be observed by any person holding a brokerage license, and no such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the Commission, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements, or arrangements therefor.

(d) Inspection of accounts, records, etc.

The Commission and its special agents and examiners shall have the same authority as to accounts, reports, and records, including inspection and preservation thereof, of any person holding a brokerage license issued under the provisions of this section, that they have under this chapter with respect to motor carriers subject thereto. (Feb. 4, 1887, ch. 104, pt. II, § 211, as added Aug. 9, 1935, ch. 498, 49 Stat. 554, and amended Sept. 18, 1940, ch. 722, title I, § 16, 54 Stat. 919.)

REFERENCES IN TEXT

The national transportation policy declared in this act, referred to in subsec. (b), is set out as a note preceding section 301 of this title.

This Act, referred to in subsec. (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13, and 19 of this title.

AMENDMENTS

1940—Subsec. (b). Act Sept. 18, 1940, substituted "the National transportation policy declared in the Interstate Commerce Act" for "the policy declared in section 302 (a) of this title."

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 312, 322, 1655 of this title.

§ 312. Suspension, change, revocation and transfer of certificates, permits, and licenses.

(a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this chapter, or with any lawful order, rule, or regulation promulgated thereunder, or with any term, condition, or limitation of such certificate, permit, or license: *Provided, however,* That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order made as provided in section 304(c) of this title, commanding obedience to the provision of this chapter, or to the rule or regulation thereunder, or to the term, condition, or limitation of such certificate, permit, or license found by the Commission to have been violated by such holder: *And provided further,* That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of sections 306, 309, or 311 of this title, or by virtue of the second proviso of section 306(a) of this title or temporary authority under section 310a of this title, may be suspended by the Commission, upon reasonable notice of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of sections 311(c), 317(a), or 318(a) of this title or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

(b) Except as provided in section 5 of this title, any certificate or permit may be transferred, pursuant to such rules and regulations as the Commission may prescribe.

(c) The Commission shall examine each outstanding permit and may within one hundred and eighty days after August 22, 1957 institute a proceeding either upon its own initiative, or upon application of a permit holder actually in operation or upon complaint of an interested party, and after notice and hearing revoke a permit and issue in lieu thereof a certificate of public convenience and necessity, if it finds, first, that any person holding a permit whose operations on August 22, 1957 do not conform with the definition of a contract carrier in section 303 (a) (15) of this title as in force on and after August 22, 1957; second, are those of a common carrier; and, third, are otherwise lawful. Such certificate so issued shall authorize the transportation, as a common carrier, of the same commodities between the same points or within the same territory as authorized in the permit. (Feb. 4, 1887, ch. 104, pt. II, § 212, as added Aug. 9, 1935, ch. 498, 49 Stat. 555, and amended June 29, 1938, ch. 811, § 11, 52 Stat. 1238; Sept. 18, 1940, ch. 722, title I, § 21 (c, d), 54 Stat. 924; Aug. 22, 1957, Pub. L. 85-163, § 1(3), 71 Stat. 411; Oct. 15, 1966, Pub. L. 89-670, § 8(d), 80 Stat. 943.)

REFERENCES IN TEXT

The second proviso of section 306(a) of this title, referred to in subsec. (a), was eliminated by Pub. L. 87-805, Oct. 15, 1962, § 1, 76 Stat. 911.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-670 struck out provisions naming the Commission as the sole source for the promulgation of the orders, rules, and regulations the willful violation of which may serve as the basis for the suspension, change, revocation, or transfer of certificates, permits, or licenses by the Commission.

1957—Subsec. (c). Pub. L. 85-163 added subsec. (c).

1940—Subsec. (a). Act Sept. 18, 1940, § 21(c), substituted "section 304(c) of this title" for "section 304(d) of this title".

Subsec. (b). Act Sept. 18, 1940, § 21(d), substituted "section 5" for "section 313".

1938—Subsec. (a). Act June 29, 1938, added "suspended or" in the first sentence, substituted "thirty days" for "ninety days" in the first proviso, and added the second proviso.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89-670 effective 90 days after the Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as the President prescribes and publishes in the Federal Register, see section 15(a) of Pub. L. 89-670, set out in the note under section 1651 of this title.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 313. Validity and perfection of certain security interests in motor vehicles.

(a) As used in this section the term—

(1) "debtor carrier" means every common or contract carrier having a certificate of public convenience and necessity or permit issued under this

Act who owes payment or performance of an obligation secured by a security interest.

(2) "home State" means the State of the United States, or the District of Columbia, where the principal place of business of the debtor carrier is located.

(3) "lien creditor" means a creditor who has acquired a lien on the motor vehicle involved by attachment, levy, or the like, and includes an assignee for benefit of creditors from the time of assignment, a trustee in bankruptcy from the date of the filing of the petition in bankruptcy, and a receiver in equity from the time of his appointment.

(4) "perfection" in connection with a security interest means the taking of the steps (including but not limited to public filing, recording, notation on a certificate of title, or possession of collateral by the secured party), or the existence of the facts, required by applicable law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor carrier, but does not include any reference to compliance with requirements, if any, as to capacity, authority, form of instruments, value, consideration, good faith, and other matters which go only to the creation of a valid security interest as between the debtor carrier and the secured party.

(5) "security interest" means an interest (including but not limited to an interest created by a conditional sale contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle owned by, or the possession and use of which vehicle has been transferred to, a debtor carrier, which interest secures payment or performance of an obligation of the debtor carrier.

(6) "motor vehicle" means any truck having a rated capacity (gross vehicle weight) of ten thousand pounds or more; any highway tractor having a rated capacity (gross combination weight) of ten thousand pounds or more; or any property-carrying trailer or semitrailer having one or more load-carrying axles of ten thousand pounds or more; or any motor bus having a seating capacity of ten persons or more.

(7) "purchaser" means a person who takes by sale, or who takes or retains a security interest in, a motor vehicle.

(b) If a certificate of title is issued for a motor vehicle under a statute of a jurisdiction which requires or permits indication on a certificate of title of a security interest in a motor vehicle, and if a security interest is so indicated on the certificate, then the security interest is perfected in all jurisdictions against all general creditors of, and subsequent lien creditors of, and all subsequent purchasers from, the debtor carrier.

(c) In the case of any security interest in a motor vehicle for which a certificate of title has not been issued, (1) if the law of the home State requires or permits public filing, or recording, of, or with respect to, such security interest, and (2) if there has been such a public filing or recording, then such security interest is perfected in all jurisdictions as to all general creditors of, and subsequent lien creditors of, and all subsequent purchasers from, the debtor carrier.

(d) In the case of any security interest in a motor vehicle for which a certificate of title has not been issued, and which security interest cannot be perfected under subsection (c) of this section, perfection of such a security interest shall be governed by the law of the home State, and if such security interest has been perfected as to general creditors and subsequent lien creditors under the law of the home State (including the conflict of laws rules), then such security interest is perfected in all jurisdictions as to all general creditors of, and subsequent lien creditors of, and all subsequent purchasers from, the debtor carrier.

(e) This section shall not affect any security interest perfected before January 1, 1959. (Feb. 4, 1887, ch. 104, pt. II, § 213, as added Aug. 23, 1958, Pub. L. 85–728, § 1, 72 Stat. 812.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13 and 19 of this title.

CODIFICATION

A prior section 213 of act Feb. 4, 1887, as added Aug. 9, 1935, ch. 498, 49 Stat. 555, and amended June 29, 1938, ch. 811, §§ 12—14, 52 Stat. 1239, 1240, which was classified to this section, and related to consolidation, merger, and acquisition of control, was repealed by act Sept. 18, 1940, ch. 722, title I, § 21(e), 54 Stat. 924, and is now covered by section 5 of this title.

EFFECTIVE DATE

Section 2 of Pub. L. 85–728 provided that: "The amendment made by the first section of this Act [adding this section] shall take effect on January 1, 1959."

§ 314. Issuance of securities.

Common or contract carriers by motor vehicle, corporations organized for the purpose of engaging in transportation as such carriers, and corporations authorized by order of the Commission to acquire control of any such carrier, or two or more such carriers, shall be subject to the provisions of paragraphs (2) to (11), inclusive, of section 20a of this title (including penalties applicable in cases of violations thereof): *Provided, however,* That said provisions shall not apply to such carriers or corporations where the value of capital stock or principal amount of other securities to be issued, together with the value of capital stock and principal amount of other securities then outstanding, does not exceed $1,000,000, nor to the issuance of notes of a maturity of two years or less and aggregating not more than $200,000, which notes aggregating such amount including all outstanding obligations maturing in two years or less may be issued without reference to the percentage which said amounts bear to the total amount of outstanding securities. In the case of capital stock having no par value, the value thereof for the purpose of this section shall be the fair market value as of the date of its issue; and in the case of capital stock having par value, the value for the purpose of this section shall be the fair market value as of the date of its issue, or the par value, whichever is the greater: *And provided further,* That the provisions of this section shall not apply to the United States or any instrumentality thereof, the District of Columbia, or any instrumentality thereof, any

State of the United States or political subdivision or municipal corporation thereof, or any instrumentality of one or more States, political subdivisions thereof, or municipal corporations. (Feb. 4, 1887, ch. 104, pt. II, § 214, as added Aug. 9, 1935, ch. 498, 49 Stat. 557, and amended June 29, 1938, ch. 811, § 15, 52 Stat. 1240; Sept. 18, 1940, ch. 722, title I, § 22(a), 54 Stat. 924; July 10, 1952, ch. 648, 66 Stat. 542; Sept. 7, 1957, Pub. L. 85–309, 71 Stat. 631; July 24, 1965, Pub. L. 89–86, § 2, 79 Stat. 263.)

AMENDMENTS

1965—Pub. L. 89–86 added proviso prohibiting application of this section to the United States or any instrumentality thereof, the District of Columbia, or any instrumentality thereof, and any state, political subdivision or municipal corporation thereof, or by any instrumentality of one or more states, political subdivisions thereof, or municipal corporations.

1957—Pub. L. 85–309 substituted in proviso of first sentence the words "value of capital stock or principal amount of other securities to be issued, together with the value of capital stock and principal amount of other securities then outstanding" for "par value of the securities to be issued, together with the par value of the securities then outstanding" and included in second sentence provisions relating to the valuation of capital stock having par value.

1952—Act July 10, 1952, increased the amounts of securities which may be issued without requiring approval by Commission.

1940—Act Sept. 18, 1940, substituted "of the Commission" for "entered under section 313(a) of this title" following "authorized by order".

1938—Act June 29, 1938, reenacted section without change.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5 of this title.

§ 315. Security for protection of public.

No certificate or permit shall be issued to a motor carrier or remain in force, unless such carrier complies with such reasonable rules and regulations as the Commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, in such reasonable amount as the Commission may require, conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate or permit, or for loss or damage to property of others. The Commission may, in its discretion and under such rules and regulations as it shall prescribe, require any such common carrier to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in a sum to be determined by the Commission, to be conditioned upon such carrier making compensation to shippers and/or consignees for all property belong[1] to shippers and/or consignees, and coming into the possession of such carrier in connection with its transportation service. Any carrier which may be required by law to compensate a shipper and/or consignee for any loss, damage, or default for which a connecting motor common carrier is legally responsible shall be subrogated to the rights of such shipper and/or consignee under any such bond, policies of insurance, or other securities or agreements, to the extent of the sum so paid. The Commission may prescribe, with respect to motor carriers operating within the United States in the course of engaging in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, such reasonable regulations concerning security for the protection of the public as the Commission is authorized, by this section, to prescribe for other motor carriers. (Feb. 4, 1887, ch. 104, pt. II, § 215, as added Aug. 9, 1935, ch. 498, 49 Stat. 557, and amended July 22, 1954, ch. 563, § 2, 68 Stat. 526.)

AMENDMENTS

1954—Act July 22, 1954, added sentence authorizing regulations with respect to motor carriers operating within the United States in the course of engaging in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Foreign commerce defined, see section 303(a)(11) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title.

§ 316. Rates, fares and charges.

(a) Duty to establish reasonable rates, etc.; service and equipment; rules and regulations; reasonable divisions of joint fares.

It shall be the duty of every common carrier of passengers by motor vehicle to establish reasonable through routes with other such common carriers and to provide safe and adequate service, equipment, and facilities for the transportation of passengers in interstate or foreign commerce; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the transportation of passengers in interstate or foreign commerce; and in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

(b) Rates, facilities for carriers of property.

It shall be the duty of every common carrier of property by motor vehicle to provide safe and adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce; to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto and to the manner and method of presenting, marking, packing, and delivering property

[1] So in original. Probably should read "belonging"

for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property in interstate or foreign commerce.

(c) Through routes and joint rates; "common carriers by water".

Common carriers of property by motor vehicle may establish reasonable through routes and joint rates, charges, and classifications with other such carriers or with common carriers by railroad and/or express and/or water; and common carriers of passengers by motor vehicle may establish reasonable through routes and joint rates, fares, or charges with common carriers by railroad and/or water. In case of such joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just and reasonable regulations and practices in connection therewith, and just, reasonable, and equitable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers. As used in this subsection, the term "common carriers by water" includes water common carriers subject to the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act of 1933, as amended (including persons who hold themselves out to transport goods by water but who do not own or operate vessels) engaged in the transportation of property in interstate or foreign commerce between Alaska or Hawaii on the one hand, and, on the other, the other States of the Union, and through routes and joint rates so established and all classifications, regulations, and practices in connection therewith shall be subject to the provisions of this chapter.

(d) Undue preferences or prejudices prohibited.

All charges made for any service rendered or to be rendered by any common carrier by motor vehicle engaged in interstate or foreign commerce in the transportation of passengers or property as aforesaid or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, region, district, territory, or description of traffic, in any respect whatsoever; or to subject any particular person, port, gateway, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however,* That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

(e) Complaints to and investigation by Commission; power of Commission to fix reasonable rates, regulations, etc.

Any person, State board, organization, or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section 317 of this title. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express, and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective and the Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or upon its own initiative without a complaint, establish through routes and joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carriers by motor vehicle, or the maxima or minima, or maxima and minima, to be charged, and the terms and conditions under which such through routes shall be operated: *Provided, however,* That nothing in this chapter shall empower the Commission to prescribe, or in any manner regulate, the rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose whatever.

(f) Commission empowered to establish just division of joint rates.

Whenever, after hearing, upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation in interstate or foreign commerce of passengers or property by common carriers by motor vehicle or by such carriers in conjunction with common carriers by railroad and/or express, and/or water are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. The order of the Commission may require the adjustment of divisions between the carriers, in accordance with the order, from the date of filing the complaint or entry of order of investigation or such other date subsequent as the Commission finds justified and,

in the case of joint rates prescribed by the Commission, the order as to divisions may be made effective as a part of the original order.

(g) New rates; determination of fairness by Commission; suspension.

Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, charge, or classification for the transportation of passengers or property by a common carrier or carriers by motor vehicle, or by any such carrier or carriers in conjunction with a common carrier or carriers by railroad and/or express, and/or water in interstate or foreign commerce, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Commission is authorized and empowered upon complaint of any interested party or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, or charge, or classification, rule, regulation, or practice, shall go into effect at the end of such period: *Provided,* That this paragraph shall not apply to any initial schedule or schedules filed on or before July 31, 1938, by any such carrier in bona fide operation on October 1, 1935. At any hearing involving a change in a rate, fare, charge, or classifiction, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable.

(h) Good will, earning power or certificate inadmissible in proceedings to determine rates.

In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any such carrier, there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier, either good will, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this chapter any such carrier shall be deemed to have agreed to the provisions of this paragraph, on its own behalf and on behalf of all transferees of such certificate.

(i) Transportation needs and fair return considered in determining rates, etc.

In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by common carriers by motor vehicle, and classifications, regulations, and practices relating thereto, the Commission shall give due consideration, among other factors, to the inherent advantages of transportation by such carriers; to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service.

(j) Effect on remedy or right of action.

Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith. (Feb. 4, 1887, ch. 104, pt. II, § 216, as added Aug. 9, 1935, ch. 498, 49 Stat. 558, and amended June 29, 1938, ch. 811, § 16, 52 Stat. 1240; Sept. 18, 1940, ch. 722, title I, § 22 (b—d), 54 Stat. 924; Aug. 24, 1962, Pub. L. 87-595, § 1, 76 Stat. 397.)

REFERENCES IN TEXT

The Shipping Act, 1916, as amended, referred to in subsec. (c), is classified to chapter 23 of Title 46, Shipping.

The Intercoastal Shipping Act, 1933, as amended, referred to in subsec. (c), is classified to chapter 23A of Title 46.

AMENDMENTS

1962—Subsec. (c). Pub. L. 87-595 inserted the definition of "common carriers by water" and provided that through routes and joint rates, and all classifications, regulations and practices established in connection therewith should be subject to the provisions of this chapter.

1940—Subsec. (d). Act Sept. 18, 1940, § 22(b), added first sentence.

Subsec. (g). Act Sept. 18, 1940, § 22(c), substituted "but not for a longer period than seven months" for "for a period of ninety days and if the proceeding has not been concluded and a final order made within such period the Commission may, from time to time extend the period of suspension by order, but not for a longer period in the aggregate than one hundred and eighty days."

Subsec. (i). Act Sept. 18, 1940, § 22(d), inserted ", fares, and charges" following "reasonable rates", and "and classifications, regulations, and practices relating thereto" following "carriers by motor vehicles".

1938—Subsec. (g). Act June 29, 1938, added to proviso all text following "July 31, 1938".

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 304a, 318 of this title.

§ 317. Tariffs of common carriers by motor vehicle.

(a) Filing, posting, and publication.

Every common carrier by motor vehicle shall file with the Commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property in interstate or foreign commerce between points on its own route and between points on its own route and points on the route of any other such carrier, or on the route of any common carrier by railroad and/or

express and/or water, when a through route and joint rate shall have been established. Such rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information, as the Commission by regulations shall prescribe; and the Commission is authorized to reject any tariff filed with it which is not in consonance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

(b) Deviation from rates and regulations enumerated in tariff forbidden; undue preferences.

No common carrier by motor vehicle shall charge or demand or collect or receive a greater or less or different compensation for transportation or for any service in connection therewith between the points enumerated in such tariff than the rates, fares, and charges specified in the tariffs in effect at the time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, or through any agent or broker or otherwise, any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation in interstate or foreign commerce except such as are specified in its tariffs: *Provided,* That the provisions of sections 1 (7) and 22 of this title shall apply to common carriers by motor vehicles subject to this chapter.

(c) Change in tariffs; filing and posting notice; powers of Commission.

No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a common carrier by motor vehicle, except after 30 days' notice of the proposed change filed and posted in accordance with paragraph (a) of this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow such change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(d) Transportation without filing tariff forbidden.

No common carrier by motor vehicle, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. II, § 217, as added Aug. 9, 1935, ch. 498, 49 Stat. 560, and amended Sept. 18, 1940, ch. 722, title I, § 22 (e), 54 Stat. 925.)

AMENDMENTS

1940—Subsec. (b). Act Sept. 18, 1940, substituted "22" for "22(1)" in the proviso.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 312, 316 of this title.

§ 318. Schedules of contract carriers by motor vehicle.

(a) Establishment, filing, and publication of schedules and rules affecting rates; notice of and hearing on proposed changes; undue preferences.

It shall be the duty of every contract carrier by motor vehicle to establish and observe reasonable minimum rates and charges for any service rendered or to be rendered in the transportation of passengers or property or in connection therewith, and to establish and observe reasonable regulations and practices to be applied in connection with said reasonable minimum rates, fares, and charges. It shall be the duty of every contract carrier by motor vehicle to file with the Commission, publish, and keep open for public inspection, in the form and manner prescribed by the Commission, schedules containing the actual rates or charges of such carrier for the transportation of passengers or property in interstate or foreign commerce, and any rule, regulation, or practice affecting such rates or charges and the value of the service thereunder: *Provided,* That any contract carrier serving but one shipper having rendered continuous service to such shipper for not less than one year may file reasonable minimum rates and charges unless the Commission in any individual case, after hearing, finds it in the public interest to require the filing of actual rates and charges. No such contract carrier, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property in interstate or foreign commerce unless the actual rates or charges for such transportation by said carrier have been published, filed, and posted in accordance with the provisions of this chapter. Nothing herein provided shall be so construed as to require such carriers to maintain the same rates, rules and regulations for the same services for all shippers served. No reduction shall be made in any such charge either directly or by means of any change in any rule, regulation, or practice affecting such charge or the value of the service thereunder, nor shall any new charge be established, except after thirty days' notice of the proposed change or new charge filed in the aforesaid form and manner but the Commission may, in its discretion and for good cause shown, allow such change upon less notice, or modify the requirements of this paragraph with respect to posting and filing of such schedules, either in particular instances, or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. No such carrier shall demand, charge, or collect compensation for such transportation different from the charges filed in accordance with this subsection, as affected by any rule, regulation, or practice so filed, or less than the minimum rate or charge as may be prescribed by the Commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities, or privileges, or by any other device whatsoever, to charge, accept, or receive compensation different from the actual rates and charges so filed, or less than the minimum charges so prescribed: *Provided,* That any such carrier or carriers, or any

class or group thereof, may apply to the Commission for relief from the provisions of this paragraph, and the Commission may, after hearing, grant such relief to such extent and for such time, and in such manner as in its judgment is consistent with the public interest and the national transportation policy declared in this Act.

(b) Complaints and investigations; hearings and orders of Commission.

Whenever, after hearing, upon complaint or upon its own initiative, the Commission finds that any minimum rate or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder, for the transportation of passengers or property or in connection therewith, contravenes the national transportation policy declared in this Act, or is in contravention of any provision of this chapter, the Commission may prescribe such just and reasonable minimum rate or charge, or such rule, regulation, or practice as in its judgment may be necessary or desirable in the public interest and to promote such policy and will not be in contravention of any provision of this chapter. Such minimum rate or charge, or such rule, regulation, or practice, so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this chapter, which the Commission may find to be undue or inconsistent with the public interest and the national transportation policy declared in this Act, and the Commission shall give due consideration to the cost of the services rendered by such carriers, and to the effect of such minimum rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

(c) New or reduced charges; hearings and orders of Commission; suspension.

Whenever there shall be filed with the Commission by any such contract carrier any schedule stating a charge for a new service or a reduced charge directly, or by means of any rule, regulation, or practice, for the transportation of passengers or property in interstate or foreign commerce, the Commission is authorized and empowered upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period: *Provided,* That this paragraph shall not apply to any initial schedule or schedules filed on or before July 31, 1938, by any such carrier in bona fide operation on October 1, 1935. The rule as to burden of proof specified in section 316(g) of this title shall apply to this subsection. (Feb. 4, 1887, ch. 104, pt. II, § 218, as added Aug. 9, 1935, ch. 498, 49 Stat. 561, and amended June 29, 1938, ch. 811, § 17, 52 Stat. 1240; Sept. 18, 1940, ch. 722, title I, §§ 16, 23, 54 Stat. 919, 925; Aug. 13, 1957, Pub. L. 85–124, 71 Stat. 343.)

REFERENCES IN TEXT

The national transportation policy referred to in subsecs. (a) and (b), is set out as a note preceding section 301 of this title.

This act, referred to in subsecs. (a) and (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13, and 19 of this title.

AMENDMENTS

1957—Subsec. (a). Pub. L. 85–124 provided that contract carriers by motor vehicle file their actual rates or charges rather than their minimum rates and charges, inserted proviso that any contract carrier serving but one shipper for not less than one year may file minimum rates and charges unless Commission requires filing of actual rates and charges, further provided that no new charge be established except after 30 days notice, and prohibited motor contract carriers from charging or receiving any compensation different from properly filed rates or charges.

1940—Subsec. (a). Act Sept. 18, 1940, §§ 16, 23(a), inserted "the national transportation policy declared in the Interstate Commerce Act", struck out first sentence and inserted in lieu thereof two new sentences, and struck out of the third sentence "or copies of contracts" following "of such schedules".

Subsec. (b). Act Sept. 18, 1940, §§ 16, 23(b), inserted "the national transportation policy declared in the Interstate Commerce Act" and prescribed minimum charges of contract carriers by motor vehicle.

Subsec. (c). Act Sept. 18, 1940, § 23(c), prescribed lawfulness of reductions in charges of contract carriers.

1938—Subsec. (c). Act June 29, 1938, inserted in proviso "on or before July 31, 1938".

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 312, 302 of this title.

§ 319. Application of section 20 (11) and (12) of this title to common carriers by motor vehicle.

The provisions of section 20 (11) and (12) of this title, together with such other provisions of chapter 1 of this title (including penalties) as may be necessary for the enforcement of such provisions, shall apply with respect to common carriers by motor vehicle with like force and effect as in the case of those persons to which such provisions are specifically applicable. (Feb. 4, 1887, ch. 104, pt. II, § 219, as added Aug. 9, 1935, ch. 498, 49 Stat. 563, and amended May 16, 1942, ch. 318, § 3, 56 Stat. 300; Aug. 7, 1942, ch. 552, § 1, 56 Stat. 746.)

AMENDMENTS

1942—Act Aug. 7, 1942, inserted reference to chapter I of this title.

Act May 16, 1942, added reference to section 20 (12) of this title.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

§ 320. Accounts, records and reports.

(a) Reports to Commission; copies of contracts; publication of information.

The Commission is authorized to require annual, periodical, or special reports from all motor carriers, brokers, lessors, and associations (as defined in this section); to prescribe the manner and form in which such reports shall be made; and to require from such carriers, brokers, lessors, and associations specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier, broker, lessor, or association in such form and detail as may be prescribed by the Commission. The Commission may also require any motor carrier or broker to file with it a true copy of any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter. The Commission shall not, however, make public any contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest: *Provided,* That if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by motor vehicle as required by section 318 (a) of this title, the Commission may, in its discretion, make public such of the provisions of the contract as the Commission considers necessary to disclose such failure and the extent thereof.

(b) Period covered by report; time of filing; oath.

Said annual reports shall contain all the required information for the period of twelve months ending on the thirty-first day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under subsection (a) of this section shall also be under oath, whenever the Commission so requires.

(c) Depreciation charges.

The Commission may prescribe for motor carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this subsection, motor carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

(d) Accounts, records, etc., form; period of preservation; access to by Commission or agents.

The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by motor carriers, brokers, and lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys; and it shall be unlawful for such carriers, brokers, and lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto. The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of motor carriers, brokers, or lessors as may after a reasonable time be destroyed, and prescribing the length of time the same shall be preserved. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to and authority, under its order, to inspect and examine any and all lands, buildings, or equipment of motor carriers, brokers, and lessors; and shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers, brokers, lessors, and associations (as defined in this section), and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any such carrier, as the Commission deems relevant to such person's relation to or transactions with such carrier. Motor carriers, brokers, lessors, and persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and copying authorized by this paragraph, and motor carriers, brokers, and lessors shall submit their lands, buildings, and equipment for examination and inspection, to any duly authorized special agent, accountant, or examiner of the Commission upon demand and the display of proper credentials.

(e) Definitions.

As used in this section, the words "keep" and "kept" shall be construed to mean made, prepared, or compiled, as well as retained; the term "lessor" means a lessor of any right to operate as a motor carrier; the term "motor carrier", "broker", or "lessor" includes a receiver or trustee of any such motor carrier, broker, or lessor; and the term "association" means an association or organization maintained by or in the interest of any group of motor carriers or brokers subject to this chapter which performs any service, or engages in any activities in connection with any traffic, transportation, or facilities subject to this Act.

(f) Report of accident as evidence in damage suit.

No report by any motor carrier of any accident arising in the course of the operations of such carrier, made pursuant to any requirement of the Commission, and no report by the Commission of any investigation of any such accident, shall be admitted as evidence, or used for any other purpose, in any suit or action for damages growing out of any matter mentioned in such report or investigation.

(g) Inspection, examination, and copying of accounts, books, records, etc.; form of accounts, records and memorandums.

The Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative association or federation of cooperative associations which is required to give notice to the Commission pursuant to the provisions of section 303(b)(5) of this title. *Provided, however,* That the Commission shall have no authority to prescribe the form of any accounts, records, or memorandums to be maintained by a cooperative association or federation of cooperative associations. (Feb. 4, 1887, ch. 104, pt. II, § 220, as added Aug. 9, 1935, ch. 498, 49 Stat. 563, and amended Sept. 18, 1940, ch. 722, title I, § 24, 54 Stat. 926; Aug. 2, 1949, ch. 379, §§ 11—13, 63 Stat. 487; July 26, 1968, Pub. L. 90-433, § 2, 82 Stat. 449.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 12, 13, and 19 of this title.

AMENDMENTS

1968—Subsec. (g). Pub. L. 90-433 added subsec. (g).

1949—Subsec. (a). Act Aug. 2, 1949, § 11, made section applicable to associations or organizations maintained by or in the interest of motor carriers.

Subsec. (d). Act Aug. 2, 1949, § 12, made section applicable to associations or organizations maintained by or in the interest of motor carriers.

Subsec. (e). Act Aug. 2, 1949, § 13, defined the term "association".

1940—Act Sept. 18, 1940, amended section generally and added subsecs. (d)—(f).

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

Motor carrier construed, see section 304(a)(3), (3a) of this title.

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 304, 322 of this title.

§ 321. Orders, notices and service of process.

(a) Persons upon whom notice or orders served; manner and time of service.

It shall be the duty of every motor carrier to file with the board of each State in which it operates under a certificate or permit issued under this chapter, and with the Commission, a designation in writing of the name and post-office address of a person upon whom or which service of notices or orders may be made under this chapter. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this chapter may be made upon a motor carrier by personal service upon it or upon the person so designated by it, or by mail addressed to it or to such person at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the secretary or clerk of the board of the State wherein the motor carrier maintains headquarters and in the office of the Secretary of the Commission. Whenever notice is given by mail as provided herein the date of mailing shall be considered as the time when notice is served. In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice of the suspension of a tariff or schedule upon an attorney in fact of a carrier who has filed said tariff or schedule in behalf of such carrier naming the rates, fares, charges, classifications, or practices, involved in such proceedings shall be deemed to be due and sufficient service upon the carrier and service of notice of the suspension of a joint tariff or schedule upon a carrier which has filed said joint tariff to which another carrier is a party naming the rates, fares, charges, classifications, or practices involved in such proceedings shall be deemed to be due and sufficient service upon the several carriers parties thereto, but such manner of service shall not be considered as excluding service in any other manner authorized by law.

(b) Effective date and duration of orders of Commission.

Except as otherwise provided in this chapter, all orders of the Commission shall take effect within such reasonable time, not less than thirty days, as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(c) Designation of agent for service of process.

Every motor carrier (including any motor carrier operating within the United States in the course of engaging in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country) shall also file with the board of each State in which it operates and with the Interstate Commerce Commission a designation in writing of the name and post-office address of a person in such State upon whom process issued by or under the authority of any court having jurisdiction of the subject matter may be served in any proceeding at law or equity brought against such carrier. Such designation may from time to time be changed by like writing similarly filed. In the event such carrier fails to file such designation, service may be made upon any agent of such motor carrier within such State.

(d) "Motor carriers" as including brokers.

As used in this section, the term "motor carriers" includes brokers. (Feb. 4, 1887, ch. 104, pt. II, § 221, as added Aug. 9, 1935, ch. 498, 49 Stat. 563, and amended Sept. 18, 1940, ch. 722, title I, § 25 (a, b), 54

Stat. 928; Aug. 2, 1949, ch. 379, § 14, 63 Stat. 487; July 22, 1954, ch. 563, § 3, 68 Stat. 526.)

AMENDMENTS

1954—Subsec. (c). Act July 22, 1954, inserted the requirement that the names of State agents (for service of process) also be filed with the Interstate Commerce Commission, and inserted the provision including any motor carrier operating within the United States in the course of engaging in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

1949—Subsec. (a). Act Aug. 29, 1949, struck out of the third sentence the word "registered" preceding "mail", and inserted provision relating to service of notice of suspension of a joint tariff.

1940—Subsec. (a). Act Sept. 18, 1940, § 25(a), inserted "In proceedings before * * * upon the carrier".

Subsec. (b). Act Sept. 18, 1940, § 25(b), inserted ", not less than thirty days" following "within such reasonable time".

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof to the extent that they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers under subsecs. (a) and (c) of this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(6)(D) of Title 49, Transportation.

CROSS REFERENCES

Foreign commerce defined, see section 303(a)(11) of this title.

Motor carrier construed, see section 304(a) (3), (3a) of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 4, see note by Advisory Committee under rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see rule 4.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 304, 1655 of this title.

§ 322. Unlawful operation.

(a) Violation of chapter or rules or orders; penalty where none otherwise provided.

Any person knowingly and willfully violating any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate, permit, or license, for which a penalty is not otherwise herein provided, shall, upon conviction thereof, be fined not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Jurisdiction of district courts to restrain violations and enforce orders.

(1) If any motor carrier or broker operates in violation of any provision of this chapter (except as to the reasonableness of rates, fares, or charges and the discriminatory character thereof), or any lawful rule, regulations, requirement, or order promulgated by the Commission, or of any term or condition of any certificate or permit, the Commission or its duly authorized agent may apply for the enforcement thereof to the district court of the United States for any district where such motor carrier or broker operates. In any proceeding instituted under the provisions of this subsection, any person, or persons, acting in concert or participating with such carrier or broker in the Commission of such violation may, without regard to his or their residence, be included, in addition to the motor carrier or broker, as a party, or parties, to the proceeding. The court shall have jurisdiction to enforce obedience to any such provision of this part, or of such rule, regulation, requirement, order, term, or condition by a writ of injunction or by other process, mandatory or otherwise, restraining such carrier or broker, his or its officers, agents, employees, and representatives, and such other person, or persons, acting in concert or participating with such carrier or broker, from further violation of such provision of this part, or of such rule, regulation, requirement, order, term, or condition and enjoining upon it or them obedience thereto. Process in such proceedings may be served upon such motor carrier, or broker or upon such person, or persons, acting in concert or participating therewith in the commission of such violation, without regard to the territorial limits of the district or of the State in which the proceeding is instituted.

(2) If any person operates in clear and patent violation of any provisions of section 303(c), 306, 309, or 311 of this title, or any rule, regulation, requirement, or order thereunder, any person injured thereby may apply to the district court of the United States for any district where such person so violating operates, for the enforcement of such section, or of such rule, regulation, requirement, or order. The court shall have jurisdiction to enforce obedience thereto by a writ of injunction or by other process, mandatory or otherwise, restraining such person, his or its officers, agents, employees, and representatives from further violation of such section or of such rule, regulation, requirement, or order; and enjoining upon it or them obedience thereto. A copy of any application for relief filed pursuant to this paragraph shall be served upon the Commission and a certificate of such service shall appear in such application. The Commission may appear as of right in any such action. The party who or which prevails in any such action may, in the discretion of the court, recover reasonable attorney's fees to be fixed by the court, in addition to any costs allowable under the Federal Rules of Civil Procedure, and the plaintiff instituting such action shall be required to give security, in such sum as the court deems proper, to protect the interests of the party or parties against whom any temporary restraining order, temporary injunctive, or other process is issued should it later be proven unwarranted by the facts and circumstances.

(3) In any action brought under paragraph (2) of this subsection, the Commission may notify the district court of the United States in which such action is pending that it intends to consider the matter in a proceeding before the Commission. Upon the filing of such a notice the court shall stay further action pending disposition of the proceeding before the Commission.

(c) Participation in unjust discrimination; evasion of regulations; penalty.

Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carrier or brokers, shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not less than $200 nor more than $500 for the first offense and not less than $250 nor more than $2,000 for any subseqeunt offense.

(d) Disclosure of information by agent, accountant, or examiner; penalty.

Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section 320 of this title, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $500 or imprisonment for not exceeding six months, or both.

(e) Disclosure or solicitation of information concerning property in transportation.

It shall be unlawful for any motor carrier or broker engaged in interstate or foreign commerce or any officer, receiver, trustee, lessee, agent, or employee of such carrier, broker, or person, or for any other person authorized by such carrier, broker, or person to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such motor carrier or broker for such transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(f) Giving information in response to legal process, or to government officers or to other carriers for adjustment of rates permitted.

Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his power, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier or broker, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers or brokers.

(g) Failure or refusal to make reports or keep accounts and records; altering or making false report or record; penalty.

Any motor carrier, broker, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this chapter, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this chapter to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense to a fine of not more than $5,000. As used in this subsection, the words "keep" and "kept" shall be construed to mean made, prepared, or compiled, as well as retained.

(h) Civil action for fines; amount; service of process; payment of costs and expenses.

Any motor carrier, broker, or lessor, or other person, or any officer, agent, employee, or representative thereof, who shall fail or refuse to keep, preserve, or forward any account, record, or memorandum in the substance, form, or manner prescribed in this chapter or in any rule, order, or regulation prescribed under this chapter; or who shall fail or refuse to comply with any requirement of this chapter with respect to the filing with this Commission or with any agency, office, or representative of the Commission, as prescribed by the Commission, any annual periodical, or special report, or other report, tariff, schedule, contract, document, or data or with any rule, order, or regulation prescribed with respect to such filing; or who shall fail or refuse to make full, true, or correct answer to any question required by the Commission to be made under the provisions of this chapter, or who shall fail or refuse to comply with the provisions of section 303(c) or section 306 (a)(1) or section 309(a)(1) of this title shall forfeit to the United States not to exceed $500 for each such offense, and, in case of a continuing violation not to exceed $250 for each additional day during which such failure or refusal shall continue. All forfeitures provided for in this paragraph shall be payable into

the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States, brought in the district where the motor carrier or broker has its principal office, or in any district in which such motor carrier or broker was, at the time of the offense, authorized by this Commission, or by this chapter, to engage in operation as such motor carrier or broker; or in any district where such forfeiture may accrue; or in the district where the offender is found. All process in any such case may be served in the judicial district whereof such offender is an inhabitant or wherever he may be found. It shall be the duty of the various United States attorneys under the direction of the Attorney General of the United States to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. (Feb. 4, 1887, ch. 104, pt. II, § 222, as added Aug. 9, 1935, ch. 498, 49 Stat. 564, and amended Sept. 18, 1940, ch. 722, title I, § 25 (c, d), 54 Stat. 923; Aug. 2, 1949, ch. 379, § 15, 63 Stat. 488; Aug. 14, 1957, Pub. L. 85-135, § 4, 71 Stat. 352; Sept. 6, 1965, Pub. L. 89-170, §§ 3, 4, 79 Stat. 649.)

AMENDMENTS

1965—Subsec. (b). Pub. L. 89-170, § 4, amended existing provision by authorizing the joinder as parties, without regard to residence, of persons acting in concert or participating with a carrier or broker in the commission of a violation and authorized the service of process in such a proceeding upon carrier, broker person acting in concert or participating in the violation without regard to the territorial limits of the district or state in which the proceeding is instituted, designated such existing provision as thus amended as par. (1), and added pars. (2) and (3).

Subsec. (h). Pub. L. 89-170, § 3, inserted reference to a failure or refusal to comply with the provisions of sections 303(c), 306(a)(1), or 309(a)(1) of this title and substituted "not to exceed $500" and "$250" for "the sum of $100" and "$50" respectively.

1957—Subsec. (a). Pub. L. 85-135, § 4(1), substituted "not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $500 for any subsequent offense" for the words "not more than $100 for the first offense and not more than $500 for any subsequent offense".

Subsec. (c). Pub. L. 85-135, § 4(2), substituted "not less than $200 nor more than $500 for the first offense and not less than $250 nor more than $2,000 for any subsequent offense" for the words "not more than $500 for the first offense and not more than $2,000 for any subsequent offense".

1949—Subsec. (h). Act Aug. 2, 1949, added subsec. (h).

1940—Subsec. (d). Act Sept. 18, 1940, § 25(c), changed penalty provisions from a $5,000 fine or imprisonment for not exceeding two years, or both, to a $500 fine or imprisonment not exceeding six month, or both.

Subsec. (g). Act Sept. 18, 1940, § 25(d), inserted provision relating to making specific and true answers to any question within thirty days from the time it is lawfully required by the Commission so to do, and added definition provision.

CHANGE OF NAME

"United States attorneys" was substituted for "district attorneys" to conform to act June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948. See section 501 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

CROSS REFERENCES

Motor carrier construed, see section 304(a) (3), (3a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 323. Collection of rates and charges; extension of credit; liability of agent of beneficial owner.

No common carrier by motor vehicle shall deliver or relinquish possession at destination of any freight transported by it in interstate or foreign commerce until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice: *Provided,* That the provisions of this paragraph shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory, or political subdivision thereof, or for the District of Columbia. Where any common carrier by motor vehicle is instructed by a shipper or consignor to deliver property transported by such carrier to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (a) is an agent only and had no beneficial title in the property, and (b) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has also notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or, in the case of a shipment so reconsigned or diverted, the beneficial owner shall be liable for such additional charges, irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made. If the consignee has given to the carrier erroneous information as to who is the beneficial owner, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. On shipments reconsigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith. (Feb. 4, 1887, ch. 104, pt. II, § 223, as added Aug. 9, 1935, ch. 498, 49 Stat. 565.)

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

§ 324. Identification plates for interstate motor carriers.

The Commission is authorized, under such rules and regulations as it shall prescribe, to require the display of suitable identification plate or plates,

upon any motor vehicle used in transportation subject to any of the provisions of this chapter, to provide for the issuance of such plates, and to receive the payment by such carriers of the reasonable cost thereof. All moneys so collected shall be paid into the Treasury of the United States. Any substitution, transfer, or use of any such identification plate or plates, except such as may be duly authorized by the Commission, is prohibited and shall be unlawful. (Feb. 4, 1887, ch. 104, pt. II, § 224, as added Aug. 9, 1935, ch. 498, 49 Stat. 566, and amended June 29, 1938, ch. 811, § 18, 52 Stat. 1240.)

AMENDMENTS

1938—Act June 29, 1938, made section applicable to any motor vehicle subject to this chapter.

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Interstate Commerce Commission and the Chairman, members, offices, and officers thereof to the extent that they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(6)(D) of Title 49, Transportation.

CROSS REFERENCES

Motor carrier construed, see section 304(a) (3), (3a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 304, 1655 of this title.

§ 324a. Allowances to shippers for transportation services.

If the owner of property transported under this chapter directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable; and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order. (Feb. 4, 1887, ch. 104, pt. II, § 225, as added Sept. 18, 1940, ch. 722, title I, § 26 (a), 54 Stat. 928.)

§ 325. Investigation of motor vehicle sizes and weights and qualifications and hours of service of employees.

The Commission is authorized to investigate and report on the need for Federal regulation of the sizes and weight of motor vehicles and combinations of motor vehicles and of the qualifications and maximum hours of service of employees of all motor carriers and private carriers of property by motor vehicle; and in such investigation the Commission shall avail itself of the assistance of all departments or bureaus of the Government and of any organization of motor carriers having special knowledge of any such matter. (Feb. 4, 1887, ch. 104, pt. II, § 226, formerly § 225, as added Aug. 9, 1935, ch. 498, 49 Stat. 566, and renumbered Sept. 18, 1940, ch. 722, title I, § 26 (b), 54 Stat. 929.)

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Interstate Commerce Commission and its Chairman, members, officers, and offices relating generally to investigation of motor vehicle sizes, weights, and service of employees under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(6)(B) of this title.

EXPEDITION OF INVESTIGATION

Act Sept. 18, 1940, § 27, provided: "The Interstate Commerce Commission is authorized and directed to expedite the investigation of the need for Federal regulation of the sizes and weight of motor vehicles, authorized by section 226 of the Interstate Commerce Act, as amended (section 325 of this title), and to report to Congress thereon at the earliest practicable date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 325a. State or subdivision income tax withholding on compensation paid to interstate motor vehicle employees.

(a) Withholding where employee earns more than 50 per centum of compensation paid by carrier to him or where employee resides; filing of information return by carrier.

No part of the compensation paid by any motor carrier subject to the provisions of this chapter, or by any private carrier of property by motor vehicle, to any employee who performs his regularly assigned duties as such an employee on a motor vehicle in more than one State, shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: *Provided, however,* That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or any subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of residence, and the State or subdivision for which the withholding of such tax has been required under this subsection.

(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.

For the purposes of subsection (a) of this section, an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision in which the mileage traveled by him in such State or subdivision is more than 50 per centum of the total mileage traveled by him in the calendar year while so employed.

(c) Definitions.

For the purpose of this section the term "State" also means any possession of the United States or the Commonwealth of Puerto Rico; and the term "compensation" shall mean all moneys received for services rendered by an employee, as defined in subsection (a) of this section in the performance

of his duties and shall include wages and salary. (Feb. 4, 1887, ch. 104, pt. II, § 226A, as added Dec. 23, 1970, Pub. L. 91-569, § 2(b), 84 Stat. 1500.)

EFFECTIVE DATE

Section effective January 1, 1971, see section 5 of Pub. L. 91-569, set out as a note under section 26a of this title.

§ 326. Separability of provisions.

If any provision of this chapter, or the application thereof to any person, or commerce, or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons, or commerce, or circumstances, shall not be affected thereby. (Feb. 4, 1887, ch. 104, pt. II, § 227, formerly § 226, as added Aug. 9, 1935, ch. 498, 49 Stat. 567, and renumbered Sept. 18, 1940, ch. 722, title I, § 26 (b), 54 Stat. 929.)

EFFECTIVE DATE

Effective date of section, see section 327 of this title.

§ 327. Effective date of chapter.

This chapter (except this section, which shall become effective August 9, 1935) shall take effect and be in force on and after the 1st day of October 1935: *Provided, however,* That the Commission shall, if found by it necessary or desirable in the public interest, by general or special order, postpone the taking effect of any provision of this chapter to such time after the 1st day of October 1935, as the Commission shall prescribe, but not beyond the 1st day of April 1936. (Feb. 4, 1887, ch. 104, pt. II, § 228, formerly § 227, as added Aug. 9, 1935, ch. 498, 49 Stat. 567, renumbered and amended Sept. 18, 1940, ch. 722, title I, § 26(b), 54 Stat. 929.)

AMENDMENTS

1940—Act Sept. 18, 1940, struck out "(a)" at beginning of section.

Chapter 9.—CIVIL AERONAUTICS

SUBCHAPTER I.—GENERAL PROVISIONS

§§ 401 to 403. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 401, acts June 23, 1938, ch. 601, title I, § 1, 52 Stat. 977; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; 1946 Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 19, 1948, ch. 523, §§ 1, 2, 62 Stat. 493; June 14, 1951, ch. 123, § 2, 65 Stat. 69; July 14, 1952, ch. 740, § 1, 66 Stat. 628, defined terms used in the Civil Aeronautics Act of 1938, and is now covered by section 1301 of this title.

Section 402, act June 23, 1938, ch. 601, title I, § 2, 52 Stat. 980; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, contained a declaration of policy, and is now covered by sections 1302 and 1303 of this title.

Section 403, act June 23, 1938, ch. 601, title I, § 3, 52 Stat. 980, contained a declaration of public right of transit, and is now covered by section 1304 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER II.—ORGANIZATION OF BOARD

§§ 421, 422. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 421, acts June 23, 1938, ch. 601, title II, § 201, 52 Stat. 980; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; June 28, 1941, ch. 258, title II, § 201, 55 Stat. 282; Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880; July 31, 1956, ch. 804, title I, § 106(a), 70 Stat. 727, created the Civil Aeronautics Board, provided for its composition, appointment of members, qualifications, principal office and seal, and is now covered by section 1321 of this title.

Section 422, acts June 23, 1938, ch. 601, title II, § 202, 52 Stat. 981; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 62 Stat. 972, related to the organization of the Board, and is now covered by section 1322 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§§ 422a, 422b. Omitted or transferred.

CODIFICATION

Section 422a, act June 28, 1941, ch. 258, title II, § 201, 55 Stat. 282, related to salaries and was omitted as superseded by former section 421 of this title. See section 1321 of this title.

Section 422b has been transferred and is now set out as a note under section 1322 of this title.

§§ 423 to 427. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 423, act June 23, 1938, ch. 601, title II, § 203, 52 Stat. 982, related to the transfer of personnel, property, and appropriation balances.

Section 424, act June 23, 1938, ch. 601, title II, § 204, 52 Stat. 983; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to authorization of expenditures and travel, and is now covered by section 1323 of this title.

Section 425, act June 23, 1938, ch. 601, title II, § 205, 52 Stat. 984; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, prescribed the general powers and duties of the Board, and is now covered by section 1324 of this title.

Section 426, act June 23, 1938, ch. 601, title II, § 206, 52 Stat. 984; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for an annual report to Congress, and is now covered by section 1325 of this title.

Section 427, act June 23, 1938, ch. 601, title II, § 207, as added Aug. 30, 1949, ch. 520, 63 Stat. 678, related to the furnishing of supplies and materials for execution of the Administration's functions in Alaska.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER III.—POWERS AND DUTIES OF ADMINISTRATOR OF CIVIL AERONAUTICS

§§ 451 to 460. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 451, act June 23, 1938, ch. 601, title III, § 301, 52 Stat. 985; 1940 Reorg. Plan No. III, § 7, eff. June 30,

1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the fostering of air commerce, and is now covered by section 1346 of this title.

Section 452, acts June 23, 1938, ch. 601, title III, § 302, 52 Stat. 985; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; June 29, 1948, ch. 713, 62 Stat. 1093; July 1, 1948, ch. 792, §§ 1, 2, 62 Stat. 1216; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 62 Stat. 972, related to establishment of airways, duties of Administrator, establishment of air navigation aids, acquisition and disposal of property, training of air-traffic control-tower operators, and is now covered by sections 1344 and 1348 of this title.

Section 453, act June 23, 1938, ch. 601, title III, § 303, 52 Stat. 986; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the expenditure of Federal funds, and is now covered by section 1349 of this title.

Section 454, act June 23, 1938, ch. 601, title III, § 304, 52 Stat. 986; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to meteorological service, and is now covered by section 1351 of this title.

Section 455, act June 23, 1938, ch. 601, title III, § 305, 52 Stat. 986; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the development of facilities, and is now covered by section 1353 of this title.

Section 456, act June 23, 1938, ch. 601, title III, § 306, 52 Stat. 986; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the collection and dissemination of information, and is now covered by section 1352 of this title.

Section 457, acts June 23, 1938, ch. 601, title III, § 307, 52 Stat. 986; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; Aug. 8, 1950, ch. 643, 64 Stat. 417; July 7, 1958, Pub. L. 85-507, § 21(b)(3), 72 Stat. 337, related to development planning, and is now covered by sections 1353 and 1354(d) of this title.

Section 458, act June 23, 1938, ch. 601, title III, § 308, 52 Stat. 986; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, prescribed other duties of the Administrator, and is now covered by section 1354 of this title.

Section 459, act June 23, 1938, ch. 601, title III, § 309, as added July 1, 1948, ch. 792, § 3, 62 Stat. 1217, related to the conduct of hearings and investigations, powers of the Administrator and examiners, and is now covered by section 1354(c) of this title.

Section 460, act June 23, 1938, ch. 601, title III, § 310, as added Sept. 29, 1950, ch. 1107, 64 Stat. 1079, provided for the delegation of powers and duties to private persons, and is now covered by section 1355 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

REPEAL OF SUBSECS. (b) AND (c) OF SECTION 457 BY PUB L. 85-726

Section 1401(b) of Pub. L. 85-726 provided in part that the repeal of subsecs. (b) and (c) of former section 457 of this title by subsec. (b) of section 1401 of Pub. L. 85-726, shall not take effect in such manner as to impair the operation of the deferred repeal of such subsections as provided in section 21 of the Government Employees Training Act, now covered by section 4101 et. seq. of Title 5, Government Organization and Employees.

§ 461. Placement in salary grade of certain positions.

CODIFICATION

Section has been transferred and is now set out as a note under section 1343 of this title.

SUBCHAPTER IV.—AIR CARRIER ECONOMIC REGULATION

§§ 481 to 485. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 481, acts June 23, 1938, ch. 601, title IV, § 401, 52 Stat. 987; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; May 19, 1955, ch. 41, 69 Stat. 49; July 20, 1956, ch. 650, 70 Stat. 591; Aug. 26, 1957, Pub. L. 85-166, 71 Stat. 415, related to the certificate of public convenience and necessity, and is now covered by section 1371 of this title.

Section 482, act June 23, 1938, ch. 601, title IV, § 402, 52 Stat. 991; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for permits to foreign air carriers, and is now covered by section 1372 of this title.

Section 483, acts June 23, 1938, ch. 601, title IV, § 403, 52 Stat. 992; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Aug. 1, 1956, ch. 816, 70 Stat. 784, related to tariffs of air carriers, and is now covered by section 1373 of this title.

Section 484, act June 23, 1938, ch. 601, title IV, § 404, 52 Stat. 993; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to rates for carriage of persons and property, and is now covered by section 1374 of this title.

Section 485, acts June 23, 1938, ch. 601, title IV. § 405, 52 Stat. 994; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 2, 1940, ch. 526, § 1, 54 Stat. 735; June 28, 1952, ch. 485, § 1(5), 66 Stat. 286, provided for the transportation of mail, and is now covered by section 1375 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§§ 485a to 485c. Repealed. Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 725, eff. Sept. 1, 1960.

Section 485a, act Aug. 27, 1940, ch. 693, § 1, 54 Stat. 862, related to the transportation of foreign mail, collection of charges therefor, offsets against such charges and to accounting therefor. See section 2602 of Title 39, Postal Service.

Section 485b, act Aug. 27, 1940, ch. 693, § 2, 54 Stat. 863, related to advances to carriers from sums the United States was owed by foreign countries for mail carriage. See section 2602 of Title 39.

Section 485c, act Aug. 27, 1940, ch. 693, § 3, 54 Stat. 863, related to Accounting Office transactions involved in the application of sections 485a to 485c of this title. See section 2602 of Title 39.

§§ 486 to 496. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 486, act June 23, 1938, ch. 601, title IV, § 406, 52 Stat. 998; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Apr. 9, 1958, Pub. L. 85-373, § 1, 72 Stat. 84, related to rates for the transportation of mail, and is now covered by section 1376 of this title.

Section 487, act June 23, 1938, ch. 601, title IV, § 407, 52 Stat. 1000; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for accounts, records, and reports, and is now covered by section 1377 of this title.

Section 488, act June 23, 1938, ch. 601, title IV, § 408, 52 Stat. 1001; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to consolidation, merger, and acquisition of control, and is now covered by section 1378 of this title.

Section 489, act June 23, 1938, ch. 601, title IV, § 409, 52 Stat. 1002; 1940 Reorg. Plan No. IV. § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to prohibited interests, and is now covered by section 1379 of this title.

Section 490, act June 23, 1938, ch. 601, title IV, § 410, 52 Stat. 1003; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to loans and financial aid, and is now covered by section 1380 of this title.

Section 491, acts June 23, 1938, ch. 601, title IV, § 411, 52 Stat. 1003; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 14, 1952, ch. 740, § 2, 66 Stat. 628, related to methods of competition, and is now covered by section 1381 of this title.

Section 492, acts June 23, 1938, ch. 601, title IV, § 412, 52 Stat. 1004; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; May 16, 1942, ch. 318, § 4(b), 56 Stat. 301, related to pooling and other agreements, and is now covered by section 1382 of this title.

Section 493, act June 23, 1938, ch. 601, title IV, § 413, 52 Stat. 1004, related to form of control, and is now covered by section 1383 of this title.

Section 494, act June 23, 1938, ch. 601, title IV, § 414, 52 Stat. 1004, related to legal restraints, and is now covered by section 1384 of this title.

Section 495, act June 23, 1938, ch. 601, title IV, § 415, 52 Stat. 1004; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, authorized inquiries into air carrier management, and is now covered by section 1385 of this title.

Section 496, act June 23, 1938, ch. 601, title IV, § 416, 52 Stat. 1004; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the classification and exemption of carriers, and is now covered by section 1386 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER V.—NATIONALITY AND OWNERSHIP OF AIRCRAFT

§§ 521 to 524. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 521, act June 23, 1938, ch. 601, title V, § 501, 52 Stat. 1005; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, provided for the registration of aircraft nationality, and is now covered by section 1401 of this title.

Section 522, act June 23, 1938, ch. 601, title V, § 502, 52 Stat. 1006; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the registration of engines, propellers, and appliances, and is now covered by section 1402 of this title.

Section 523, acts June 23, 1938, ch. 601, title V, § 503, 52 Stat. 1006; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; June 19, 1948, ch. 523, § 3, 62 Stat. 494, related to the recordation of ownership of aircraft, aircraft engines, and spare parts, and is now covered by section 1403 of this title.

Section 524, act June 23, 1938, ch. 601, title V, § 504, as added June 16, 1948, ch. 482, 62 Stat. 470, related to the liability of certain persons not in possession of aircraft, and is now covered by section 1404 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER VI.—CIVIL AERONAUTICS SAFETY REGULATIONS

§§ 551 to 560. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 551, acts June 23, 1938, ch. 601, title VI, § 601, 52 Stat. 1007; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 1, 1948, ch. 792, § 4, 62 Stat. 1217, related to the general safety powers and duties of the Board, and to the delegation of authority to the Administrator, and is now covered by section 1421 of this title.

Section 552, act June 23, 1938, ch. 601, title VI, § 602, 52 Stat. 1008; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to airman certificates, and is now covered by section 1422 of this title.

Section 553, act June 23, 1938, ch. 601, title VI, § 603, 52 Stat. 1009; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to aircraft certificates, and is now covered by section 1423 of this title.

Section 554, act June 23, 1938, ch. 601, title VI, § 604, 52 Stat. 1010; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to air carrier operating certificates, and is now covered by section 1424 of this title.

Section 555, act June 23, 1938, ch. 601, title VI, § 605, 52 Stat. 1010; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the maintenance of equipment in air transportation, and is now covered by section 1425 of this title.

Section 556, act June 23, 1938, ch. 601, title VI, § 606, 52 Stat. 1011; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233, related to air navigation facility rating, and is now covered by section 1426 of this title.

Section 557, act June 23, 1938, ch. 601, title VI, § 607, 52 Stat. 1011; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233, authorized the rating of schools, repair stations and other agencies, and is now covered by section 1427 of this title.

Section 558, act June 23, 1938, ch. 601, title VI, § 608, 52 Stat. 1011; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233, related to form of applications, and is now covered by section 1428 of this title.

Section 559, act June 23, 1938, ch. 601, title VI, § 609, 52 Stat. 1011; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for the amendment, suspension, and revocation of certificates, and is now covered by section 1429 of this title.

Section 560, acts June 23, 1938, ch. 601, title VI, § 610, 52 Stat. 1012; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Oct. 11, 1951, ch. 495, § 4, 65 Stat. 407, prescribed violations of sections 551—560 of this title, and is now covered by section 1430 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER VII.—AIR SAFETY

§§ 581, 582. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 581, acts June 23, 1938, ch. 601, title VII, § 701, 52 Stat. 1012; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Oct. 28, 1949, ch. 782,

title XI, § 1106(a), 62 Stat. 972, authorized the procurement of temporary services in investigation of aircraft accidents, and is now covered by section 1441 of this title.

Section 582, act June 23, 1938, ch. 601, title VII, § 702, 52 Stat. 1013; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, prescribed the duties of the Board, and is now covered by section 1441(a) of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER VIII.—OTHER ADMINISTRATIVE AGENCIES

§§ 601 to 603. Repealed. Pub. L. 85–726, ttile XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 601, act June 23, 1938, ch. 601, title VIII, § 801, 52 Stat. 1014; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the President of the United States, and is now covered by section 1461 of this title.

Section 602, act June 23, 1938, ch. 601, title VIII, § 802, 52 Stat. 1014; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the Department of State, and is now covered by section 1462 of this title.

Section 603, acts June 23, 1938, ch. 601, title VIII, § 803, 52 Stat. 1014; 1940 Reorg. Plan No. IV, §§ 7, 8, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; Aug. 8, 1946, ch. 911, 60 Stat. 944; July 7, 1958, Pub. L. 85–507, § 21(c), 72 Stat. 338, related to the Weather Bureau, and is now covered by section 1463 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

REPEAL OF CLAUSE (8) OF SECTION 603 BY PUB. L. 85–726

Section 1401(b) of Pub. L. 85–726 provided in part that the repeal of cl. (8) of former section 603 of this title by subsec. (b) of section 1401 of Pub. L. 85–726, shall not take effect in such manner as to impair the operation of the deferred repeal of such clause as provided in section 21 of the Government Employees Training Act [chapter 32 of Title 5, Executive Departments and Government Officers and Employees].

SUBCHAPTER IX.—PENALTIES

§§ 621 to 623. Repealed. Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 621, act June 23, 1938, ch. 601, title IX, § 901, 52 Stat. 1015; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, prescribed civil penalties, and is now covered by section 1471 of this title.

Section 622, acts June 23, 1938, ch. 601, title IX, § 902, 52 Stat. 1015; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; July 26, 1949, ch. 362, 62 Stat. 480; Aug. 3, 1950, ch. 517, 64 Stat. 395; July 14, 1952, ch. 740, § 3, 66 Stat. 629, prescribed criminal penalties, and is now covered by section 1472 of this title.

Section 623, act June 23, 1938, ch. 601, title IX, § 903, 52 Stat. 1017; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to venue and prosecution of offenses, and is now covered by section 1473 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER X.—PROCEDURE

§§ 641 to 649. Repealed. Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 641, act June 23, 1938, ch. 601, title X, § 1001, 52 Stat. 1017; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the conduct of proceedings, and is now covered by section 1481 of this title.

Section 642, act June 23, 1938, ch. 601, title X, § 1002, 52 Stat. 1018; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to complaints and investigations by the Board, and is now covered by section 1482 of this title.

Section 643, acts June 23, 1938, ch. 601, title X, § 1003, 52 Stat. 1020; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; May 16, 1942, ch. 318, § 4(a), 56 Stat. 300; Aug. 4, 1947, ch. 471, 61 Stat. 743, provided for Joint Boards, and is now covered by section 1483 of this title.

Section 644, act June 23, 1938, ch. 601, title X, § 1004, 52 Stat. 1021; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to evidence, and is now covered by section 1484 of this title.

Section 645, act June 23, 1938, ch. 601, title X, § 1005, 52 Stat. 1023; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to orders, notices, and service thereof, and is now covered by section 1485 of this title.

Section 646, acts June 23, 1938, ch. 601, title X, § 1006, 52 Stat. 1024; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug 28, 1958, Pub. L. 85–791, § 18, 72 Stat. 947, provided for judicial review, and is now covered by section 1486 of this title.

Section 647, act June 23, 1938, ch. 601, title X, § 1007, 52 Stat. 1025; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to judicial enforcement, and is now covered by section 1487 of this title.

Section 648, act June 23, 1938, ch. 601, title X, § 1008, 52 Stat. 1025; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940. 5 F.R. 2421, 54 Stat. 1235, provided for participation by the Board in court proceedings, and is now covered by section 1488 of this title.

Section 649, act June 23, 1938, ch. 601, title X, § 1009, 52 Stat. 1025; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to joinder of parties and intervention, and is now covered by section 1489 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER XI.—MISCELLANEOUS

§§ 671 to 681. Repealed. Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Section 671, act June 23, 1938, ch. 601, title XI, § 1101, 52 Stat. 1026; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233, related to hazards of air commerce, and is now covered by section 1501 of this title.

Section 672, act June 23, 1938, ch. 601, title XI, § 1102, 52 Stat. 1026; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to international agreements, and is now covered by section 1502 of this title.

Section 673, act June 23, 1938, ch. 601, title XI, § 1103, 52 Stat. 1026; 1940 Reorg. Plan No. IV, § 7, eff. June 30,

1940, 5 F.R. 2421, 54 Stat. 1235, related to the use of documents as evidence, and is now covered by section 1503 of this title.

Section 674, act June 23, 1938, ch. 601, title XI, § 1104, 52 Stat. 1026; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the public disclosure of information, and is now covered by section 1504 of this title.

Section 675, act June 23, 1938, ch. 601, title XI, § 1105, 52 Stat. 1027; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F.R. 2109, 54 Stat. 1233; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, provided for cooperation with governmental agencies, and is now covered by section 1505 of this title.

Section 676, act June 23, 1938, ch. 601, title XI, § 1106, 52 Stat. 1027, related to exclusiveness of remedies, and is now covered by section 1506 of this title.

Section 677, act June 23, 1938, ch. 601, title XI, § 1107(k), 52 Stat. 1029, provided for the repeal of inconsistent laws.

Section 678, act June 23, 1938, ch. 601, title XI, § 1108, 52 Stat. 1029; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, related to the effect of transfers, repeals and amendments.

Section 679, act June 23, 1938, ch. 601, title XI, § 1109, 52 Stat. 1030, contained a separability clause.

Section 680, act June 23, 1938, ch. 601, title XI, § 1110, 52 Stat. 1030; 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1235, prescribed the effective date of the Civil Aeronautics Act of 1938.

Section 681, act June 23, 1938, ch. 601, 52 Stat. 973, contained the short title of the Civil Aeronautics Act of 1938.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

§§ 682 to 685. Omitted.

CODIFICATION

Section 682, act Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1302, which required payment for emergency food supplies stored at isolated stations, was from the Third Deficiency Appropriartion Act, fiscal year 1939, and was not repeated in subsequent appropriation acts.

Section 683, act July 10, 1952, ch. 651, title III, § 301, 66 Stat. 562, which authorized the transfer of aircraft and equipment to the Civil Aeronautics Administration by Departments of Air Force, Army, and Navy, was from the Department of Commerce Appropriation Act, 1953, and was not repeated in subsequent appropriation acts.

Provisions similar to section 683 were contained in the following acts:

1951—Oct. 22, 1951, ch. 533, title III, § 301, 65 Stat. 587.
1950—Sept. 6, 1950, ch. 896, ch. III, title III, § 301, 64 Stat. 621.
1949—July 20, 1949, ch. 354, title III, § 301, 63 Stat. 464.
1948—June 3, 1948, ch. 400, title III, § 301, 62 Stat. 323.

Section 684, act July 10, 1952, ch. 651, title III, § 301, 66 Stat. 562, which authorized transfer of air navigation and communication facilities to the Civil Aeronautics Administration by the Departments of the Air Force, Army, and Navy, was from the Department of Commerce Appropriation Act, 1953, and was not repeated in subsequent appropriation acts.

Provisions similar to section 684 were contained in the following acts:

1951—Oct. 22, 1951, ch. 533, title III, § 301, 65 Stat. 588.
1950—Sept. 6, 1950, ch. 896, ch. III, title III, § 301, 64 Stat. 622.
1949—July 20, 1949, ch. 354, title III, § 301, 63 Stat. 464.
1948—June 3, 1948, ch. 400, title III, § 301, 62 Stat. 324.

Section 685, act Oct. 22, 1951, ch. 533, title III, § 301, 65 Stat. 589, was from the Department of Commerce Appropriation Act, 1952, and was not repeated in the Department of Commerce Appropriation Act, 1953, act July 10, 1952, ch. 651, title III, 66 Stat. 560. Provisions similar to section 685 were contained in act Sept. 6, 1950, ch. 896, ch. III, title III, § 301, 64 Stat. 624.

SUBCHAPTER XII.—SECURITY PROVISIONS

§§ 701 to 705. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Sections 701—705, act June 23, 1938, ch. 601, title XII, §§ 1201-1205, as added Sept. 9, 1950, ch. 938, 64 Stat. 825, established security provisions, provided for national security regulations, security control of air traffic, prescribed penalties, and provided for termination of former sections 701-705, and are now covered by sections 1521-1523 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SUBCHAPTER XIII.—WAR RISK INSURANCE

§§ 711 to 722. Repealed. Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806.

Sections 711—721, act June 23, 1938, ch. 601, title XIII, §§ 1301—1311, as added June 14, 1951, ch. 123, § 1, 65 Stat. 65, related to war risk insurance, defined terms, granted authority to provide insurance, prescribed persons, property and interests insurable, authorized insurance of Government property, provided for reinsurance, created an insurance fund, and provided for actions on claims for losses, and are now covered by sections 1531—1541 of this title.

Section 722, act June 23, 1938, ch. 601, title XIII, § 1312, as added June 14, 1951, ch. 123, § 1, 65 Stat. 69 and amended July 20, 1956, ch. 655, 70 Stat. 594, related to the expiration of authority to provide insurance, and is now covered by section 1542 of this title.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

Chapter 10.—TRAINING OF CIVIL AIRCRAFT PILOTS

§§ 751 to 754. Omitted.

CODIFICATION

Sections 751—757 expired by their own terms on July 1, 1946.

Section 751, act June 27, 1939, ch. 244, § 1, 53 Stat. 855, related to the short title of act.

Section 752, act June 27, 1939, ch. 244, § 2, 53 Stat. 855; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F. R. 2109, 54 Stat. 1233; July 24, 1942, ch. 522, 56 Stat. 704; June 10, 1943, ch. 121, § 1, 57 Stat. 150, related to training programs, rules and regulations, racial, etc., discrimination, and facilities and personnel.

Section 753, act June 27, 1939, ch. 244, § 3, 53 Stat. 856, related to percentage of non-college students.

Sections 754, act June 27, 1939, ch. 244, § 4, 53 Stat. 856; 1940 Reorg. Plan No. III, § 7, eff. June 30, 1940, 5 F. R. 2109, 54 Stat. 1233, related to lease, exchange, and acceptance of loans of property.

§§ 755, 756. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650.

Sections 755, act June 27, 1939, ch. 244, § 5, 53 Stat. 856, related to powers of Administrator, appointment and compensation of personnel, and contracts.

Section 756, act June 27, 1939, ch. 244, § 6, 54 Stat. 856, related to cooperation of other agencies and loan or transfer of personnel and equipment.

§§ 757, 758. Omitted.

Section 757, act June 27, 1939, ch. 244, § 7, 53 Stat. 856; June 30, 1944, ch. 333, 58 Stat. 648, related to appropriations, expiration date and forbade training of aliens.

Section 758, act May 7, 1943, ch. 94, 57 Stat. 80, which related to compensation for war training service, was omitted, since the training program for pilots, technicians, and mechanics under former sections 751—757 has expired.

APPROPRIATIONS

Act June 10, 1943, ch. 121, § 2, 57 Stat. 150, provided that appropriations for fiscal year ending June 30, 1943, were available to carry out the provisions of former sections 751—757, as amended by the Act.

Chapter 11.—SEIZURE AND FORFEITURE OF CARRIERS TRANSPORTING, ETC., CONTRABAND ARTICLES

Sec.
781. Unlawful use of vessels, vehicles, and aircrafts; contraband article defined.
782. Seizure and forfeiture.
783. Designation of officers by Secretary of Treasury; duties of officers.
784. Application of related laws.
785. Availability of appropriations.
786. Construction with other laws.
787. Definitions.
788. Rules and regulations.
789. Guam; enforcement and administration of chapter.

§ 781. Unlawful use of vessels, vehicles, and aircrafts; contraband article defined.

(a) It shall be unlawful (1) to transport, carry, or convey any contraband article in, upon, or by means of any vessel, vehicle, or aircraft; (2) to conceal or possess any contraband article in or upon any vessel, vehicle, or aircraft, or upon the person of anyone in or upon any vessel, vehicle, or aircraft; or (3) to use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article.

(b) As used in this section, the term "contraband article" means—

(1) Any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States dealing therewith; or which has been acquired or is possessed, sold, transferred, or offered for sale, in violation of any laws of the United States dealing therewith; or which has been acquired by theft, robbery, or burglary and carried or transported within any Territory, possession, or the District of Columbia, or from any State, Territory, possession, the District of Columbia, or the Canal Zone, to another State, Territory, possession, the District of Columbia, or the Canal Zone; or which does not bear appropriate tax-paid internal-revenue stamps as required by law or regulations;

(2) Any firearm, with respect to which there has been committed any violation of any provision of the National Firearms Act or any regulation issued pursuant thereto; or

(3) Any falsely made, forged, altered, or counterfeit coin or obligation or other security of the United States or of any foreign government; or any material or apparatus, or paraphernalia fitted or intended to be used, or which shall have been used, in the making of any such falsely made, forged, altered, or counterfeit coin or obligation or other security.

(Aug. 9, 1939, ch. 618, § 1, 53 Stat. 1291; Aug. 9, 1950, ch. 655, 64 Stat. 427.)

REFERENCES IN TEXT

The National Firearms Act, referred to in subsec. (b)(2), was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1. Similar provisions were incorporated in chapter 25 of Title 26, Internal Revenue Code, 1939, and are incorporated in chapter 53 of Title 26, Internal Revenue Code, 1954.

AMENDMENTS

1950—Subsec. (b)(1). Act Aug. 9, 1950, expanded the definition of "Contraband article" as that definition relates to narcotic drugs thus increasing the situations in which vessels, vehicles, and aircraft used in illegal traffic of narcotic drugs may be seized and forfeited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 782 of this title.

§ 782. Seizure and forfeiture.

Any vessel, vehicle, or aircraft which has been or is being used in violation of any provision of section 781 of this title, or in, upon, or by means of which any violation of said section has taken or is taking place, shall be seized and forfeited: *Provided,* That no vessel, vehicle, or aircraft used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this chapter unless it shall appear that (1) in the case of a railway car or engine, the owner, or (2) in the case of any other such vessel, vehicle, or aircraft, the owner or the master of such vessel or the owner or conductor, driver, pilot, or other person in charge of such vehicle or aircraft was at the time of the alleged illegal act a consenting party or privy thereto: *Provided further,* That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this chapter by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such vessel, vehicle, or aircraft was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State. (Aug. 9, 1939, ch. 618, § 2, 53 Stat. 1291.)

§ 783. Designation of officers by Secretary of Treasury; duties of officers.

The Secretary of the Treasury is empowered to authorize, or designate, officers, agents, or other persons to carry out the provisions of this chapter. It shall be the duty of any officer, agent, or other person so authorized or designated, or authorized by law, whenever he shall discover any vessel, vehicle, or aircraft which has been or is being used in violation of any of the provisions of this chapter, or in, upon, or by means of which any violation of this chapter has taken or is taking place, to seize such vessel, vehicle, or aircraft and to place it in the custody of such person as may be authorized or designated for that purpose by the Secretary of the Treasury, to await disposition pursuant to the provisions of this chapter and any regulations issued

hereunder. (Aug. 9, 1939, ch. 618, § 3, 53 Stat. 1292.)

§ 784. Application of related laws.

All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels and vehicles for violation of the customs laws; the disposition of such vessels and vehicles or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof: *Provided*, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws shall be performed with respect to seizures and forfeitures of vessels, vehicles, and aircraft under this chapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Secretary of the Treasury. (Aug. 9, 1939, ch. 618, § 4, 53 Stat. 1292.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an official of the Treasury Department.

CROSS REFERENCES

Award of compensation to informers, custom laws, see section 1619 of Title 19, Customs Duties.

Remission or mitigation of forfeitures—

Custom laws, see section 1618 of Title 19, Customs Duties.

Internal revenue laws, see section 7327 of Title 26, Internal Revenue Code.

Liquor laws, see section 3617 of Title 18, Crime and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 789 of this title.

§ 785. Availability of appropriations.

Any appropriation which has been or shall hereafter be made for the enforcement of the customs, narcotics, counterfeiting, or internal-revenue laws, and the provisions of the National Firearms Act shall be available for the defraying of expenses of carrying out the provisions of this chapter. (Aug. 9, 1939, ch. 618, § 5, 53 Stat. 1292.)

REFERENCES IN TEXT

The internal revenue laws, referred to in text, are classified to Title 26, Internal Revenue Code.

The National Firearms Act, referred to in text, was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1. Similar provisions were incorporated in chapter 25 of Title 26, Internal Revenue Code 1939 and are incorporated in chapter 53 of Title 26, Internal Revenue Code, 1954.

§ 786. Construction with other laws.

The provisions of this chapter shall be construed to be supplemental to, and not to impair in any way, existing provisions of law imposing fines, penalties, or forfeitures; or providing for the seizure, condemnation, or disposition of forfeited property or the proceeds thereof; or authorizing the remission or mitigation of fines, penalties, or forfeitures. (Aug. 9, 1939, ch. 618, § 6, 53 Stat. 1292.)

§ 787. Definitions.

When used in this chapter—

(a) The term "vessel" includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water, but does not include aircraft;

(b) The term "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, but does not include aircraft;

(c) The term "aircraft" includes every description of craft or carriage or other contrivance used, or capable of being used, as means of transportation through the air;

(d) The term "narcotic drug" shall have the meaning given that term by section 802(16) of Title 21 and shall also include marihuana as defined by section 802(15) of such title;

(e) The term "firearm" means any firearm, as now or hereafter defined by the National Firearms Act or the regulations issued thereunder; and

(f) The words "obligation or other security of the United States" are used as now or hereafter defined in section 8 of Title 18. (Aug. 9, 1939, ch. 618, § 7, 53 Stat. 1292; Oct. 31, 1951, ch. 655, § 55 (b) 65 Stat. 729; Oct. 27, 1970, Pub. L. 91–513, title III, § 1102(r), 84 Stat. 1294.)

REFERENCES IN TEXT

The National Firearms Act, referred to in subsec. (e), was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1. Similar provisions were incorporated in chapter 25 of title 26, Internal Revenue Code 1939 and are incorporated in chapter 53 of Title 26, Internal Revenue Code, 1954.

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–513 substituted sections 802(16) and 802(15) of Title 21 for the Narcotic Drugs Import and Export Act, the internal-revenue laws, or the regulations issued thereunder, and the Marihuana Tax Act of 1937 and the regulations issued thereunder as the sections in which to find the definitions of "narcotic drug" and "marihuana", respectively.

1951—Subsec. (f). Act Oct. 31, 1951, substituted "8 of Title 18" for "261 of Title 18".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91–513, set out as a note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91–513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91–513, set out as a note under section 171 of Title 21, Food and Drugs.

§ 788. Rules and regulations.

The Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to carry out the provisions of this chapter. (Aug. 9, 1939, ch. 618, § 8, 53 Stat. 1293.)

§ 789. Guam; enforcement and administration of chapter.

(a) In Guam the enforcement and administration of this chapter shall be performed by the Governor of Guam, acting through such officers of the Government of Guam as he may designate.

(b) The Governor of Guam is authorized to carry out the provisions of the related laws set forth in section 784 of this title, with such modifications as he shall deem necessary to meet special conditions on Guam; and the Governor is further authorized to make such rules and regulations as may be necessary to carry out the provisions of this chapter on Guam. (Aug. 9, 1939, ch. 618, § 9, as added Aug. 1, 1956, ch. 852, § 22, 70 Stat. 911.)

Chapter 12.—INTERSTATE COMMERCE ACT, PART III; WATER CARRIERS

Sec.
901. Short title.
902. Definitions.
903. Application of provisions; exemptions.
904. General powers and duties of the Commission.
905. Rates, fares, charges, and practices; through routes.
906. Tariffs and schedules.
907. Commission's authority over rates; complaints; hearings.
908. Reparation awards; limitation of actions.
909. Certificates of public convenience and necessity and permits.
910. Dual operations under certificates and permits.
911. Temporary operations.
912. Transfer of certificates and permits.
912a. Revocation of certificates and permits.
913. Accounts, records, and reports.
914. Allowances to shippers for transportation services.
915. Notices, orders, and service of process.
916. Enforcement and procedure.
917. Unlawful acts and penalties.
918. Collection of rates and charges.
919. Employees.
920. Repeals.
921. Transfer of employees, records, property, and appropriations.
922. Existing orders, rules, tariffs, etc.; pending matters.
922a. Recording of evidences of equipment indebtedness.
922b. Filing of information return or other report for income tax purposes with State or subdivision by water carrier on compensation paid to interstate employees.
(a) Filing or reporting where employee resides and where employee earns more than 50 per centum of compensation paid by carrier to him; applicability to masters, officers, and seamen.
(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.
(c) Definitions.
923. Separability of provisions.

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act, chapters 1, 8, 12, 13 and 19 of this title, by inserting before part I thereof (chapter 1 of this title) the following provision entitled "National Transportation Policy": "It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this act shall be administered and enforced with a view to carrying out the above declaration of policy."

INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "part I" and a new part II, comprising chapter 8 of this title, was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV, constituting chapter 13 of this title, was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting chapter 19 of this title, was added by Pub. L. 85-625, § 2, Aug. 12, 1958, 72 Stat. 568.

CROSS REFERENCES

Appeals to Supreme Court, see section 45 of this title.

Charges for long and short hauls and on through route, prohibitions, see section 4 of this title.

Combinations and consolidations of carriers, prohibitions, see section 5(1) of this title.

Common carriers by railroad, duty to establish reasonable through routes with common carriers by water subject to this chapter, see section 1(4) of this title.

Exchange of telephone, telegraph, or cable services, see section 1(5½) of this title.

Expedition of actions by United States under this chapter involving general public importance, see section 44 of this title.

Interchange of traffic, connecting line defined, see section 3(4) of this title.

Intervention of representatives of employees, see section 17(11) of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1, 3, 4, 5, 5b, 13, 15, 17, 302, 1002, 1004, 1008, 1010, 1011 of this title; title 7 section 225.

§ 901. Short title.

This chapter may be cited as part III of the Interstate Commerce Act. (Feb. 4, 1887, ch. 104, pt. III, § 301, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929.)

EFFECTIVE DATE OF CHAPTER

Section 202 of act Sept. 18, 1940, ch. 722, provided that: "Part III of the Interstate Commerce Act [this chapter] shall take effect on the date of the enactment of this Act [September 18, 1940], except that sections * * * (904 (c), 905—908, 909 (a) and (f), 913—918, 920, 921, and 922 of this title) shall take effect on the 1st day of January 1941: *Provided, however,* That the Interstate Commerce Commission shall, if found by it necessary or desirable in the public interest, by general or special order postpone the taking effect of any of the provisions above enumerated to such time, but not beyond the 1st day of April 1942, as the Commission shall prescribe."

INTERSTATE COMMERCE ACT

Section 1 of act Sept. 18, 1940, amended the Interstate Commerce Act by inserting before part I thereof (chapter 1 of this title) the following provision entitled "Short Title": "This act (chapters 1, 8, 12, 13 and 19 of this title) may be cited as the Interstate Commerce Act."

§ 902. Definitions.

For the purposes of this chapter—

(a) The term "person" includes any individual, firm, copartnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(b) The term "Commission" means the Interstate Commerce Commission.

(c) The term "water carrier" means a common carrier by water or a contract carrier by water.

(d) The term "common carrier by water" means any person which holds itself out to the general public to engage in the transportation by water in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, except transportation by water by an express company subject to chapter 1 of this title in the conduct of its express business, which shall be considered to be and shall be regulated as transportation subject to chapter 1 of this title.

(e) The term "contract carrier by water" means any person which, under individual contracts or agreements, engages in the transportation (other than transportation referred to in paragraph (d) of this section and the exception therein) by water of passengers or property in interstate or foreign commerce for compensation.

The furnishing for compensation (under a charter, lease, or other agreement) of a vessel, to a person other than a carrier subject to this Act, to be used by the person to whom such vessel is furnished in the transportation of its own property, shall be considered to constitute, as to the vessel so furnished, engaging in transportation for compensation by the person furnishing such vessel, within the meaning of the foregoing definition of "contract carrier by water". Whenever the Commission, upon its own motion or upon application of any interested party, determines that the application of the preceding sentence to any person or class of persons is not necessary in order to effectuate the national transportation policy declared in the Interstate Commerce Act, it shall by order exempt such person or class of persons from the provisions of this chapter for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the application of such sentence to the exempted person or class of persons is necessary in order to effectuate such national transportation policy. No such exemption shall be denied or revoked except after reasonable opportunity for hearing.

(f) The term "vessel" means any watercraft or other artificial contrivance of whatever description which is used, or is capable of being, or is intended to be, used as a means of transportation by water.

(g) The term "transportation facility" includes any vessel, warehouse, wharf, pier, dock, yard. grounds, or any other instrumentality or equipment of any kind, used in or in connection with transportation by water subject to this chapter.

(h) The term "transportation" includes the use of any transportation facility (irrespective of ownership or of any contract, express or implied, for such use), and includes any and all services in or in connection with transportation, including the receipt, delivery, elevation, transfer in transit, refrigeration or icing, ventilation, storage, and handling of property transported or the interchange thereof with any other agency of transportation.

(i) The term "interstate or foreign transportation" or "transportation in interstate or foreign commerce", as used in this chapter, means transportation of persons or property—

(1) wholly by water from a place in a State to a place in any other State, whether or not such transportation takes place wholly in the United States;

(2) partly by water and partly by railroad or motor vehicle, from a place in a State to a place in any other State; except that with respect to such transportation taking place partly in the United States and partly outside thereof, such terms shall include transportation by railroad or motor vehicle only insofar as it takes place within the United States, and shall include transportation by water only insofar as it takes place from a place in the United States to another place in the United States;

(3) wholly by water, or partly by water and partly by railroad or motor vehicle, from or to a place in the United States to or from a place outside the United States, but only (A) insofar as such transportation by rail or by motor vehicle takes place within the United States, and (B) in the case of a movement to a place outside the United States, only insofar as such transportation by water takes place from any place in the United States to any other place therein prior to transshipment at a place within the United States for movement to a place outside thereof, and, in the case of a movement from a place outside the United States, only insofar as such transportation by water takes place from any place in the United States to any other place therein after transshipment at a place within the United States in a movement from a place outside thereof.

(j) The term "United States" means the States of the United States and the District of Columbia.

(k) The term "State" means a State of the United States or the District of Columbia.

(*l*) The term "common carrier by railroad" means a common carrier by railroad subject to the provisions of chapter 1 of this title.

(m) The term "common carrier by motor vehicle" means a common carrier by motor vehicle subject to the provisions of chapter 8 of this title. (Feb. 4, 1887, ch. 104, pt. III, § 302, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929.)

REFERENCES IN TEXT

This act, referred to in subsec. (e), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

The national transportation policy declared in the Interstate Commerce Act, referred to in par. (e), is set out as a note preceding section 901 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 903. Application of provisions; exemptions.

(a) In the case of transportation which is subject both to this chapter and chapter 1 of this title, the provisions of chapter 1 of this title shall apply only to the extent that chapter 1 of this title imposes, with respect to such transportation, requirements not imposed by the provisions of this chapter.

(b) Nothing in this chapter shall apply to the transportation by a water carrier of commodities in bulk when the cargo space of the vessel in which such commodities are transported is being used for the carrying of not more than three such commodities. This subsection shall apply only in the case of commodities in bulk which are (in accordance with the existing custom of the trade in the handling and transportation of such commodities as of June 1, 1939) loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count. The exemption afforded under this subsection to the transportation by a water carrier of commodities in bulk shall not be lost by the concurrent transportation in the same vessel of other commodities. For the purposes of this subsection two or more vessels while navigated as a unit shall be considered to be a single vessel. This subsection shall not apply to transportation subject, on September 18, 1940, to the provisions of the Intercoastal Shipping Act, 1933, as amended.

(c) Nothing in this chapter shall apply to transportation by a contract carrier by water of commodities in bulk in a non-ocean-going vessel on a normal voyage during which (1) the cargo space of such vessel is used for the carrying of not more than three such commodities, and (2) such vessel passes within or through waters which are made international for navigation purposes by any treaty to which the United States is a party.

(d) Nothing in this chapter shall apply to the transportation by water of liquid cargoes in bulk in tank vessels designed for use exclusively in such service and certified under regulations approved by the Commandant of the Coast Guard pursuant to the provisions of section 391a of Title 46.

(e) (1) Notwithstanding any provision of this chapter the Commission may, by order, from time to time, upon application, or upon its own initiative without application, exempt from the requirements of this chapter the transportation of passengers between points in the United States by way of a foreign port or ports, upon a finding that application of such requirements thereto is not necessary to carry out the national transportation policy declared in this Act.

(2) It is declared to be the policy of Congress to exclude from the provisions of this chapter, in addition to the transportation otherwise excluded under this section, transportation by contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirement of special equipment or their shipment in bulk, is not actually and substantially competitive with transportation by any common carrier subject to this chapter or chapter 1 or 8 of this title. Upon application of a carrier, made in such manner and form as the Commission may by regulations prescribe, the Commission shall, subject to such reasonable conditions and limitations as the Commission may prescribe, by order exempt from the provisions of this chapter such of the transportation engaged in by such carrier as it finds necessary to carry out the policy above declared. A carrier (other than a carrier subject, at the time this chapter takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended) making such application prior to January 1, 1941, shall be exempt from the provisions of this chapter until a final determination has been made upon such application if such carrier or a predecessor in interest was in bona fide operation as a contract carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, for interruptions of service over which such carrier or its predecessor in interest had no control.

(3) Notwithstanding any other provision of this Act, any common carrier by motor vehicle which was engaged also in operations between the United States and Alaska as a common carrier by water subject to regulation by the Federal Maritime Board under the Shipping Act of 1916, as amended, and the Intercoastal Shipping Act of 1933, as amended, prior to January 3, 1959, and has so operated since that time, shall as to such operations, remain subject to the jurisdiction of the Federal Maritime Board.

(f) Notwithstanding any provision of this section or of section 902 of this title the provisions of this chapter shall not apply—

(1) to transportation by water by a carrier by railroad subject to chapter 1 of this title or by a motor carrier subject to chapter 8 of this title, incidental to transportation subject to such chapters, in the performance within terminal areas of transfer, collection, or delivery services, or in the performance of floatage, car ferry, lighterage, or towage; but such transportation shall be considered to be transportation subject to chapter 1 of this title when performed by such carrier by railroad, and transportation subject to chapter 8 of this title when performed by such motor carrier.

(2) to transportation by water by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to chapter 1 of this title, an express company subject to chapter 1 of this title, a motor carrier subject to chapter 8 of this title, or a water carrier subject to this chapter, in the performance within terminal areas of transfer, collection, or delivery services, or in the performance of floatage, car ferry, lighterage, or towage; but such transportation shall be considered to be performed by such carrier or express company as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water to which such services are incidental.

(g) Except to the extent that the Commission shall from time to time find, and by order declare, that such application is necessary to carry out the national transportation policy declared in this Act, the provisions of this chapter shall not apply (1) to transportation in interstate commerce by water solely within the limits of a single harbor or between places in contiguous harbors, when such transportation is not a part of a continuous through move-

ment under a common control, management, or arrangement to or from a place without the limits of any such harbor or harbors, or (2) to transportation by small craft of not more than one hundred tons carrying capacity or not more than one hundred indicated horsepower, or to vessels carrying passengers only and equipped to carry no more than sixteen passengers, or to ferries, or to the movement by water carriers of contractors' equipment employed or to be employed in construction or repair for such water carrier, or to the operation of salvors.

(h) The Commission shall have the power to determine, upon its own motion or upon application of any party in interest, whether any water carrier is engaged solely in transporting the property of a person which owns all or substantially all of the voting stock of such carrier. Upon so finding the Commission shall issue a certificate of exemption to such carrier, and such carrier shall not be subject to the provisions of this chapter during the period such certificate shall remain in effect. At any time after the issuance of such certificate the Commission may by order revoke such certificate if it finds that such carrier is no longer entitled to the exemption under the foregoing provisions of this subsection. Upon revocation of any such certificate the Commission shall restore to such carrier, without further proceedings, the authority, if any, to engage in transportation subject to the provisions of this chapter held by such carrier at the time the certificate of exemption pertaining to such carrier became effective. No certificate of exemption shall be denied and no order of revocation shall be issued, under this subsection, except after reasonable opportunity for hearing.

(i) In the application of the provisions of this chapter to any carrier owned or controlled by the United States, no different policy, rule of rate making, system of accounting, or method of determining costs of service, value of property, or rate of return shall be applied than is applied in the case of carriers not so owned or controlled.

(j) Nothing in this chapter shall be construed to interfere with the exclusive exercise by each State of the power to regulate intrastate commerce by water carriers within the jurisdiction of such State.

(k) Nothing in this chapter shall authorize the Commission to prescribe or regulate any rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose.

(*l*) Whenever transportation exempted under the provisions of subsection (g) of this section, or by order of the Commission under subsection (e) of this section, becomes subject to the provisions of this chapter, the carrier may continue to engage in such transportation for a period of one hundred and twenty days without a certificate or permit covering such transportation, and, if application for a certificate or permit covering such transportation is made to the Commission within such period, the Commission shall, without further proceedings, issue to the carrier a certificate or permit, whichever is appropriate, authorizing such transportation previously exempted. (Feb. 4, 1887, ch. 104, pt. III, § 303, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 931, and amended 1946 Reorg. Plan No. 3, §§ 101—104, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1097; June 12, 1948, ch. 457, 62 Stat. 386; July 12, 1960, Pub. L. 86-615, § 8, 74 Stat. 386; Dec. 28, 1970, Pub. L. 91-590, § 1, 84 Stat. 1587.)

REFERENCES IN TEXT

The Intercoastal Shipping Act, 1933, as amended, referred to in subsecs. (b) and (e)(2), (3), is classified to chapter 23A of Title 46, Shipping.

The national transportation policy referred to in subsecs. (e)(1) and (g), is set out as a note preceding section 901 of this title.

This act, referred to in subsecs. (e) (1), (3) and (g), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

The Shipping Act of 1916, as amended, referred to in subsec. (e)(3), is classified to chapter 23 of Title 46, Shipping.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-590 added the provision that the exemption afforded under this subsection to the transportation by a water carrier of commodities in bulk would not be lost by the concurrent transportation in the same vessel of other commodities.

1960—Subsec. (e). Pub. L. 86-615 added par. (3).

1948—Subsec. (e). Act June 12, 1948, exempted from this chapter vacation cruise travel from ports in the United States to various foreign ports, including round-the-world cruises, with termination of the cruise at a port in another State of the United States.

EFFECTIVE DATE

See note under section 901 of this title.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" in subsec. (d) of this section on authority of 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION DATE; STUDY BY SECRETARY OF TRANSPORTATION OF ECONOMIC REGULATION OF DRY BULK COMMODITY TRANSPORTATION; COOPERATION AND SUBMISSION OF VIEWS OF INTERSTATE COMMERCE COMMISSION AND SECRETARY OF THE ARMY; REPORT TO CONGRESS

Section 2 of Pub. L. 91-590 provided that: "The amendment made by the first section of this Act [amending subsec. (b) of this section] shall expire at the end of the three-year period beginning on the date of its enactment [Dec. 28, 1970]. The Secretary of Transportation shall undertake a comprehensive study of the present system of economic regulation of dry bulk commodity transportation, including information on amounts actually charged for the movement of dry bulk commodities; of the effect of this Act [amending subsec. (b) of this section and enacting provisions set out as notes under this section] upon the carriers to whom it applies and upon the shippers of dry bulk commodities; and what changes in the existing regulatory system, if any, would be desirable to improve competitive conditions between carriers of different modes whether or not subject to the provisions of the Interstate Commerce Act [chapters 1, 8, 12, 13, and 19 of this title]. The Interstate Commerce Commission and the Secretary of the Army are directed to cooperate fully with the Secretary of Transportation in carrying out the purposes of this Act, and to submit such independent and separate comments and views as those agencies deem appropriate. The Secretary shall transmit the results of such study to the Congress within two years after the date of enactment of this Act [Dec. 28, 1970]."

REPORTS BY WATER CARRIERS TO SECRETARY OF TRANSPORTATION; CONTENTS

Section 3 of Pub. L. 91–590 provided that: "In carrying out its functions under section 2 of this Act [set out as a note hereunder], the Secretary of Transportation may require water carriers operating under the exemption contained in section 303(b) of the Interstate Commerce Act [subsec. (b) of this section] to file such reports containing such information as the Secretary may prescribe."

ABOLITION OF FEDERAL MARITIME BOARD

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to title 5, Government Organization and Employees, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

ADMISSION OF ALASKA AS STATE

Alaska was admitted into the Union on January 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, set out preceding former section 21 of Title 48, Territories and Insular Possessions, as required by sections 1 and 8(c) of the Alaska Statehood Law, Pub. L. 85–508, July 7, 1958, 72 Stat 339, set out preceding former section 21 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1018 of this title.

§ 904. General powers and duties of the Commission.

(a) It shall be the duty of the Commission to administer the provisions of this chapter, and to that end the Commission shall have authority to make and amend such general or special rules and regulations and to issue such orders as may be necessary to carry out such provisions.

(b) The Commission shall have authority, for purposes of the administration of the provisions of this chapter, to inquire into and report on the management of the business of water carriers, and to inquire into and report on the management of the business of persons controlling, controlled by, or under a common control with water carriers, to the extent that the business of such persons is related to the management of the business of one or more such carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted. The Commission may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this chapter; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary.

(c) The Commission may establish from time to time such just and reasonable classifications of groups of carriers included in the terms "common carrier by water", or "contract carrier by water", as the special nature of the services performed by such carriers shall require; and such just and reasonable rules, regulations, and requirements consistent with the provisions of this chapter to be observed by the carriers so classified or grouped, as the Commission, after hearing, finds necessary or desirable in the public interest.

(d) Whenever it shall appear from complaint made to the Commission or otherwise that the rates, fares, regulations or practices of persons engaged in transportation by water to or from a port or ports of any foreign country in competition with common carriers by water or contract carriers by water, cause undue disadvantage to such carriers by reason of such competition, the Commission may relieve such carriers from the provisions of this chapter to such extent, and for such time, and in such manner as in its judgment may be necessary to avoid or lessen such undue disadvantage, consistently with the public interest and the national transportation policy declared in this Act.

(e) Upon complaint in writing to the Commission by any person, or upon its own initiative without complaint, the Commission may investigate whether any water carrier has failed to comply with any provision of this chapter or with any requirement established pursuant thereto, and if, after notice of and hearing upon any such investigation, the Commission finds that any such carrier has failed to comply with any such provision or requirement, it shall issue an appropriate order to compel such carrier to comply therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for action on its part, it may dismiss such complaint. (Feb. 4, 1887, ch. 104, pt. III, § 304, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 933.)

REFERENCES IN TEXT

The national transportation policy referred to in subsec. (d), is set out as a note preceding section 901 of this title.

This Act, referred to in subsec. (d), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 912a of this title.

§ 905. Rates, fares, charges, and practices; through routes.

(a) It shall be the duty of every common carrier by water, with respect to transportation subject to this chapter which it undertakes or holds itself out to perform, or which it is required by or under authority of this chapter to perform, to provide and furnish such transportation upon reasonable request therefor, and to establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices, relating thereto and to the issuance, form, and substance of tickets, receipts, bills of lading, and manifests, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with such transportation in interstate or foreign commerce. All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

(b) It shall be the duty of common carriers by water to establish reasonable through routes with other such carriers and with common carriers by railroad, for the transportation of persons or property, and just and reasonable rates, fares, charges,

and classifications applicable thereto, and to provide reasonable facilities for operating such through routes, and to make reasonable rules and regulations with respect to their operation and providing for reasonable compensation to those entitled thereto. Common carriers by water may establish reasonable through routes and rates, fares, charges, and classifications applicable thereto with common carriers by motor vehicle. Common carriers by water subject to this chapter may also establish reasonable through routes and joint rates, charges, and classifications with common carriers by water subject to the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act, 1933, as amended (including persons who hold themselves out to transport goods but who do not own or operate vessels) engaged in the transportation of property in interstate or foreign commerce between Alaska or Hawaii on the one hand, and, on the other, the other States of the Union, and such through routes and joint rates, and all classifications, regulations, and practices established in connection therewith shall be subject to the provisions of this chapter. In the case of joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such carriers.

(c) It shall be unlawful for any common carrier by water to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic in any respect whatsoever; or to subject any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided*, That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description. Differences in the classifications, rates, fares, charges, rules, regulations, and practices of a water carrier in respect of water transportation from those in effect by a rail carrier with respect to rail transportation shall not be deemed to constitute unjust discrimination, prejudice, or disadvantage, or an unfair or destructive competitive practice, within the meaning of any provision of this Act.

(d) All common carriers by water shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines and connecting lines, and for the receiving, forwarding, and delivering of passengers or property to and from connecting lines; and shall not discriminate in their rates, fares, and charges between connecting lines, or unduly prejudice any connecting line in the distribution of traffic that is not specifically routed by the shipper. As used in this subsection the term "connecting line" means the connecting line of any common carrier by water or any common carrier subject to chapter 1 of this title. (Feb. 4, 1887, ch. 104, pt. III, § 305, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 934, and amended Aug. 24, 1962, Pub. L. 87–595, § 2, 76 Stat. 398.)

REFERENCES IN TEXT

The Shipping Act, 1916, as amended, referred to in subsec. (b), is classified to chapter 23 of Title 46, Shipping.

The Intercoastal Shipping Act, 1933, as amended, referred to in subsec. (b), is classified to chapter 23A of Title 46.

This Act, referred to in subsec. (c), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–595 authorized common carriers by water to establish reasonable through routes and joint rates, charges, and classifications with common carriers by water subject to the Shipping Act, 1916, as amended, or the Intercoastal Shipping Act, 1933, as amended, including persons who do not own or operate vessels, engaged in transporting property between Alaska or Hawaii and the other States of the Union, which routes, rates, charges and classifications shall be subject to this chapter.

EFFECTIVE DATE

See note under section 901 of this title.

ADMISSION OF ALASKA AS STATE

Alaska was admitted into the Union on January 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, set out preceding former section 21 of Title 48, Territories and Insular Possessions, as required by sections 1 and 8(c) of the Alaska Statehood Law, Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out preceding former section 21 of Title 48.

ADMISSION OF HAWAII AS STATE

Hawaii was admitted into the Union on August 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out preceding former section 491 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Free transportation of Government personnel in American vessels prohibited; exceptions; reduction of Government rate; penalty, see section 817b of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

§ 906. Tariffs and schedules.

(a) Every common carrier by water shall file with the Commission, and print, and keep open to public inspection tariffs showing all rates, fares, charges, classifications, rules, regulations, and practices for the transportation in interstate or foreign commerce of passengers and property between places on its own route, and between such places and places on the route of any other such carrier or on the route of any common carrier by railroad or by motor vehicle, when a through route and joint rate shall have been established. Such tariffs shall plainly state the places between which property or passengers will be carried, the classification of property or passengers and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggragate of such rates, fares, or charges, or the value of the service rendered to the passenger, shipper, or consignee.

(b) All charges of common carriers by water shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs required by this section shall be published, filed, and posted; and the Commission is authorized to reject any tariff

filed with it which is not in accordance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

(c) No common carrier by water shall charge or demand or collect or receive a greater or less or different compensation for transportation subject to this chapter or for any service in connection therewith than the rates, fares, or charges specified for such transportation or such service in the tariffs lawfully in effect; and no such carrier shall refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation affecting the value thereof except such as are specified in its tariff: *Provided,* That the provisions of sections 1 (7) and 22 of this title (which relate to transportation free and at reduced rates), together with such other provisions of chapter 1 of this title (including penalties) as may be necessary for the enforcement of such provisions, shall apply to common carriers by water.

(d) No common carrier by water, unless otherwise provided by this chapter, shall engage in transportation subject to this chapter unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this chapter. No change shall be made in any rate, fare, charge, classification, regulation, or practice specified in any effective tariff of a common carrier by water except after thirty days' notice of the proposed change filed and posted in accordance with this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow changes upon notice less than that herein specified, or modify the requirements of this section, either in particular instances or by general order applicable to special circumstances or conditions.

(e) It shall be the duty of every contract carrier by water to establish and observe reasonable minimum rates and charges for any service rendered or to be rendered in the transportation of passengers or property or in connection therewith and to establish and observe reasonable regulations, and practices to be applied in connection with said reasonable minimum rates and charges. It shall be the duty of every contract carrier by water to file with the Commission, post, and keep open for public inspection, in accordance with such rules and regulations as the Commission shall prescribe, schedules of minimum rates or charges actually maintained and charged for interstate and foreign transportation to which it is a party, and any rule, regulation, or practice affecting such charges and the value of the service thereunder. No contract carrier by water, unless otherwise provided by this chapter, shall engage in transportation subject to this chapter unless the minimum rates or charges actually maintained and charged have been published, filed, and posted in accordance with the provisions of this chapter. No new rate or charge shall be established and no reduction shall be made in any rate or charge, either directly or by means of any change in any rule, regulation, or practice affecting such rate or charge, or the value of service thereunder, except after thirty days' notice of the proposed new rate or charge, or of the proposed change, filed in accordance with this section. The Commission may, in its discretion and for good cause shown, allow the establishment of any such new rate or charge, or any such change, upon notice less than herein specified, or modify the requirement of this section with respect to posting and filing of such schedules, either in particular instances or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the new rate or charge, or the change proposed to be made, and the time when it will take effect. It shall be unlawful for any such carrier to transport passengers or property or to furnish facilities or services in connection therewith for a less compensation, either directly or by means of a change in the terms and conditions of any contract, charter, agreement, or undertaking, than the rates or charges so filed with the Commission: *Provided,* That the Commission, in its discretion and for good cause shown, either upon application of any such carrier or carriers, or any class or group thereof, or upon its own initiative may, after hearing, grant relief from the provisions of this subsection to such extent, and for such time, and in such manner as, in its judgment, is consistent with the public interest and the national transportation policy declared in this Act. (Feb. 4, 1887, ch. 104, pt. III, § 306, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 935.)

REFERENCES IN TEXT

The national transportation policy, referred to in subsec. (e), is set out as a note preceding section 901 of this title.

This Act, referred to in subsec. (e), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Free transportation of Government personnel in American vessels prohibited; exceptions; reduction of Government rate; penalty, see section 817b of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 913 of this title.

§ 907. Commission's authority over rates; complaints; hearings.

(a) Any person may make complaint in writing to the Commission that any individual or joint rate, fare, charge, classification, regulation, or practice of any common carrier by water or any contract carrier by water is or will be in violation of this chapter. Every complaint shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of opinion that any individual or joint rate, fare, or charge demanded, charged, or collected by any common carrier or carriers by water for transportation subject to this chapter, or any regulation, practice, or classification of such carrier or carriers relating to such transportation, is or will

be unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this chapter, it may determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation, practice, or classification thereafter to be made effective.

(c) In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any common carrier by water there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier either goodwill, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this chapter any such carrier shall be deemed to have agreed to the provisions of this subsection on its own behalf and on behalf of all transferees of such certificate.

(d) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property by common carriers by water, or by such carriers and carriers by railroad, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated. In the case of a through route, where one of the carriers is a common carrier by water, the Commission shall prescribe such reasonable differentials as it may find to be justified between all-rail rates and the joint rates in connection with such common carrier by water. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and common carriers by water. If any tariff or schedule canceling any through route or joint rate, fare, charge, or classification, without the consent of all carriers parties thereto or authorization by the Commission, is suspended by the Commission for investigation, the burden of proof shall be upon the carrier or carriers proposing such cancellation to show that it is consistent with the public interest, without regard to the provisions of paragraph (4) of section 15 of this title.

(e) Whenever, after hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property by common carriers by water, or by such carriers and common carriers by railroad or by motor vehicle, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers. In cases where the joint rate, fare, or charge, was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge.

(f) In the exercise of its power to prescribe just and reasonable rates, fares, and charges of common carriers by water, and classifications, regulations, and practices relating thereto, the Commission shall give due consideration, among other factors, to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient water transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable water carriers, under honest, economical, and efficient management, to provide such service.

(g) Whenever there shall be filed with the Commission any schedule (except a schedule referred to in section 922 of this title) stating a new rate, fare, charge, classification, regulation, or practice for the interstate or foreign transportation of passengers or property by a common carrier or carriers by water, the Commission may upon protest of interested parties or upon its own initiative at once, and, if it so orders, without answer or other formal pleading by such carrier or carriers, but upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon, the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto, as would be proper in a proceeding instituted after such rate, fare, charge, classification, regulation, or practice had become effective. If the proceeding shall not have been concluded and an order made within the period of suspension, the proposed rate,

fare, charge, classification, regulation, or practice shall go into effect at the end of such period: *Provided, however,* That this subsection shall not apply to any initial schedule filed prior to October 1, 1941, by any such carrier (other than a carrier subject, at the time this chapter takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended, or the Shipping Act, 1916, as amended) insofar as such schedule names rates on traffic, or for services connected therewith, as to which such carrier was in bona fide operation on January 1, 1940. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable.

(h) Whenever, after hearing, upon complaint or its own initiative, the Commission finds that any minimum rate or charge of any contract carrier by water, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder, contravenes the national transportation policy declared this Act, or is in contravention of any provision of this chapter, the Commission may prescribe such just and reasonable minimum rate or charge, or such rule, regulation, or practice as in its judgment may be necessary or desirable in the public interest and to promote such policy and will not be in contravention of any provision of this chapter. Such minimum rate or charge, or such rule, regulation, or practice, so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by water subject to this chapter, which the Commission may find to be undue or inconsistent with the public interest and the national transportation policy declared in this Act, and the Commission shall give due consideration to the cost of the services rendered by such carriers, and to the effect of such minimum rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

(i) Whenever there shall be filed with the Commission by any such contract carrier any schedule (except a schedule referred to in section 922 of this title) stating a charge for a new service or a reduced charge, directly or by means of any rule, regulation, or practice, for transportation in interstate or foreign commerce, the Commission may upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period: *Provided,* That this subsection shall not apply to any initial schedule filed prior to October 1, 1941, by any such carrier (other than a carrier subject, at the time this chapter takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended, or the Shipping Act, 1916, as amended) insofar as such schedule names charges on traffic, or for services connected therewith, as to which such carrier was in bona fide operation on January 1, 1940. The rule as to burden of proof specified in subsection (g) of this section shall apply to this subsection. (Feb. 4, 1887, ch. 104, pt. III, § 307, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 937.)

REFERENCES IN TEXT

The Intercoastal Shipping Act, 1933, as amended, or the Shipping Act, 1916, as amended, referred to in subsecs. (g) and (i), are classified to chapters 23A and 23, respectively, of Title 46, Shipping.

The national transportation policy referred to in subsec. (h), is set out as a note preceding section 901 of this title.

This Act, referred to in subsec. (h), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Free transportation of Government personnel in American vessels prohibited; exceptions; reduction of Government rate; penalty, see section 817b of Title 46, Shipping.

§ 908. Reparation awards; limitation of actions.

(a) For the purposes of this section the term "carrier" means a common carrier by water.

(b) In case any carrier shall do, cause to be done, or permit to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done, such carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

(c) Any person or persons claiming to be damaged by any carrier may either make complaint to the Commission or may bring suit in his or their own behalf for the recovery of the damages for which such carrier may be liable under the provisions of subsection (b) of this section, in any district court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies.

(d) If, after hearing on a complaint, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions

of this chapter for a violation thereof by any carrier, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

(e) If such carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file with the district court of the United States for the district in which he or it resides or in which is located the principal operating office of such carrier or in which is located any port of call on a route operated by such carrier, or in any State court of general jurisdiction having jurisdiction of the parties, a complaint setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the plaintiff shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the plaintiff shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(f) (1) (A) All actions at law by carriers subject to this chapter for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(B) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subdivision (D) of this subsection.

(C) For the recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers subject to this part within three years from the time the cause of action accrues, and not after, subject to subdivision (D) of this subsection, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(D) If on or before expiration of the two-year period of limitation in subdivision (B) of this subsection or the three-year period of limitation in subdivision (C) of this subsection a carrier subject to this chapter begins action under subdivision (A) of this subsection for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

(2) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier and not after.

(3) A complaint for the enforcement of an order of the Commission for the payment of money shall be filed in the district court or the State court within one year from the date of the order, and not after.

(4) The term "overcharges" as used in this section means charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Commission.

(5) The provisions of this subsection shall extend to and embrace all transportation of property or passengers for or on behalf of the United States in connection with any action brought before the Commission or any court by or against carriers subject to this chapter: *Provided, however,* That with respect to such transportation of property or passengers for or on behalf of the United States, the periods of limitation herein provided shall be extended to include three years from the date of (A) payment of charges for the transportation involved, or (B) subsequent refund for overpayment of such charges, or (C) deduction made under section 66 of this title, whichever is later.

(g) In such suits all parties in whose favor the Commission may have made an award of damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant has his or its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff. (Feb. 4, 1887, ch. 104, pt. III, § 308, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 940, and amended June 29, 1949, ch. 272, §§ 2, 3 (a), 4, 63 Stat. 281; Aug. 26, 1958, Pub. L. 85–762, § 1 (5), (6), 72 Stat. 860.)

AMENDMENTS

1958—Subsec. (f)(1). Pub. L. 85–762, § 1(5), substituted "three years" for "two years" in pars. (A) and (C), and, the second time it appears, in par. (D).

Subsec. (f)(5). Pub. L. 85–762, § 1(6) added subsec. (f)(5).

1949—Subsec. (a). Act June 29, 1949, § 2, made the section applicable to all common carriers by water instead of applicable to a limited class only.

Subsec. (f)(1). Act June 29, 1949, § 3 (a), added the same provisions regarding the period of limitations on actions by law by or against common carriers by water on overcharges or undercharges that govern common carriers by motor vehicle under section 304a of this title, and reduced the limitation period for commencement of actions from 3 to 2 years, subject to extensions in some cases.

Subsec. (f)(5). Act June 29, 1949, § 4, repealed subsec. (f)(5). relating to the effective date of subsec. (f) of this section.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of this section by Pub. L. 85–762 applicable only to cause of action which accrues on or after Aug. 26, 1958, see note set out under section 16 of this title.

EFFECTIVE DATE OF 1949 AMENDMENT

Section 3 (b) of act June 29, 1949, provided that the amendment to subsec. (f) of this section by act June 29, 1949, shall apply only to cases in which the cause of action will accrue after June 29, 1949.

EFFECTIVE DATE

See note under section 901 of this title.

§ 909. Certificates of public convenience and necessity and permits.

(a) Except as otherwise provided in this section and section 911 of this title, no common carrier by water shall engage in transportation subject to this chapter unless it holds a certificate of public convenience and necessity issued by the Commission: *Provided, however,* That subject to section 910 of this title, if any such carrier or a predecessor in interest was in bona fide operation as a common carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in subsection (b) of this section and prior to the expiration of one hundred and twenty days after this section takes effect. Pending the determination of any such application, the continuance of such operation shall be lawful. If the application for such certificate is not made within one hundred and twenty days after this section takes effect, it shall be decided in accordance with the standards and procedure provided for in subsection (c) of this section, and such certificate shall be issued or denied accordingly. Any person, not included within the provisions of the foregoing proviso, who is engaged in transportation as a common carrier by water when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a certificate, and, if application for such certificate is made to the Commission within such period, the continuance of such operation shall be lawful pending determination of such application: *Provided, further,* That, subject to the provisions of section 910 of this title, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any inland waterway, other than the high seas, as a common carrier by water, in interstate or foreign commerce, between points in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a certificate shall be issued authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceedings, if application for such certificate is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a certificate shall be lawful. Applications for certificates under this proviso shall be filed with the Commission in writing, and in such form, contain such information and be accompanied by proof of service upon such interested parties as the Commission shall require.

(b) Application for a certificate shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require.

(c) Subject to section 910 of this title, upon application as provided in this section the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if the Commission finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

(d) Such certificate shall specify the route or routes over which, or the ports to and from which, such carrier is authorized to operate, and, at the time of issuance and from time to time thereafter, there shall be attached to the exercise of the privileges granted by such certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such other terms, and conditions, and limitations as are necessary to carry out, with respect to the operations of the carrier, the requirements of this chapter or those established by the Commission pursuant thereto: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to its equipment, facilities, or service within the scope of such certificate, as the development of the business and the demands of the public shall require, or the right of the carrier to extend its services over uncompleted portions of waterway projects now or hereafter authorized by Congress, over the completed portions of which it already operates, as soon as such uncompleted portions are open for navigation.

(e) No certificate issued under this chapter shall confer any proprietary or exclusive right or rights in the use of public waterways.

(f) Except as otherwise provided in this section and section 911 of this title, no person shall engage in the business of a contract carrier by water unless he or it holds an effective permit, issued by the Commission authorizing such operation: *Provided,* That, subject to section 910 of this title, if any such carrier or a predecessor in interest was in bona fide operation as a contract carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made, and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide

operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such permit, without further proceedings, if application for such permit is made to the Commission as provided in subsection (g) of this section and prior to the expiration of one hundred and twenty days after this section takes effect. Pending the determination of any such application, the continuance of such operation shall be lawful. If the application for such permit is not made within one hundred and twenty days after this section takes effect, it shall be decided in accordance with the standards and procedure provided for in subsection (g) of this section, and such permit shall be issued or denied accordingly. Any person, not included within the provisions of the foregoing proviso, who is engaged in transportation as a contract carrier by water when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a permit, and, if application for such permit is made to the Commission within such period, the continuance of such operation shall be lawful pending the determination of such application: *Provided further,* That, subject to the provisions of section 910 of this title, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any inland waterway, other than the high seas, as a contract carrier by water, in interstate or foreign commerce, between points in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations, without further proceedings, if application for such permit is made as provided herein before December 31, 1960. Pending the determination of such application, the continuance of such operations without a permit shall be lawful. Applications for permits under this proviso shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require.

(g) Application for such permit shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require. Subject to section 910 of this title, upon application the Commission shall issue such permit if it finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that such operation will be consistent with the public interest and the national transportation policy declared in this Act. The business of the carrier and the scope thereof shall be specified in such permit and there shall be attached thereto at time of issuance and from time to time thereafter such reasonable terms, conditions, and limitations, consistent with the character of the holder as a contract carrier by water, as are necessary to carry out the requirements of this chapter or those lawfully established by the Commission pursuant thereto: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his equipment, facilities, or service, within the scope of the permit, as the development of the business and the demands of the carrier's patrons shall require. (Feb. 4, 1887, ch. 104, pt. III, § 309, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 941, and amended July 12, 1960, Pub. L. 86-615, §§ 4, 5, 74 Stat. 384.)

REFERENCES IN TEXT

The national transportation policy referred to in subsec. (g), is set out as a note preceding section 901 of this title.

This Act, referred to in subsec. (g), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-615, § 4, added proviso relating to common carriers by water between points in the Territory of Alaska.

Subsec. (f). Pub. L. 86-615, § 5, added proviso relating to contract carriers by water between points in the Territory of Alaska.

EFFECTIVE DATE

See note under section 901 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding former section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 920 of this title.

§ 910. Dual operations under certificates and permits.

Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the national transportation policy declared in this Act—

(1) no person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier by water if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier by water; and

(2) no person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier by water if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier by water.

(Feb. 4, 1887, ch. 104, pt. III, § 310, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 943.)

REFERENCES IN TEXT

The national transportation policy, referred to in text, is set out as a note preceding section 901 of this title.

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 909 of this title.

§ 911. Temporary operations.

(a) To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier by water or a contract carrier by water, as the case may be. Such temporary authority shall be valid for such time as the Commission shall specify, but for not more than an aggregate of one hundred and eighty days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

(b) Pending the determination of an application filed with the Commission under this Act for approval of a consolidation or merger of the properties of two or more water carriers, or of a purchase, lease, or contract to operate the properties of one or more water carriers, the Commission may, for good cause shown, and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of operation of the properties of such carriers by water by the person proposing to acquire them, as aforesaid. (Feb. 4, 1887, ch. 104, pt. III, § 311, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 943, and amended Mar. 27, 1942, ch. 199, title I, § 103, 56 Stat. 177.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

AMENDMENTS

1942—Subsec. (a). Act Mar. 27, 1942, struck out "but for not more than an aggregate of one hundred and eighty days" after "specify" in second sentence.

EFFECTIVE DATE

See note under section 901 of this title.

EXPIRATION OF AMENDMENT BY ACT MAR. 27, 1942

Act Mar. 27, 1942, which amended subsec. (a) by striking out the words "but for not more than an aggregate of one hundred and eighty days" following "specify" in the second sentence expired by its own terms on Mar. 31, 1947.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 909 of this title.

§ 912. Transfer of certificates and permits.

Except as provided in this chapter, any such certificate or permit may be transferred in accordance with such regulations as the Commission shall prescribe for the protection of the public interest and to insure compliance with the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. III, § 312, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 944.)

EFFECTIVE DATE

See note under section 901 of this title.

§ 912a. Revocation of certificates and permits.

(1) Certificates and permits shall be effective from the date specified therein, and shall remain in effect until suspended or revoked as provided in this section.

(2) Any certificate or permit issued under this chapter may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may, upon complaint, or on the Commission's own initiative, after reasonable notice and opportunity for hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with the provisions of section 905(a) of this title with respect to performing, providing, and furnishing transportation upon reasonable request therefor: *Provided however,* That no such certificate or permit shall be suspended, changed, or revoked under this paragraph (except upon application of the holder) unless the holder thereof, fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order of the Commission, made as provided in section 904(e) of this title, commanding obedience to the provisions of section 905(a) of this title with respect to performing, providing, and furnishing transportation upon reasonable request therefor. (Feb. 4, 1887, ch. 104, pt. III, § 312a, as added Sept. 6, 1965, Pub. L. 89–170, § 8(a), 79 Stat. 652.)

§ 913. Accounts, records, and reports.

(a) The Commission is authorized to require annual, periodical, or special reports from water carriers, lessors, and associations (as defined in this section), and to prescribe the manner and form in which such reports shall be made, and to require from such carriers, lessors, and associations specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier, lessor, or association in such form and detail as may be prescribed by the Commission. Said annual reports shall contain all the required information for the period of twelve months ending on the thirty-first day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under this subsection shall also be under oath whenever the Commission so requires.

(b) The Commission may also require any such carrier to file with it a true copy of any contract, charter, or agreement between such carrier and any other carrier or person in relation to transportation facilities, service, or traffic affected by the provisions

of this chapter. The Commission shall not, however, make public any contract, charter, or agreement between a contract carrier by water and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest: *Provided,* That if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by water as required by section 906 (e) of this title, the Commission may, in its discretion, make public such of the provisions of the contract as the Commission considers necessary to disclose such failure and the extent thereof.

(c) The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this chapter, prescribe a uniform system of accounts applicable to any class of water carriers, and a period of time within which such class shall have such uniform system of accounts, and the manner in which such accounts shall be kept.

(d) The Commission shall, as soon as practicable, prescribe for water carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this subsection, water carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall in any case include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

(e) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by water carriers and lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and it shall be unlawful for such carriers or lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto.

(f) The Commission or its duly authorized special agents, accountants, or examiners shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of such water carriers and lessors, and of associations (as defined in this section), and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any such carrier as the Commission deems relevant to such person's relation to or transactions with such carrier. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to all lands, buildings, or equipment of such carriers or lessors, and shall have authority under its order to inspect and examine any and all such lands, buildings, and equipment. All such carriers, lessors, and persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and for copying authorized by this subsection, and such carriers and lessors shall submit their lands, buildings, and equipment for inspection and examination, to any duly authorized special agent, accountant, or examiner of the Commission, upon demand and the display of proper credentials.

(g) The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of water carriers or lessors as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

(h) As used in this section, the words "keep" and "kept" shall be construed to mean made, prepared, or compiled, as well as retained; the term "lessor" means a lessor of any right to operate as a water carrier; the term "water carrier" or "lessor" includes a receiver or trustee of such water carrier or lessor; and the term "association" means an association or organization maintained solely by water carriers subject to this chapter which engages in activities relating to the fixing of rates, publication of classifications, or filing of schedules by such carriers. (Feb. 4, 1887, ch. 104, pt. III, § 313, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 944, and amended Aug. 2, 1949, ch. 379, §§ 16—18, 63 Stat. 488.)

AMENDMENTS

1949—Subsec. (a). Act Aug. 2, 1949, § 16, made subsec. (a) applicable to associations or organizations maintained by or in the interest of water carriers.

Subsec. (f). Act Aug. 2, 1949, § 17, made subsec. (f) applicable to associations as defined in subsec. (h) of this section.

Subsec. (h). Act Aug. 2, 1949, §18, defined the term "association".

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Control defined, see section 1(3) of this title.

Noncarrier deemed carrier upon acquiring control, see section 5(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 916, 917 of this title.

§ 914. Allowances to shippers for transportation services.

If the owner of property transported under this chapter directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable; and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order. (Feb. 4, 1887, ch. 104, pt. III, § 314, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 945.)

EFFECTIVE DATE

See note under section 901 of this title.

§ 915. Notices, orders, and service of process.

(a) It shall be the duty of every water carrier to file with the Commission a designation in writing of the name and post-office address of an agent upon whom or which service of notices or orders may be made under this chapter. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this chapter may be made upon such carrier by personal service upon it or upon an agent so designated by it, or by mail addressed to it or to such agent at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the secretary of the Commission. Whenever notice or order is served by mail, as provided herein, the date of mailing shall be considered as the time of service. In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice of the suspension of a tariff or schedule upon an attorney in fact of a carrier who has filed a said tariff or schedule in behalf of such carrier naming the rates, fares, charges, classifications, or practices involved in such proceedings shall be deemed to be due and sufficient service upon the carrier and service of notice of the suspension of a joint tariff or schedule upon a carrier which has filed said joint tariff to which another carrier is a party naming the rates, fares, charges, classifications, or practices involved in such proceedings shall be deemed to be due and sufficient service upon the several carriers parties thereto, but such manner of service shall not be considered as excluding service in any other manner authorized by law.

(b) No order, based upon a finding that any water carrier has violated any provision of this chapter, shall be made by the Commission except after hearing upon complaint or after an investigation upon its own initiative.

(c) The Commission may suspend, modify, or set aside its orders under this chapter upon such notice and in such manner as it shall deem proper.

(d) Except as otherwise provided in this chapter, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended, modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(e) It shall be the duty of every water carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect. (Feb. 4, 1887, ch. 104, pt. III, § 315, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 946, and amended Aug. 2, 1949, ch. 379, § 19, 63 Stat. 489.)

AMENDMENTS

1949—Subsec. (a). Act Aug. 2, 1949, struck out of the third sentence the word "registered" preceding "mail", and inserted provision relating to service of notice of suspension of a joint tariff.

EFFECTIVE DATE

See note under section 901 of this title.

§ 916. Enforcement and procedure.

(a) The provisions of sections 12, 17, and 46 of this title shall apply with full force and effect in the administration and enforcement of this chapter.

(b) If any water carrier fails to comply with or operates in violation of any provision of this chapter (except provisions as to the reasonableness of rates, fares, or charges, and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder (except an order for the payment of money), or of any term or condition of any certificate or permit, the Commission or the Attorney General of the United States (or, in case of such an order, any party injured by the failure to comply therewith or by the violation thereof) may apply to any district court of the United States having jurisdiction of the parties for the enforcement of such provision of this chapter or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ or writs of injunction or other process, mandatory or otherwise, restraining such carrier and any officer, agent, employee, or representative thereof from further violation of such provision of this chapter or of such rule, regulation, requirement, order, term, or condition and enjoining obedience thereto.

(c) The Commission shall enter of record a written report of hearings conducted upon complaint, or upon its own initiative without complaint, stating its conclusions, decisions, and order and, if reparation is awarded, the findings of fact upon which the award is made; and shall furnish a copy of such report to all parties of record. The Commission may provide for the publication of such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be received as competent evidence of such reports in any court of competent jurisdiction.

(d) Subject to the provisions of section 913 of this title, the copies of schedules, and classifications and tariffs of rates, fares, and charges, and of all contracts, agreements, and arrangements of water carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the Commission as required, under the provisions of this chapter shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals. (Feb. 4, 1887, ch. 104, pt. III, § 316, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 946, and amended Oct. 15, 1970, Pub. L. 91–452, title II, § 243(b), 84 Stat. 931.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–452 struck out references to sections 47 and 48 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

See note under section 901 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 917. Unlawful acts and penalties.

(a) Any person who knowingly and willfully violates any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was in whole or in part committed shall be subject for each offense to a fine not exceeding $500. Each day of such violation shall constitute a separate offense.

(b) Any water carrier or any officer, agent, employee, or representative thereof, who shall knowingly and willfully offer, grant, or give, or cause to be offered, granted, or given, any rebate, deferred rebate, or other concession, in violation of the provisions of this chapter, or who, by any device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person to obtain transportation subject to this chapter at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed shall be subject for each offense to a fine of not more than $5,000.

(c) Any person who shall knowingly and willfully solicit, accept, or receive any rebate, deferred rebate, or other concession in violation of the provisions of this chapter, or who shall by any device or means, whether with or without the consent or connivance of any water carrier or his or its officer, agent, employee, or representative, knowingly and willfully obtain transportation subject to this chapter at less than the rates, fares, or charges lawfully in effect, or shall knowingly and willfully, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtain or attempt to obtain any allowance, refund, or repayment in connection with or growing out of such transportation, whether with or without the consent or connivance of such carrier or his or its officer, agent, employee, or representative, whereby the compensation of such carrier for such transportation or service, either before or after payment, shall be less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not more than $5,000.

(d) Any water carrier or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this chapter, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall willfully falsify, destroy, mutilate, or alter any report, account, record, memorandum, book, correspondence, or other document, required under this chapter to be kept, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions as required under this chapter, or shall willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not more than $5,000. As used in this subsection, the word "keep" shall be construed to mean made, prepared, or compiled, as well as retained.

(e) Any special agent, accountant, or examiner of the Commission who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section 913 of this title, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $500 or imprisonment for a term not exceeding six months, or both.

(f) It shall be unlawful for any common carrier by water, or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier or person to receive information, knowingly and willfully to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such carrier for transportation subject to this chapter, which information may be used to the detriment or prejudice of such shipper or consignee, or which may or does improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly and willfully receive any such information which may be or is so used. Any person violating any provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof

in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed shall be subject to a fine of not more than $2,000. Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers. (Feb. 4, 1887, ch. 104, pt. III, § 317, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 947.)

EFFECTIVE DATE

See note under section 901 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 918. Collection of rates and charges.

No common carrier by water shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges, including rules and regulations for periodical settlement, and to prevent unjust discrimination or undue preference or prejudice: *Provided,* That the provisions of this section shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia. Where such carrier is instructed by a shipper or consignor to deliver property transported by such carrier to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (1) is an agent only and had no beneficial title in the property, and (2) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or in the case of a shipment so reconsigned or diverted, the beneficial owner shall be liable for such additional charges irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made or handled. An action for the enforcement of such liability may be begun within two years from the time the cause of action accrues, or before the expiration of six months after final judgment against the carrier in an action against the consignee begun within said period. If the consignee has given to the carrier erroneous information as to who is the beneficial owner, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this section. An action for the enforcement of such liability may be begun within two years from the time the cause of action accrues, or before the expiration of six months after final judgment against the carrier in an action against the beneficial owner named by the consignee begun within said period. On shipments reconsigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith. (Feb. 4, 1887, ch. 104, pt. III, § 318, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 949.)

EFFECTIVE DATE

See note under section 901 of this title.

§ 919. Employees.

The Commission is authorized to employ such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the efficient administration of this chapter. Such examiners shall have power to administer oaths, examine witnesses, and receive evidence. (Feb. 4, 1887, ch. 104, pt. III, § 319, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 950.)

EFFECTIVE DATE

See note under section 901 of this title.

§ 920. Repeals.

(a) The Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, are repealed insofar as they are inconsistent with any provision of this chapter and insofar as they provide for the regulation of, or the making of agreements relating to, transportation of persons or property by water in commerce which is within the jurisdiction of the Commission under the provisions of this chapter; and any other provisions of law are repealed insofar as they are inconsistent with any provision of this chapter.

(b) Nothing in subsection (a) of this section shall be construed to repeal—

(1) section 1115 of Title 46, or any provision of law providing penalties for violations of said section;

(2) the third sentence of section 844 of Title 46, as extended by section 845b of Title 46, or any provision of law providing penalties for violations of section 844 of Title 46;

(3) the provisions of the Shipping Act, 1916, as amended, insofar as such Act provides for the regulation of persons included within the term "other person subject to this chapter", as defined in such Act;

(4) sections 883 and 884 of Title 46.

(c) Nothing in subsection (a) of this section shall be construed to affect the provisions of section 814

of Title 46 so as to prevent any water carrier subject to the provisions of this chapter from entering into any agreement under the provisions of said section with respect to transportation not subject to the provisions of this chapter in which such carrier may be engaged.

(d) Nothing in this chapter shall be construed to affect any law of navigation, the admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other maritime law, regulation, or custom not in conflict with the provisions of this chapter.

(e) Subsection (e) of section 153 of this title, is repealed as of October 1, 1940: *Provided, however,* That (1) any certificate of public convenience and necessity granted to any carrier pursuant to the provisions of said subsection shall continue in effect as though issued under the provisions of section 909 of this title; and (2) through routes and joint rates, and rules, regulations, and practices relating thereto, put into effect pursuant to the provisions of said subsection shall, after the repeal of said subsection, be held and considered to have been put into effect pursuant to the provisions of the Interstate Commerce Act, as amended. (Feb. 4, 1887, ch. 104, pt. III, § 320, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 950.)

REFERENCES IN TEXT

The Shipping Act, 1916, as amended, referred to in subsecs. (a) and (b) (3), is classified to chapter 23 of Title 46, Shipping.

The Intercoastal Shipping Act, 1933, as amended, referred to in subsec. (a), is classified to chapter 23A of Title 46, Shipping.

The Interstate Commerce Act, as amended, referred to in subsec. (e), is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 921, 922 of this title.

§ 921. Transfer of employees, records, property, and appropriations.

(a) Such officers and employees of the United States Maritime Commission as the President shall determine to have been employed in the administration of the provisions of law repealed by section 920 of this title, and whose retention by the United States Maritime Commission is not necessary, in the opinion of the President, for the performance of other duties, are transferred to the Interstate Commerce Commission upon such date or dates as the President shall specify by Executive order. Such transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

(b) All files, reports, records, tariff schedules, property (including office furniture and equipment), contracts, agreements, documents, or papers kept or used by, made to, or filed with the United States Maritime Commission under or in the administration of any provision of law repealed by this chapter, are transferred to the jurisdiction and control of the Interstate Commerce Commission, and may be used for such purposes as the Interstate Commerce Commission may deem necessary in the administration of this chapter; except that in the case of files, reports, records, tariff schedules, contracts, agreements, documents, or papers, the retention of which is necessary for purposes of the administration by the United States Maritime Commission of matters within its jurisdiction, the furnishing to the Interstate Commerce Commission of copies thereof shall constitute sufficient compliance with the provisions of this subsection.

(c) All appropriations and unexpended balances of appropriations available for expenditure by the United States Maritime Commission in the administration of any provision of law repealed by this chapter shall be available for expenditure by the Interstate Commerce Commission for any objects of expenditure authorized by this chapter, in the discretion of the Interstate Commerce Commission, without regard to the requirement of apportionment under section 665 of Title 31. (Feb. 4, 1887, ch. 104, pt. III, § 321, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 951.)

EFFECTIVE DATE

See note under section 901 of this title.

ABOLISHMENT OF COMMISSION AND TRANSFER OF FUNCTIONS

The United States Maritime Commission was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organizations and Employees, which transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, the Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of the Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the Chairman of the Federal Maritime Board should, ex officio, be the Administrator.

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, abolished the Federal Maritime Board. including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by section 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Maritime Commission were transferred to the Chairman of the Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F. R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5, Government Organization and Employees.

§ 922. Existing orders, rules, tariffs, etc.; pending matters.

(a) Notwithstanding the provisions of section 920 of this title, or any other provision of this chapter, all orders, rules, regulations, permits, tariffs (including rates, fares, charges, classifications, rules, and regulations relating thereto), contracts, or agreements, to the extent that they were issued, authorized, approved, entered into, or filed under any provision of law repealed by this chapter, and are still in effect, shall continue in force and effect according to the

terms thereof as though this chapter had not been enacted, except that the Commission may modify, set aside, or rescind any such order, rule, regulation, permit, tariff, contract, or agreement to the extent that it finds the same to be in violation of any provision of this chapter or inconsistent with the national transportation policy declared in this Act.

(b) Any proceeding, hearing, or investigation commenced or pending before the United States Maritime Commission at the time this section takes effect, to the extent that it relates to the administration of any provision of law repealed by this chapter, shall be continued or otherwise acted upon by the Commission as though such proceeding, hearing, or investigation had been instituted under the provisions of this chapter.

(c) Any pending judicial proceeding arising under any provision of law repealed by the provisions of this chapter shall be continued, heard, and determined in the same manner and with the same effect as if this chapter had not been enacted; except that in the case of any such proceeding to which the United States Maritime Commission is a party, the court, upon motion or supplemental petition, may direct that the Commission be substituted for the United States Maritime Commission as a party to the proceeding or made an additional party thereto. (Feb. 4, 1887, ch. 104, pt. III, § 322, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 951.)

REFERENCES IN TEXT

The national transportation policy referred to in subsec. (a), is set out as a note preceding section 901 of this title.

This Act, referred to in subsec. (a), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 13, and 19 of this title.

EFFECTIVE DATE

See note under section 901 of this title.

ABOLISHMENT OF COMMISSION AND TRANSFER OF FUNCTIONS

The United States Maritime Commission was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees, which transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, the Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of the Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the Chairman of the Federal Maritime Board should, ex officio, be the Administrator.

Section 304 of 1961 Reorg. Plan No. 7, effective Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by section 103 and 202 of 1961 Reorg. Plan No. 7.

TRANSFER OF FUNCTIONS

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SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

§ 922a. Recording of evidences of equipment indebtedness.

Any mortgage (except mortgages under the Ship Mortgage Act, 1920, as amended), lease, equipment trust agreement, conditional sale agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of one or more vessels, used or intended for use by a carrier subject to this chapter in interstate commerce or any assignment of rights or interest under any such instrument, or any supplement or amendment to any such instrument or assignment (including any release, discharge, or satisfaction thereof, in whole or in part), may be filed with the Commission, provided such instrument, assignment, supplement, or amendment is in writing, executed by the parties thereto, and acknowledged or verified in accordance with such requirements as the Commission shall prescribe; and any such instrument or other document, when so filed with the Commission, shall constitute notice to and shall be valid and enforceable against all persons including, without limitation, any purchaser from, or mortgagee, creditor, receiver, or trustee in bankruptcy of, the mortgagor, buyer, lessee, or bailee, of the vessel covered thereby, from and after the time such instrument or other document is so filed with the Commission; and such instrument or other document need not be otherwise filed, deposited, registered, or recorded under the provisions of any other law of the United States of America, or of any State (or political subdivision thereof), territory, district, or possession thereof, respecting the filing, deposit, registration, or recordation of such instruments or documents: *Provided, however,* That nothing contained in this section shall, in any way, be construed to alter or amend the Ship Mortgage Act, 1920, as amended. The Commission shall establish and maintain a system for the recordation of each such instrument or document, filed pursuant to the provisions of this section, and shall cause to be marked or stamped thereon, a consecutive number, as well as the date and hour of such recordation, and shall maintain, open to public inspection, an index of all such instruments or documents, including any assignment, amendment, release, discharge, or satisfaction thereof, and shall record, in such index the names and addresses of the principal debtors, trustees, guarantors and other parties thereto, as well as such other facts as may be necessary to facilitate the determination of the rights of the parties to such transactions. (Feb. 4, 1887, ch. 104, pt. III, § 323, as added Oct. 17, 1968, Pub. L. 90-586, § 1(2), 82 Stat. 1149.)

REFERENCES IN TEXT

The Ship Mortgage Act, 1920, as amended, referred to in text, is act June 5, 1920, ch. 250, 41 Stat. 988, which is classified to section 911 et seq. of Title 46, Shipping. See section 984 of title 46.

§ 922b. Filing of information return or other report for income tax purposes with State or subdivision by water carrier on compensation paid to interstate employees.

(a) Filing or reporting where employee resides and where employee earns more than 50 per centum of compensation paid by carrier to him; applicability to masters, officers, and seamen.

No water carrier subject to the provisions of this chapter nor any water carrier or class of water

carriers operating on inland or coastal waters under an exemption provided therein shall file any information return or other report for income tax purposes with respect to the compensation paid to any employee who performs his regularly assigned duties as an employee of such carrier in more than one State with any State or subdivision thereof other than the State or subdivision of such employee's residence, as shown on the employment records of such carrier, and the State or subdivision in which such employee earned more than 50 per centum of the compensation paid him by such carrier during the preceding calendar year. The provisions of this section shall also apply with respect to the compensation paid to any master, officer, or seaman who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.

For the purposes of subsection (a) of this section, an employee shall be deemed to have earned more than 50 per centum of his compensation in any State or subdivision in which the time worked by him in such State or subdivision is more than 50 per centum of the total time worked by him in the calendar year while so employed.

(c) Definitions.

For the purpose of this section the term "compensation" shall mean all moneys received for services rendered by an employee, as defined in subsection (a) of this section in the performance of his duties and shall include wages and salary. (Feb. 4, 1887, ch. 104, pt. III, § 324, as added Dec. 23, 1970, Pub. L. 91–569, § 3(a), 84 Stat. 1501.)

EFFECTIVE DATE

Section effective January 1, 1971, see section 5 of Pub. L. 91–659, set out as a note under section 26a of this title.

§ 923. Separability of provisions.

If any provision of this chapter or the application thereof to any person, or commerce, or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons, or commerce, or circumstances shall not be affected thereby. (Feb. 4, 1887, ch. 104, pt. III, § 325, formerly § 323, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 952; renumbered § 324, Oct. 17, 1968, Pub. L. 90–586, § 1(1), 82 Stat. 1149; renumbered § 325, Pub. L. 91–569, § 3(a), Dec. 23, 1970, 84 Stat. 1501.)

EFFECTIVE DATE

See note under section 901 of this title.

Chapter 13.—INTERSTATE COMMERCE ACT, PART IV; FREIGHT FORWARDERS

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INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "Part I" and a new Part II, comprising chapter 8 of this title, was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV, constituting this chapter, was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting chapter 19 of this title, was added by Pub. L. 85–625, § 2, Aug. 12, 1958, 72 Stat. 568.

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act, chapters 1, 8, 12, 13 and 19 of this title, by inserting before Part I thereof (chapter 1 of this title) the following provision entitled "National Transportation Policy": "It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act [chapters 1, 8, 12, 13, and 19 of this title], so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act [chapters 1, 8, 12, 13, and 19 of this title] shall be administered and enforced with a view to carrying out the above declaration of policy."

CROSS REFERENCES

Appeals to Supreme Court, see section 45 of this title.
Exchange of telephone, telegraph, or cable services, see section 1(5½) of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5b of this title; title 7 section 225.

§ 1001. Short title.

This chapter may be cited as part IV of the Interstate Commerce Act. (Feb. 4, 1887, ch. 104, pt. IV, § 401, as added May 16, 1942, ch. 318, § 1, 56 Stat. 284.)

EFFECTIVE DATE OF CHAPTER

Section 6 of act May 16, 1942, provided that: "Part IV of the Interstate Commerce Act [this chapter] shall take effect on the date of enactment of this Act [May 16, 1942] except that section 405 [section 1005 of this title] shall take effect sixty days after the date of enactment of this

Act, and sections 404, 406, 413, 414, and 417 [sections 1004, 1006, 1013, 1014, and 1017, respectively of this title], shall take effect ninety days after the date of enactment of this Act [May 16, 1942]: *Provided, however,* That the Interstate Commerce Commission shall, if found by it to be necessary or advisable in the public interest, by general or special order, postpone the taking effect of any of the provisions of this part [this chapter] to such time, but not beyond the 1st day of September 1942, as the Commission shall prescribe."

INTERSTATE COMMERCE ACT

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act, which constitutes chapters 1, 8, 12, 13 and 19 of this title, by inserting before Part I thereof (chapter 1 of this title) the following provision entitled "Short Title": "This Act may be cited as the Interstate Commerce Act."

§ 1002. Definitions and exemptions.

(a) For the purposes of this chapter—

(1) The term "person" includes an individual, firm, partnership, corporation, company, association, or joint-stock association, and includes a trustee, receiver, assignee, or personal representative thereof.

(2) The term "Commission" means the Interstate Commerce Commission.

(3) The term "State" means a State of the United States or the District of Columbia.

(4) The term "United States" means the States of the United States and the District of Columbia.

(5) The term "freight forwarder" means any person which (otherwise than as a carrier subject to chapters 1, 8, or 12 of this title) holds itself out to the general public as a common carrier to transport or provide transportation of property, or any class or classes of property, for compensation, in interstate commerce, and which, in the ordinary and usual course of its undertaking, (A) assembles and consolidates or provides for assembling and consolidating shipments of such property, and performs or provides for the performance of break-bulk and distributing operations with respect to such consolidated shipments, and (B) assumes responsibility for the transportation of such property from point of receipt to point of destination, and (C) utilizes, for the whole or any part of the transportation of such shipments, the services of a carrier or carriers subject to chapters 1, 8, or 12 of this title.

(6) The term "interstate commerce" means transportation (A) between a point in a State and a point in another State, whether or not such transportation takes place wholly within the United States; (B) between points within the same State but through any place outside thereof; or (C) from or to any point in the United States to or from any point outside thereof, but only insofar as such transportation takes place within the United States.

(7) The term "service subject to this chapter" means any or all of the service in connection with the transportation in interstate commerce which any person undertakes to perform or provide as a freight forwarder, or which such person is authorized or required by or under the authority of this chapter to perform or provide; but such term shall not include that part of the undertaking of any such person for the performance of which the services of an air carrier subject to the Civil Aeronautics Act of 1938, as amended, are utilized, or for the performance of which transportation by motor vehicle exempted under the provisions of section 303 (b) (7a) of this title is utilized.

(8) Wherever reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(b) The provisions of this chapter shall not apply (1) to service performed by or under the direction of a cooperative association, as defined in Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined, or (2) where the property with respect to which service is performed consists of ordinary livestock, fish (including shellfish), agricultural commodities (not including manufactured products thereof), or used household goods, if the person performing such service engages in service subject to this chapter with respect to not more than one of the classifications of property above specified.

(c) The provisions of this chapter shall not be construed to apply (1) to the operations of a shipper, or a group or association of shippers, in consolidating or distributing freight for themselves or for the members thereof, on a nonprofit basis, for the purpose of securing the benefits of carload, truckload, or other volume rates, or (2) to the operations of a warehouseman or other shippers' agent, in consolidating or distributing pool cars, whose services and responsibilities to shippers in connection with such operations are confined to the terminal area in which such operations are performed. (Feb. 4, 1887, ch. 104, pt. IV, § 402, as added May 16, 1942, ch. 318, § 1, 56 Stat. 284, and amended Dec. 20, 1950, ch. 1140, § 1, 64 Stat. 1113.)

REFERENCES IN TEXT

The Civil Aeronautics Act of 1938, as amended, referred to in subsec. (a) (7), was repealed by Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, and is now covered by chapter 20 of this title.

The Agricultural Marketing Act, approved June 15, 1929, as amended, referred to in subsec. (b), is classified to sections 1141, 1141b—1141d, 1141e, 1141f, and 1141h—1141j of Title 12, Banks and Banking.

AMENDMENTS

1950—Subsec. (a) (5). Act Dec. 20, 1950, inserted "as a common carrier" following "to the general public".

EFFECTIVE DATE OF 1950 AMENDMENT

Amendment of subsec. (a) (5) effective Dec. 20, 1950, see note set out under section 1009 of this title.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1003. General powers and duties of Commission.

(a) It shall be the duty of the Commission to administer the provisions of this chapter, and to that end it shall have the authority to make and amend such rules and regulations and to issue such orders as may be necessary to carry out its provisions.

(b) The Commission shall have authority to establish reasonable requirements with respect to continuous and adequate service.

(c) The Commission shall have authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, to be conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, for loss of or damage to property with respect to which a freight forwarder performs service subject to this chapter.

(d) The Commission shall have authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, any final judgment recovered against a freight forwarder on account of bodily injuries to or death of any person, or loss of or damage to property (except property referred to in subsection (c) of this section), resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under the direction and control of such freight forwarder, in service subject to this chapter, in the performance of transfer, collection, or delivery services.

(e) The Commission shall have authority, for purposes of the administration of the provisions of this chapter, to inquire into and report on the management of the business of freight forwarders, and to inquire into and report on the management of the business of persons controlling, controlled by, or under a common control with freight forwarders, to the extent that the business of such persons is related to the management of the business of one or more such freight forwarders, and the Commission shall keep itself informed as to the manner and method in which the same are conducted. The Commission may obtain from such freight forwarders and persons such information as the Commission deems necessary to carry out the provisions of this chapter; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary.

(f) The Commission may investigate, either upon complaint or upon its own initiative, whether any freight forwarder has failed to comply with any provision of this chapter or with any order, rule, regulation, or requirement issued or established pursuant thereto, and, after notice and hearing, take appropriate action to compel compliance therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for action on its part, it may dismiss such complaint. (Feb. 4, 1887, ch. 104, pt. IV, § 403, as added May 16, 1942, ch. 318, § 1, 56 Stat. 285.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1010 of this title.

§ 1004. Rates, charges, and practices.

(a) It shall be the duty of every freight forwarder to provide and furnish, upon reasonable request therefor, the service subject to this chapter covered by its permit issued under this chapter, and to establish, observe, and enforce just and reasonable rates and charges therefor and just and reasonable classifications, regulations, and practices relating thereto and to the issuance, form, and substance of receipts and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation in service subject to this chapter, the facilities for such transportation, and all other matters relating to or connected with such transportation, and every unjust or unreasonable rate, charge, classification, regulation, or practice is prohibited and declared unlawful.

(b) It shall be unlawful for any freight forwarder, in service subject to this chapter, to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic in any respect whatsoever; or to subject any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided,* That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any carrier of whatever description.

(c) It shall be unlawful for any common carrier subject to chapters 1, 8, or 12 of this title to make, give, or cause any undue or unreasonable preference or advantage to any freight forwarder, whether or not such freight forwarder is controlled by such carrier, in any respect whatsoever; or to subject any freight forwarder, whether or not such freight forwarder is controlled by such carrier, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(d) Nothing in this chapter shall be construed to prohibit any freight forwarder from entering into an agreement with another freight forwarder for the joint loading of traffic between points in transportation subject to this chapter, except that the Commission may cancel, suspend, or require the modification of any such agreement which it finds, after reasonable opportunity for hearing, to be inconsistent with the national transportation policy declared in this Act. (Feb. 4, 1887, ch. 104, pt. IV, § 404, as added May 16, 1942, ch. 318, § 1, 56 Stat. 286.)

REFERENCES IN TEXT

The national transportation policy referred to in subsec. (d), is set out as a note preceding section 1001 of this title.

This Act, referred to in subsec. (d), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1005. Tariffs of freight forwarders.

(a) Every freight forwarder shall file with the Commission and print, and keep open to public inspection, tariffs showing its rates and charges for service subject to this chapter, and all classifications, rules, regulations, and practices with respect thereto. Such tariffs shall become effective only after thirty days' notice, and shall plainly state the points between which property will be transported, the classification of property, and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such rates or charges, or the value of the service rendered to the shipper or consignee.

(b) All rates and charges of freight forwarders for service subject to this chapter shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs to which this section applies shall be published, filed, and posted; and the Commission is authorized to reject any tariff filed with it which is not in accordance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

(c) No freight forwarder shall charge or demand or collect or receive a greater or less or different compensation for or in connection with service subject to this chapter than the rates or charges specified therefor in its tariffs lawfully in effect; and no freight forwarder shall refund or remit in any manner or by any device any portion of the rates or charges so specified, or extend to any person any privileges or facilities in connection with such service and affecting the value thereof except such as are specified in its tariffs: *Provided,* That the provisions of section 22 of this title (relating to transportation free or at reduced rates), insofar as such provisions relate to transportation or service in the case of property, shall apply with respect to freight forwarders, in the performance of service subject to this chapter, with like force and effect as in the case of the persons and service to which such provisions are specifically applicable.

(d) No change shall be made in any rate, charge, classification, regulation, or practice specified in any effective tariff of a freight forwarder for or in connection with service subject to this chapter, except after thirty days' notice of the proposed change, filed and posted in accordance with this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow changes upon notice less than that herein specified, or modify the requirements of this section with respect to posting and filing of tariffs, either in particular instances or by general order applicable to special circumstances or conditions.

(e) No freight forwarder shall engage in service subject to this chapter unless the rates and charges for such service have been filed and published in accordance with the provisions of this section. **(Feb. 4, 1887, ch. 104, pt. IV, § 405, as added May 16, 1942, ch. 318, § 1, 56 Stat. 287.)**

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1006, 1010 of this title.

§ 1006. Commission's authority over rates and practices.

(a) Any person may make complaint in writing to the Commission that anything done or omitted to be done by any freight forwarder is or will be in violation of this chapter. Every complaint shall state fully the facts complained of and the reasons for such complaint. If such freight forwarder shall not satisfy the complaint within a time specified by the Commission, or there shall be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of opinion that any rate or charge demanded, charged, or collected for service subject to this chapter, or any classification, regulation, or practice relating thereto, is or will be unjust or unreasonable or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this chapter, it shall determine and prescribe the lawful rate or charge or the maximum or minimum, or maximum and minimum, rate or charge thereafter to be observed, or the lawful classification, regulation, or practice thereafter to be made effective.

(c) In any proceeding to determine the justness or reasonableness of any rate or charge of any freight forwarder, for service subject to this chapter, there shall not be taken in consideration or allowed as evidence or elements of value of the property of such forwarder either goodwill, earning power, or the permit under which such forwarder is operating; and in applying for and receiving a permit under this chapter any such forwarder shall be deemed to have agreed to the provisions of this subsection on its own behalf and on behalf of all transferees of such permit.

(d) In the exercise of its power to prescribe just and reasonable rates and charges of freight forwarders, and classifications, regulations, and practices relating thereto, the Commission shall give due consideration, among other factors, to the inherent nature of freight forwarding; to the effect of rates upon the movement of traffic by the freight forwarders for which the rates and charges are prescribed; to the need, in the public interest, of adequate and efficient freight-forwarder service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to

enable freight forwarders, under honest, economical, and efficient management, to provide such service.

(e) Whenever there shall be filed with the Commission, under this chapter, any tariff stating a new rate, charge, classification, regulation, or practice, the Commission may upon complaint or upon its own initiative at once, and, if it so orders, without answer or other formal pleading, but upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate, charge, classification, regulation, or practice, and, pending such hearing and the decision thereon, the Commission, by filing with such tariff and delivering to the freight forwarder affected thereby, a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such tariff and defer the use of such rate, charge, classification, regulations, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after such rate, charge, classification, regulation, or practice had become effective. If the proceeding shall not have been concluded and an order made within the period of suspension, the proposed rate, charge, classification, regulation, or practice shall go into effect at the end of such period: *Provided, however,* That, subject to section 1005 (b) of this title, this subsection shall not apply to any initial tariff filed prior to the expiration of ninety days after May 16, 1942. At any hearing involving a change in a rate, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the freight forwarder to show that the proposed changed rate, charge, classification, rule, regulation, or practice is just and reasonable.

(f) Whenever in any investigation under this chapter, or in an investigation instituted upon petition of the freight forwarder concerned, which petition is authorized to be filed, there shall be brought in issue any rate, charge, classification, regulation, or practice of any freight forwarder, made or imposed by authority of any State, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons subject to this chapter, with respect to the relationship between rate structures and practices of such persons subject to the jurisdiction of such State bodies and of the Commission; and to that end the Commission is authorized, under rules to be prescribed by it, to hold joint hearings with any such State regulatory bodies upon any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this chapter. Whenever in any such investigation the Commission, after full hearing, finds that any such rate, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate commerce, which is forbidden and declared to be unlawful, it shall prescribe the rate or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, charges, classifications, regulations, and practices shall be observed while in effect by the freight forwarders parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. (Feb. 4, 1887, ch. 104, pt. IV, § 406, as added May 16, 1942, ch. 318, § 1, 56 Stat. 288.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1006a of this title.

§ 1006a. Actions for recovery of charges; limitation of actions; definition; effective date; actions by or against United States.

(1) All actions at law by freight forwarders subject to this chapter for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(2) For recovery of reparations, action at law shall be begun against freight forwarders subject to this chapter within two years from the time the cause of action accrues, and not after, and for recovery of overcharges, action at law shall be begun against freight forwarders subject to this chapter within three years from the time the cause of action accrues, and not after, subject to paragraph (3) of this section, except that if claim for the overcharge has been presented in writing to the freight forwarder within the three-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the freight forwarder to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(3) If on or before expiration of the three-year period of limitation in paragraph (2) of this section a freight forwarder subject to this chapter begins action under paragraph (1) of this section for recovery of charges in respect of the same service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the freight forwarder.

(4) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the freight forwarder, and not after.

(5) The term "reparations" as used in this section means damages resulting from charges for transportation services to the extent that the Commission, upon complaint made as provided in section

1006 of this title finds them to have been unjust and unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial.

(6) The term "overcharges" as used in this section shall be deemed to mean charges for service in excess of those applicable thereto under the tariffs lawfully on file with the Commission.

(7) The provisions of this section shall apply only to cases in which the cause of action may accrue after June 29, 1949.

(8) The provisions of this section shall extend to and embrace all transportation of property for or on behalf of the United States in connection with any action brought before any court by or against carriers subject to this chapter: *Provided, however,* That with respect to such transportation of property for or on behalf of the United States, the periods of limitation herein provided shall be extended to include three years from the date of (A) payment of charges for the transportation involved, or (B) subsequent refund for overpayment of such charges, or (C) deduction made under section 66 of this title, whichever is later. (Feb. 4, 1887, ch. 104, pt. IV, § 406a, as added June 29, 1949, ch. 272, § 5, 63 Stat. 281, and amended Aug. 26, 1958, Pub. L. 85–762, § 1(7), (8), 72 Stat. 860; Sept. 6, 1965, Pub. L. 89–170, § 7, 79 Stat. 651.)

AMENDMENTS

1965—Par. (2). Pub. L. 89–170, § 7(a), authorized the bringing of actions at law for recovery of reparations within 2 years from the time the cause of action accrues.

Par. (5). Pub L. 89–170, § 7(b), added par. (5). Former par. (5) redesignated as par. (6).

Par. (6). Pub. L. 89–170, § 7(b), redesignated former par. (5) as par. (6). Former par. (6) redesignated as par. (7).

Par. (7). Pub. L. 89–170, § 7(b), redesignated former par. (6) as par. (7). Former par. (7) redesignated as par. (8).

Par. (8). Pub. L. 89–170, § 7(b), redesignated former par. (7) as par. (8).

1958—Pars. (1)—(3). Pub. L. 85–762, § 1(7), substituted three-year limitations for the former two-year limitations.

Par. (7). Pub. L. 85–762, § 1(8), added par. (7).

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of this section by Pub. L. 85–762 applicable only to cause of action which accrues on or after Aug. 26, 1958, see note set out under section 16 of this title.

§ 1007. Motor carrier rates applicable to small parcel forwarding.

In the establishment of rates or charges, classifications, rules, or regulations by common carriers by motor vehicle subject to chapter 8 of this title, consideration may be given to the type of property tendered for transportation by any freight forwarder engaged in service with respect to parcels which do not exceed seventy pounds in weight or one hundred inches in length and girth combined, with a view to affording, in the case of such transportation, rates or charges as low as may be consistent with the receiving of reasonably adequate compensation by the carriers transporting such property. (Feb. 4, 1887, ch. 104, pt. IV, § 407, as added May 16, 1942, ch. 318, § 1, 56 Stat. 289.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1008. Authority for assembling and distribution rates.

Nothing in this Act shall be construed to make it unlawful for common carriers subject to chapters 1, 8, or 12 of this title to establish and maintain assembling rates or charges and/or distribution rates or charges, and classifications, rules, and regulations with respect thereto, applicable to freight forwarders and others who employ or utilize the instrumentalities or services of such common carriers under like conditions, which differ from other rates or charges, classifications, rules, or regulations which contemporaneously apply with respect to the employment or utilization of the same instrumentalities or services, if such difference is justified by a difference in the respective conditions under which such instrumentalities or services are employed or utilized. For the purposes of this section (1) the term "assembling rates or charges" means rates or charges for the transportation of less-than-carload or less-than truckload shipments into a point for further movement beyond as part of a carload or truckload shipment, and (2) the term "distribution rates or charges" means rates or charges for the transportation of less-than-carload or less-than-truckload shipments moving from a point into which such shipments have moved as a part of a carload or truckload shipment. The provisions of this section shall not be construed to authorize the establishment of assembling rates or charges or distribution rates or charges covering the line haul transportation between the principal concentration point and the principal break-bulk point. (Feb. 4, 1887, ch. 104, pt. IV, § 408, as added May 16, 1942, ch. 318, § 1, 56 Stat. 290.)

REFERENCES IN TEXT

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1009. Utilization by freight forwarders of services of common carriers by motor vehicle.

(a) Nothing in this Act shall be construed to prevent freight forwarders subject to this chapter from entering into or continuing to operate under contracts with common carriers by motor vehicle subject to chapter 8 of this title, governing the utilization by such freight forwarders of the services and instrumentalities of such common carriers by motor vehicle and the compensation to be paid therefor: *Provided,* That in the case of such contracts it shall be the duty of the parties thereto to establish just, reasonable, and equitable terms, conditions, and compensation which shall not unduly prefer or prejudice any of such participants or any other freight forwarder and shall be consistent with the national transportation policy declared in this Act: *And provided further,* That in the case of line-haul transportation between concentration points and break-bulk points in truckload lots where such line-haul transportation is for a total distance of four hundred and fifty highway-miles or more, such contracts shall not permit payment to common carriers by motor vehicle of compensation which is lower than would

be received under rates or charges established under chapter 8 of this title.

(b) Contracts entered into or continued pursuant to subsection (a) of this section shall be filed with the Commission in accordance with such reasonable rules and regulations as the Commission shall prescribe. Whenever, after hearing, upon complaint or upon its own initiative, the Commission is of opinion that any such contract, or its terms, conditions, or compensation is or will be inconsistent with the provisions and standards set forth in subsection (a) of this section, the Commission shall by order prescribe the terms, conditions, and compensation of such contract which are consistent therewith. (Feb. 4, 1887, ch. 104, pt. IV, § 409, as added May 16, 1942, ch. 318, § 1, 56 Stat. 290, and amended Nov. 12, 1943, ch. 299, §§ 1, 2, 57 Stat. 590; May 16, 1945, ch. 128, 59 Stat. 169; Feb. 20, 1946, ch. 32, 60 Stat. 21; Dec. 20, 1950, ch. 1140, § 2, 64 Stat. 1115.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

AMENDMENTS

1950—Act Dec. 20, 1950, authorized freight forwarders and common carriers by motor vehicle, subject to certain conditions and limitations, to enter into contracts governing the utilization of the common carriers' services and instrumentalities by the freight forwarders and the compensation to be paid.

1946—Act Feb. 20, 1946, made it the duty of the Commission to prescribe reasonable and just terms and conditions under which freight forwarders may utilize the services of common carriers by motor vehicle, under agreements and gave specific direction to the Commission with respect to its authority in the case of line-haul transportation between concentration points and break-bulk points in truck load lots.

1945—Act May 16, 1945, substituted "forty-five months" for "thirty-six months" wherever appearing.

1943—Act Nov. 12, 1943, substituted "thirty-six months" for "eighteen months" wherever appearing, and amended par. (4) of subsec. (a) generally.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 4 of act Dec. 20, 1950, provided that:

"This Act [this section and section 1002 of this title] shall take effect on the date of its enactment [Dec. 20, 1950], except that—

"(1) no contract entered into pursuant to section 409 of the Interstate Commerce Act, as amended by section 2 of this Act [this section], shall become effective prior to the expiration of nine months after the date of the enactment of this Act [Dec. 20, 1950]; and

"(2) until the expiration of nine months after the date of the enactment of this Act [Dec. 20, 1950] freight forwarders and common carriers by motor vehicle may operate under joint rates or charges in accordance with the provisions of subsection (b) of section 409 of the Interstate Commerce Act [subsec. (b) of this section] as that subsection was in force immediately prior to the date of the enactment of this Act [Dec. 20, 1950]."

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

SECTION 1013 AS UNAFFECTED BY ACT DEC. 20, 1950

Section 3 of act Dec. 20, 1950, provided that: "Nothing in this Act [sections 1002 and 1009 of this title] shall be construed as amending or affecting section 413 of the Interstate Commerce Act [section 1013 of this title]."

§ 1010. Permits.

(a)(1) No person shall engage in service subject to this chapter unless such person holds a permit, issued by the Commission, authorizing such service; except that (1) any person engaged in service subject to this chapter when this section takes effect may continue to engage in such service for a period of one hundred and eighty days thereafter without a permit, and (2) if application for a permit is made to the Commission by such person within such period, such person may, under such regulations as the Commission shall prescribe, continue to engage in such service subject to this chapter until otherwise ordered by the Commission.

(2) Subject to the provisions of the last sentence of subsection (c) of this section, if any person (or his predecessor in interest) was engaged in service on August 26, 1958, between places in the Territory of Alaska and places in the United States, and between places in the Territory of Alaska which service either would have been subject to this chapter or which, in conjunction with the services of other carriers, resulted in the transportation of property between such places whether or not all of such transportation would have been service subject to this chapter, and has so operated since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations without further proceedings if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a permit shall be lawful. Applications for permits under this paragraph shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require.

(3) Subject to the provisions of the last sentence of subsection (c) of this section, if any person (or his predecessor in interest) was engaged in service on June 27, 1959, between places in the Territory of Hawaii and places in the United States, and between places in the Territory of Hawaii, which service either would have been subject to this chapter or which, in conjunction with the services of other carriers, resulted in the transportation of property between such places whether or not all of such transportation would have been service subject to this chapter, and has so operated since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1959 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations without further proceedings if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a permit shall be lawful. Applications for permits under this paragraph shall be filed with the Commission in writing, and in such form, contain such information,

and be accompanied by proof of service upon such interested parties as the Commission shall require.

(b) Application for a permit shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require.

(c) The Commission shall issue a permit to any qualified applicant therefor, authorizing the whole or any part of the service covered by the application, if the Commission finds that the applicant is ready, able, and willing properly to perform the service proposed, and that the proposed service, to the extent authorized by the permit, is or will be consistent with the public interest and the national transportation policy declared in this Act; otherwise such application shall be denied. No such permit shall be issued to any common carrier subject to chapters 1, 8, or 12 of this title; but no application made under this section by a corporation controlled by, or under common control with, a common carrier subject to said chapters shall be denied because of the relationship between such corporation and such common carrier.

(d) The Commission shall not deny authority to engage in the whole or any part of the proposed service covered by any application made under this section by a corporation controlled by, or under common control with, a common carrier subject to chapter 1 of this title solely on the ground that such service will be in competition with the service subject to this chapter performed by any other freight forwarder or freight forwarders.

(e) Any permit issued under this section shall specify the nature or general description of the property with respect to which service subject to this chapter may be performed, and the territory within which, and the territories from which and to which, service subject to this chapter may be performed, under authority of such permit. At the time of issuance, and from time to time thereafter, there shall be attached to the exercise of the privileges granted by any such permit such reasonable terms, conditions, and limitations as are necessary to carry out the requirements of this chapter or those lawfully established by the Commission pursuant thereto; but no such terms, conditions, or limitations shall restrict the right of the freight forwarder to add to its equipment, facilities, or services within the scope of such permit, as the development of the business and the demands of the public shall require.

(f) Permits shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such permit may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, modified, or revoked, in whole or in part, for willful failure to comply with any provision of this chapter, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition, or limitation of such permit: *Provided, however,* That no such permit shall be revoked (except upon application of the holder) unless the holder thereof fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order of the Commission, commanding obedience to the provision of this chapter, or to the rule or regulation of the Commission thereunder, or to the term, condition, or limitation of such permit, found by the Commission to have been violated by such holder: *Provided further,* That the right to engage in service subject to this chapter under authority of any permit or any application filed pursuant to the provisions of this section may be suspended by the Commission, upon reasonable notice of not less than fifteen days to the forwarder, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of section 1005 (a) of this title or with any lawful order, rule, or regulation of the Commission promulgated thereunder or under the provisions of section 1003 (c) or (d) of this title.

(g) Any such permit, or any right to engage in service subject to this chapter pending disposition of any application made to the Commission for a permit, and any right to a permit when issued, may be transferred, in accordance with such rules and regulations as the Commission shall prescribe to insure compliance with the provisions of this chapter, if the Commission finds that, with respect to the service covered by such right or permit, the transferee thereof satisfies the conditions prescribed in subsection (c) of this section with respect to the original issuance of permits: *Provided, however,* That if the proposed transfer would affect the interests of employees of a freight forwarder, the Commission shall require, as a prerequisite thereto, a fair and equitable arrangement to protect the interests of the employees affected.

(h) Permits issued under this chapter shall not authorize the holder thereof to conduct any direct railroad, water, or motor-carrier operations, except motor-vehicle operations in transportation which, pursuant to the provisions of section 302 (c) (1) of this title, is to be regulated as service subject to this chapter.

(i) No freight forwarder which is controlled by, or under common control with, a common carrier subject to chapters 1, 8, or 12 of this title shall abandon all or any portion of its service subject to this chapter unless and until there shall first have been obtained from the Commission a certificate that such abandonment is consistent with the public interest and the national transportation policy declared in this Act. Any such abandonment contrary to the provisions of this subsection may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any such freight forwarder or any such carrier controlling or under common control with such freight forwarder which, or any director, officer, receiver, operating trustee, lessee, agent, or person acting for or employed by such freight forwarder or carrier who, knowingly authorizes, consents to, or permits any violation of the provisions of this subsection shall upon conviction thereof be punished by a fine of not more than $5,000.

(Feb. 4, 1887, ch. 104, pt. IV, § 410, as added May 16,

1942, ch. 318, § 1, 56 Stat. 291, and amended Aug. 28, 1957, Pub. L. 85–176, 71 Stat. 452; July 12, 1960, Pub. L. 88–615, § 6, 74 Stat. 385.)

REFERENCES IN TEXT

The national transportation policy, referred to in subsecs. (c) and (i), is set out as a note preceding section 1001 of this title.

This act, referred to in subsecs. (c) and (i), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86–615 designated existing provisions as par. (1) and added pars. (2) and (3).

1957—Subsec. (d). Pub. L. 85–176, inserted the words "by a corporation controlled by, or under common control with, a common carrier subject to chapter 1 of this title".

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011, 1017 of this title.

§ 1011. Relationships between freight forwarders and other persons.

(a) (1) It shall be unlawful for a freight forwarder, or any person controlling, controlled by, or under common control with a freight forwarded, to acquire control of a carrier subject to chapters 1, 8, or 12 of this title; except that this subsection shall not limit the right of any carrier subject to said chapters to acquire control of any other carrier subject to said chapters in accordance with the provisions of section 5 of this title.

(2) It shall be unlawful to continue to maintain control accomplished or effectuated after this subsection takes effect and in violation of its provisions.

(b) It shall be unlawful for any person whose principal business is that of manufacturing and selling and/or buying and selling articles or commodities, and whose business operations are of such a character that services of a freight forwarder or forwarders (or similar assembling, consolidating, and shipping operations performed by such person for itself) are commonly used in connection with the transportation of such articles or commodities, or for any person controlling, controlled by, or under common control with such person, to engage in service subject to this chapter: *Provided, however,* That the Commission shall have power to issue a permit, under section 1010 of this title, to any such person upon a finding that the proposed service will be consistent with the public interest and with the national transportation policy declared in this Act and that the applicant is otherwise qualified under section 1010 of this title: *And provided further,* That any such person who has been continuously engaged in business as a freight forwarder since October 1, 1941, and is on May 16, 1942, so engaged, shall have the same authority to continue to engage in service subject to this chapter, until otherwise ordered by the Commission, as is granted to other persons under the provisions of section 1010 (a) of this title.

(c) After the expiration of six months from May 16, 1942, it shall be unlawful for any director, officer, employee, or agent of any common carrier subject to chapters 1, 8, or 12 of this title or of any person controlling, controlled by, or under common control with such a common carrier, in his or their own personal pecuniary interest, to own, lease, control, or hold stock in, any freight forwarder, directly or indirectly; but this subsection shall not forbid or preclude the holding of a director's qualifying shares of stock from which no personal pecuniary benefit is derived by the holder.

(d) The Commission is hereby authorized, upon complaint, or upon its own initiative without complaint, but after notice and hearing, to investigate and determine whether any person is violating the provisions of subsections (a), (b), or (c) of this section. If the Commission finds after such investigation that such person is violating any of such provisions, it shall by order require such persons to take such action as may be necessary, in the opinion of the Commission, to prevent continuance of such violation. The provisions of this subsection shall be in addition to, and not in substitution for, any other enforcement provisions contained in, or applicable for purposes of enforcement of, this chapter.

(e) The district courts of the United States shall have jurisdiction upon the complaint of the Commission, alleging a violation of any of the provisions of subsections (a), (b), or (c) of this section or disobedience of any any[1] order issued by the Commission thereunder by any person, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person from violation of such provision or to compel obedience to such order.

(f) The Commission may from time to time, for good cause shown, make such orders supplemental to any order made under the foregoing provisions of this section as it may deem necessary or appropriate.

(g) Nothing in this Act shall be construed to make it unlawful for any common carrier subject to chapters 1, 8, or 12 of this title or any person controlling such a common carrier, to have or to acquire control of a freight forwarder or freight forwarders; and, in any case where such control exists, no rate, charge, classification, rule, regulation, or practice of the common carrier or of any freight forwarder controlled by such common carrier, or under common control with such common carrier, shall be held to be unlawful under any provision of this Act because of the relationship between such common carrier and such freight forwarder. (Feb. 4, 1887, ch. 104, pt. IV, § 411, as added May 16, 1942, ch. 318, § 1, 56 Stat. 293.)

REFERENCES IN TEXT

The national transportation policy, referred to in subsec. (b), is set out as a note preceding section 1001 of this title.

This Act, referred to in subsecs. (b) and (g), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

[1] So in original.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1012. Accounts, records, and reports.

(a) For purposes of administration of the provisions of this chapter, the Commission is authorized to require annual, periodical, or special reports from freight forwarders and associations (as defined in this section), and to prescribe the manner and form in which such reports shall be made, and to require from such forwarders and associations specific, full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual report shall give an account of the affairs of the freight forwarder or association in such form and detail as may be prescribed by the Commission. The Commission may, in its discretion, for purposes of administration of the provisions of this chapter, prescribe a uniform system of accounts applicable to freight forwarders, and the period of time within which they shall have such uniform system of accounts, and the manner in which such accounts shall be kept. The Commission may also require any such forwarder to file with it a true copy of any contract or agreement between such forwarder and any person in relation to transportation facilities, service, or traffic affected by the provisions of this chapter.

(b) Such annual reports shall contain all the required information for the period of twelve months ending on the 31st day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under subsection (a) of this section shall also be under oath, whenever the Commission so requires.

(c) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by freight forwarders, with respect to service subject to this chapter, and the length of time such accounts, records, and memoranda shall be preserved, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money; and it shall be unlawful for freight forwarders to keep any accounts, books, records, and memoranda contrary to any rule, regulation, or order of the Commission with respect thereto.

(d) The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to and authority, under its order, to inspect and examine any and all lands, buildings, or equipment of freight forwarders and of associations (as defined in this section), and shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of freight forwarders, and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any freight forwarder, as the Commission deems relevant to such person's relation to or transactions with such freight forwarder. Freight forwarders and persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and copying authorized by this subsection, and freight forwarders shall submit their lands, buildings, and equipment for examination and inspection, to any duly authorized special agent, accountant, or examiner of the Commission upon demand and the display of proper credentials.

(e) The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, correspondence, or documents of freight forwarders as may after a reasonable time be destroyed, and prescribing the length of time the same shall be preserved.

(f) As used in this section, the words "keep" and "kept" shall be construed to mean made, prepared, or compiled, as well as retained; and the term "association" means an association or organization maintained by or in the interest of any group of freight forwarders subject to this chapter which performs any service, or engages in any activities, in connection with any traffic, transportation, or facilities subject to this Act. (Feb. 4, 1887, ch. 104, pt. IV, § 412, as added May 16, 1942, ch. 318, § 1, 56 Stat. 294, and amended Aug. 2, 1949, ch. 379, §§ 20—22, 63 Stat. 489.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

AMENDMENTS

1949—Subsec. (a). Act Aug. 2, 1949, § 20, made subsec. (a) applicable to associations or organizations maintained by or in the interest of freight forwarders.

Subsec. (d). Act Aug. 2, 1949, § 21, made subsec. (d) applicable to associations as defined in subsec. (f) of this section.

Subsec. (f). Act Aug. 2, 1949, § 22, defined the term "association".

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1013. Bills of lading and delivery of property.

The provisions of section 20 (11) and (12) of this title, together with such other provisions of chapter 1 of this title (including penalties) as may be necessary for the enforcement of such provisions, shall apply with respect to freight forwarders, in the case of service subject to this chapter, with like force and effect as in the case of those persons to which such provisions are specifically applicable, and the freight forwarder shall be deemed both the receiving and delivering transportation company for the purposes of section 20 (11) and (12) of this title. When the services of a common carrier by motor vehicle subject to chapter 8 of this title are utilized by a freight forwarder for the receiving of property from a consignor in service subject to this chapter, such carrier may, with the consent of the freight forwarder, execute the bill of lading or shipping receipt for the freight forwarder. When the services of a common carrier by motor vehicle subject to chapter 8 of this title are utilized by a freight forwarder for the delivery of property to the consignee named in the freight forwarder's bill of lading, shipping receipt, or freight bill, the property may, with the consent of the freight forwarder, be delivered on the freight bill, and receipted for on the delivery receipt, of the

freight forwarder. (Feb. 4, 1887, ch. 104, pt. IV, § 413, as added May 16, 1942, ch. 318, § 1, 56 Stat. 295.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1014. Collection of rates and charges.

In the case of service subject to this chapter, it shall be unlawful for a freight forwarder, or a common carrier by motor vehicle subject to chapter 8 of this title whose services are utilized by a freight forwarder, to deliver or relinquish possession of property to the consignee named in the bill of lading, shipping receipt, or freight bill of the freight forwarder until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges and to prevent unjust discrimination or undue preference or prejudice: *Provided,* That the provisions of this section shall not be construed to prohibit any such forwarder or carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State, Territory, or political subdivision thereof, or for the District of Columbia. (Feb. 4, 1887, ch. 104, pt. IV, § 414, as added May 16, 1942, ch. 318, § 1, 56 Stat. 296.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1015. Allowances to shippers for transportation service.

If the owner of property transported in service subject to this chapter directly or indirectly renders any service connected therewith, or furnishes any instrumentality used therein, the charge and the allowance therefor, to such owner, shall be published in tariffs filed in the manner provided in this chapter and shall be no more than is just and reasonable and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the freight forwarder or forwarders for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order. (Feb. 4, 1887, ch. 104, pt. IV, § 415, as added May 16, 1942, ch. 318, § 1, 56 Stat. 296.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1016. Notices, orders, and service of processes.

(a) It shall be the duty of every freight forwarder to file with the Commission a designation in writing of the name and post-office address of an agent upon whom or which service of notices or orders may be made under this chapter. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this chapter may be made upon such forwarder by personal service upon it or upon an agent so designated by it, or by mail addressed to it or to such agent at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the Secretary of the Commission. Whenever notice or order is served by mail, as provided herein, the date of mailing shall be considered as the time of service.

In proceedings before the Commission involving the lawfulness of rates, charges, classifications, or practices, service of notice upon an attorney in fact of a freight forwarder who has filed a tariff in behalf of such freight forwarder shall be deemed to be due and sufficient service upon the freight forwarder.

(b) The Commission may suspend, modify, or set aside its orders upon such notice and in such manner as it shall deem proper.

(c) Except as otherwise provided in this part, all orders of the Commission shall take effect within such reasonable time, not less than thirty days, as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended, modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(d) It shall be the duty of every freight forwarder, its agents, and employees to observe and comply with such orders so long as the same shall remain in effect. (Feb. 4, 1887, ch. 104, pt. IV, § 416, as added May 16, 1942, ch. 318, § 1, 56 Stat. 296.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1017. Enforcement and procedure.

(a) The provisions of sections 12 and 17 of this title, together with such other provisions of chapter 1 of this title (including penalties) as may be necessary for the enforcement of such provisions, and of section 46 of this title shall apply with full force and effect in the administration and enforcement of this chapter.

(b) (1) If any freight forwarder fails to comply with or operates in violation of any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or of any term or condition of any permit, the Commission or the Attorney General of the United States (or, in case of such an order, any party injured by the failure to comply therewith or by the violation thereof) may apply to any district court of the United States having jurisdiction of the parties for the enforcement of such provision of this chapter or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ or writs of injunction or other process, mandatory or otherwise, restraining such freight forwarder and any officer, agent, employee, or representative thereof from further violation of such provision of this chapter or of such rule, regulation, requirement, order, term, or condition, and enjoining obedience thereto.

(2) If any person operates in clear and patent violation of section 1010 of this title, or any rule, regulation, requirement, or order thereunder, any

person injured thereby may apply to the district court of the United States for any district where such person so violating operates, for the enforcement of such section, or of such rule, regulation, requirement, or order. The court shall have jurisdiction to enforce obedience thereto by a writ of injunction or by other process, mandatory or otherwise, restraining such person, his or its officers, agents, employees, and representatives from further violation of such section or of such rule, regulation, requirement, or order; and enjoining upon it or them obedience thereto. A copy of any application for relief filed pursuant to this paragraph shall be served upon the Commission and a certificate of such service shall appear in such application. The Commission may appear as of right in any such action. The party who or which prevails in any such action may, in the discretion of the court, recover reasonable attorney's fees to be fixed by the court, in addition to any costs allowable under the Federal Rules of Civil Procedure, and the plaintiff instituting such action shall be required to give security, in such sum as the court deems proper, to protect the interests of the party or parties against whom any temporary restraining order, temporary injunctive or other process is issued should it later be proven unwarranted by the facts and circumstances.

(3) In any action brought under paragraph (2) of this subsection, the Commission may notify the district court of the United States in which such action is pending that it intends to consider the matter in a proceeding before the Commission. Upon the filing of such a notice the court shall stay further action pending disposition of the proceeding before the Commission.

(c) The Commission shall enter of record a written report of hearings conducted upon complaint, or upon its own initiative without complaint, stating its conclusions, decision, and order; and shall furnish a copy of such report to all parties of record. The Commission may provide for the publication of such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be received as competent evidence of such reports in any court of competent jurisdiction.

(d) The copies of classifications and tariffs of rates and charges, and of all contracts, agreements, and arrangements of freight forwarders filed with the Commission under this chapter, and the statistics, tables, and figures contained in the annual or other reports of freight forwarders made to the Commission under this chapter, shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals. (Feb. 4, 1887, ch. 104, pt. IV, § 417, as added May 16, 1942, ch. 318, § 1, 56 Stat. 297, and amended Aug. 7, 1942, ch. 552, § 2, 56 Stat. 746; Sept. 6, 1965, Pub. L. 89–170, § 5, 79 Stat. 650; Oct. 15, 1970, Pub. L. 91–452, title II, § 243(c), 84 Stat. 931.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–452 struck out references to sections 47 and 48 of this title and sections 32 and 33 of Title 15.

1965—Subsec. (b). Pub. L. 89–170 designated existing provision as par. (1) and added pars. (2) and (3).

1942—Subsec. (b). Act Aug. 7, 1942, substituted "freight forwarder" for "carrier" wherever latter appeared.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCE

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 1018. Carriers the services of which freight forwarders may utilize.

It shall be unlawful, except in the performance within terminal areas of transfer, collection, or delivery services, for freight forwarders to employ or utilize the instrumentalities or services of any carriers other than common carriers by railroad, motor vehicle, or water, subject to this Act; express companies subject to this Act; air carriers subject to the Civil Aeronautics Act of 1938, as amended; common carriers by motor vehicle engaged in transportation exempted under the provisions of section 303(b)(7a) of this title; common carriers by motor vehicle exempted under the provisions of section 304(a)(4a) of this title; common carriers by water engaged in transportation exempted under the provisions of section 903(b) of this title; the Alaska Railroad; common carriers by water operating between Alaskan ports, and between those ports and other ports in the United States or common carriers by water operating between Hawaiian ports, and between those ports and other ports in the United States. (Feb. 4, 1887, ch. 104, pt. IV, § 418, as added May 16, 1942, ch. 318, § 1, 56 Stat. 297, and amended July 12, 1960, Pub. L. 86–615, § 7, 74 Stat. 385.)

REFERENCES IN TEXT

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

Civil Aeronautics Act of 1938, as amended, referred to in text, was repealed by Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, and is now covered by chapter 20 of this title.

AMENDMENTS

1960—Pub. L. 86–615 included the Alaska Railroad, common carriers by water operating between Alaskan ports, and between those ports and other ports in the United States, and common carriers by water operating between Hawaiian ports, and between those ports and other ports in the United States.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1019. Liability for past acts and omissions.

No person shall be subject to any punishment or liability under the provisions of this Act on account of any act done or omitted to be done, prior to the effective date of this chapter, in connection with the establishment, charging, collection, receipt, or payment of rates of freight forwarders, or joint rates or divisions between freight forwarders and common carriers by motor vehicle subject to this Act. (Feb. 4, 1887, ch. 104, pt. IV, § 419, as added May 16, 1942, ch. 318, § 1, 56 Stat. 298.)

REFERENCES IN TEXT

This Act, referred to in text, means the Interstae Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 19 of this title.

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1020. Special powers during time of war or other emergency.

The provisions of section 1 (15)—(17) of this title shall be applicable, in the case of service subject to this chapter, with respect to freight forwarders and other persons, and the service, equipment, and facilities of freight forwarders, with like force and effect as in the case of the carriers and other persons, and the service, equipment, and facilities, to which such provisions are specifically applicable. (Feb. 4, 1887, ch. 104, pt. IV, § 420, as added May 16, 1942, ch. 318, § 1, 56 Stat. 298.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

CONTINUATION OF PROVISIONS UNTIL TERMINATION OF DEC. 16, 1950 NATIONAL EMERGENCY AND SIX MONTHS

Act June 30, 1953, ch. 165, 67 Stat. 115, provided: "That the provisions of section 420 of the Interstate Commerce Act, as amended [this section], as continued in effect by section 1 (a) (26) of the Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress) [set out as a note under this section], and the authorizations conferred and liabilities imposed thereby, shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2914, 3 C. F. R., 1950 Supp., p. 71), or until such earlier date as the Congress by concurrent resolution declares that it is no longer necessary to exercise the powers continued in force and effect by this Act, notwithstanding any limitation, by reference to war or threatened war, of the time during or for which the authorizations or liabilities thereunder may be exercised or imposed."

PRIOR CONTINUATIONS

Provisions of this section were previously extended to July 1, 1953 by Joint Res. July 3, 1952, ch. 570, § 1 (a) (26), 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18.

REPEAL OF PRIOR ACTS CONTINUING EFFECTIVENESS OF SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued effectiveness of section until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

§ 1021. Unlawful acts and penalties.

(a) Any person who knowingly and willfully violates any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $100 for the first offense and not more than $500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Any freight forwarder or any officer, agent, employee, or representative thereof who, by any device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person to obtain service subject to this chapter at less than the rates or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 for the first offense and not more than $2,000 for any subsequent offense.

(c) Any person who shall by any device or means, whether with or without the consent or connivance of any freight forwarder or its officer, agent, employee, or representative, knowingly and willfully obtain service subject to this chapter at less than the rates or charges lawfully in effect, or shall knowingly and willfully, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtain or attempt to obtain any allowance, refund, or repayment in connection with or growing out of such service, whether with or without the consent or connivance of such forwarder or its officer, agent, employee, or representative, whereby the compensation of such forwarder for such service, either before or after payment, shall be less than the rates or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 for the first offense and not more than $2,000 for any subsequent offense.

(d) Any freight forwarder, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required under this chapter, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the freight forwarder, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be subject for each offense to a fine of not more than $5,000. As used in this subsection, the word "keep" shall be construed to mean make, prepare, or compile, as well as retain.

(e) Any special agent, accountant, or examiner of the Commission who knowingly and willfully divulges any fact or information which may come to

his knowledge during the course of any examination or inspection made under authority of this chapter, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500 or imprisonment for not exceeding six months, or both.

(f) It shall be unlawful for any freight forwarder or any officer, agent, employee, or representative of such forwarder, or for any other person authorized by such forwarder or any such person to receive information, knowingly and willfully to disclose to, or permit to be acquired by, any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such forwarder in service subject to this chapter, which information may be or is used to the detriment or prejudice of such shipper or consignee, or which may or does improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly and willfully receive any such information which may be or is so used. Any person violating any provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $100 for the first offense and not more than $500 for any subsequent offense. Each day of such violation shall constitute a separate offense. Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes, or to another freight forwarder, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such forwarders.

(g) The provisions of sections 41 to 43 of this title shall apply to service subject to this chapter, and to freight forwarders and shippers in respect to such service, and shall apply for purposes of enforcement of this chapter; and the provisions of said sections shall be considered to apply in addition to, and not to the exclusion of, the provisions of this chapter. (Feb. 4, 1887, ch. 104, pt. IV, § 421, as added May 16, 1942, ch. 318, § 1, 56 Stat. 298.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

§ 1022. Separability of provisions.

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the other provisions of this chapter, and the application of such provision to any other person or circumstances, shall not be affected thereby. (Feb. 4, 1887, ch. 104, pt. IV, § 422, as added May 16, 1942, ch. 318, § 1, 56 Stat. 300.)

EFFECTIVE DATE

Effective date of chapter, see note under section 1001 of this title.

Chapter 14.—FEDERAL AID FOR PUBLIC AIRPORT DEVELOPMENT

Sec.
1101 to 1103. Repealed.
1103a. Interstate compacts for airport facilities.
1104 to 1120. Repealed.

§§ 1101 to 1103. Repealed. Pub. L. 91-258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

Section 1101, acts May 13, 1946, ch. 251, § 2, 60 Stat. 170; Apr. 17, 1948, ch. 192, § 1(1), 62 Stat. 173; Aug. 3, 1955, ch. 494, § 1, 69 Stat. 441; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1402(b)(1), 72 Stat. 806; June 29, 1959, Pub. L. 86-72, § 2(a), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87-255, § 8(a), 75 Stat. 526; Mar. 11, 1964, Pub. L. 88-280, § 1, 78 Stat. 158, defined for purposes of Federal Airport Act the terms: (1) "Administrator", (2) "airport", (3) "airport development", (4) "airport hazard", (5) "project", (6) "project costs", (7) "public agency", (8) "public airport", (9) "sponsor", (10) "United States share", (11) "military and naval aircraft", and (12) "State".

Section 1102, acts May 13, 1946, ch. 251, § 3, 60 Stat. 171; Apr. 17, 1948, ch. 192, § 1(1), 62 Stat. 173; Mar. 18, 1950 ch. 72, § 7, 64 Stat. 28; Aug. 3, 1955, ch. 494, § 2, 69 Stat. 441; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1402(b)(2), 72 Stat. 807; June 29, 1959, Pub. L. 86-72, § 2(b), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87-255, § 8(b), 75 Stat. 526, Mar. 11, 1964, Pub. L. 88-280, § 2, 78 Stat. 159, provided for formulation of national airport plan and consultation with Department of Defense and the Secretary of Interior.

Section 1103, acts May 13, 1946, ch. 251, § 4, 60 Stat. 171; Aug. 3, 1955, ch. 494, § 3, 69 Stat. 441; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1402(b)(3), 72 Stat. 807; Sept. 20, 1961, Pub. L. 87-255, § 1, 75 Stat. 523; Mar. 11, 1964, Pub. L. 88-280, § 3, 78 Stat. 159, provided for money grants to airport development sponsors and announcement and revision of program.

Subject matter of such former provisions, except as otherwise indicated, is now covered by other sections of this title as follows:

Former provisions	*Present provisions*
1101(1)	1711(13)
1101(2)-(4)	1711(1)-(3)
1101(5)	1711(9)
1101(6)	1711(10), 1720(a)(2)
1101(7), (8)	1711(11), (12)
1101(9)	1711(14)
1101(10)	1711(17)
1101(11)	1711(7)
1101(12)	See 1711(15)
1102(a)	1712(a)-(d)
1102(b), (c)	1712(e), (f)
1103(a)	1713(a), 1714(a)
1103(b)	Repealed

EFFECTIVE DATE OF REPEAL

Section 52(a) of Pub. L. 91-258 provided in part for repeal of sections 1101 to 1103, 1104 to 1106, and 1107a to 1120 of this title as of the close of June 30, 1970.

§ 1103a. Interstate compacts for airport facilities.

The consent of Congress is given to each of the several States to enter into any agreement or compact, not in conflict with any law of the United States, with any other State or States for the purpose of developing or operating airport facilities. The right to alter, amend, or repeal this section is expressly reserved. (Pub. L. 86-154, Aug. 11, 1959, 73 Stat. 333.)

CODIFICATION

Section was not enacted as a part of the Federal Airport Act which comprised this chapter.

§§ 1104 to 1106. Repealed. Pub. L. 91-258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

Section 1104, acts May 13, 1946, ch. 251, § 5, 60 Stat. 172; Oct. 26, 1949, ch. 751, 63 Stat. 925; Sept. 27, 1950, ch. 1055, 64 Stat. 1071; Aug. 3, 1955, ch. 494, § 4, 69 Stat. 441; June 29, 1959, Pub. L. 86-72, §§ 1, 2(c), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87-255, § 2, 75 Stat. 524; Mar. 11,

1964, Pub. L. 88–280, § 4, 78 Stat. 159; Oct. 13, 1966, Pub. L. 89–647, § 1, 80 Stat. 894, authorized appropriations for projects in the several States, Puerto Rico, and Virgin Islands for planning research, and administrative expenses

Section 1105, acts May 13, 1946, ch. 251, § 6, 60 Stat. 173; Oct. 25, 1949, ch. 724, § 1, 63 Stat. 903; Aug. 3, 1955, ch. 494, § 5, 69 Stat. 442; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(b) (2), 72 Stat. 807; Sept. 21, 1959, Pub. L. 86–295, 73 Stat. 572; Sept. 20, 1961, Pub. L. 87–255, § 3, 75 Stat. 524; Mar. 11, 1964, Pub. L. 88–280, § 5, 78 Stat. 160; Oct. 13, 1966, Pub. L. 89–647, § 2, 80 Stat. 894, provided for apportionment of funds among projects in the several States, Puerto Rico, Virgin Islands, and Guam, defined "population" and "area", and provided for creation and use of discretionary funds, and redistribution of unexpended funds.

Section 1106, acts May 13, 1946, ch. 251, § 7, 60 Stat. 174; Apr. 17, 1948, ch. 192, § 1(1), 62 Stat. 173; June 29, 1959, Pub. L. 86–72, § 2(d), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87–255, § 8(c), 75 Stat. 526; Mar. 11, 1964, Pub. L. 88–280, § 6, 78 Stat. 160, related to availability of funds for advance planning and engineering and projects in Puerto Rico and Virgin Islands.

Subject matter of such former provisions, except as otherwise indicated, is now covered by other sections of this title as follows:

Former provisions	*Present provisions*
1104	Executed. See note
1105(a)	1715(a)(1)–(3), (c)
1105(b)	1715(b)
1105(c)	1715(a)
1106	Repealed

EFFECTIVE DATE OF REPEAL

Sections repealed as of the close of June 30, 1970, see section 52(a) of Pub. L. 91–258, set out in part as a note under former sections 1101 to 1103 of this title.

§ 1107. Repealed. Aug. 3, 1955, ch. 494, § 6, 69 Stat. 443.

Section, acts May 13, 1946, ch. 251, § 8, 60 Stat. 174; Feb. 9, 1950, ch. 5, 64 Stat. 4, required the Department of Commerce to submit to Congress each year a list of the projects for development of class 4 and larger airports.

§§ 1107a to 1120. Repealed. Pub. L. 91–258, title I, § 52(a), May 21, 1970, 84 Stat. 235.

Section 1107a, act May 13, 1946, ch. 251, § 8, as added Mar. 11, 1964, Pub. L. 88–280, § 7, 78 Stat. 160, provided for advance planning and engineering grants and defined "airport layout plan".

Section 1108, acts May 13, 1946, ch. 51, § 9, 60 Stat. 174; Apr. 17, 1948, ch. 192, § 1(1), 62 Stat. 173; Mar. 18, 1950, ch. 72, § 6, 64 Stat. 28; Aug. 3, 1955, ch. 494, § 7, 69 Stat. 443; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(b) (3), 72 Stat. 807; June 29, 1959, Pub. L. 86–72, § 2(e), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87–255, §§ 4, 8(d), 75 Stat. 525, 527; Mar. 11, 1964, Pub. L. 88–280, § 8, 78 Stat. 160, related to advance planning and engineering proposals and project applications and provided in subsec. (a) for submission, (b) public agencies subject to State law, (c) Federal agencies, (d) approval, and (e) hearings.

Section 1109, acts May 13, 1946, ch. 251, § 10, 60 Stat. 175; Apr. 17, 1948, ch. 192, § 1(2), 62 Stat. 173; Aug. 15, 1949, ch. 426, §§ 1, 2, 63 Stat. 605; Jan. 9, 1951, ch. 1214, 64 Stat. 1237; June 29, 1959, Pub. L. 86–72, § 2(f), 73 Stat. 155; Sept. 20, 1961, Pub. L. 87–255, §§ 5, 8(e), 75 Stat. 526, 527; Mar. 11, 1964, Pub. L. 88–280, § 9, 78 Stat. 161, related to United States share of project costs and provided in subsec. (a) percentage limitation, (b) projects in public land States, (c) projects in Virgin Islands, and (d) landing aids.

Section 1110, acts May 13, 1946, ch. 251, § 11, 60 Stat. 176; Sept. 20, 1961, Pub. L. 87–255, § 6, 75 Stat. 526; Mar. 11, 1964, Pub. L. 88–280, § 10, 78 Stat. 161, related to project sponsorship, requirements, contracts between Administrators and public agencies, and relief of sponsors.

Section 1111, acts May 13, 1946, ch. 251, § 12, 60 Stat. 177; July 25, 1949, ch. 359, 63 Stat. 478; Aug. 3, 1955, ch. 494, § 8, 69 Stat. 443; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(b)(3), 72 Stat. 807; Mar. 11, 1964, Pub. L. 88–280, § 11, 78 Stat. 161, related to grant agreements, offer of terms and conditions, and acceptance.

Section 1112, acts May 13, 1946, ch. 251, § 13, 60 Stat. 177; June 29, 1959, Pub. L. 86–72, § 3, 73 Stat. 155; Sept. 20, 1961, Pub. L. 87–255, § 7, 75 Stat. 526, provided for allowable project costs, regulations, and audit of costs.

Section 1113, acts May 13, 1946, ch. 251, § 14, 60 Stat. 178; Aug. 12, 1949, ch. 423, 63 Stat. 603; Mar. 11, 1964, Pub. L. 88–280, § 12, 78 Stat. 162, related to payments under grant agreements, advance payments, percentage, and recovery of excess and advance payments.

Section 1114, acts May 13, 1946, ch. 251, § 15, 60 Stat. 178; July 26, 1949, ch. 363, 63 Stat. 480; July 2, 1964, Pub. L. 88–349, § 2, 78 Stat. 239, related to performance of construction work, regulations of Administrator, wage rates, and employment requirements.

Section 1115, act May 13, 1946, ch. 251, § 16, 60 Stat. 179, related to requests for use of Government-owned lands, the Administrator's determination, and execution of conveyance.

Section 1116, acts May 13, 1946, ch. 251, § 17, 60 Stat. 179; June 29, 1948, ch. 738, 62 Stat. 1111; July 8, 1953, ch. 181, § 1, 67 Stat. 140; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1402(b) (2), 72 Stat. 807, related to reimbursement for damage by Federal agencies to public airports, and provided in subsec. (a) for submission and determination of claims subsec. (b) certification of claims to Congress, cost in excess of certification, contractual obligation of Government, subsec. (c) appropriations, limitations on payments by Administrator, disposition of excess, subsec. (d) time limitation on reimbursement requests, and (e) time limitation on making of certifications.

Section 1117, act May 13, 1946, ch. 251, § 18, 60 Stat. 180, provided for reports to Congress.

Section 1118, act May 13, 1946, ch. 251, § 19, 60 Stat. 180, provided penalties for false statements, representations, or reports.

Section 1119, act May 13, 1946, ch. 251, § 20, 60 Stat. 180, provided that existing airport programs were unaffected by this chapter.

Section 1120, act May 13, 1946, ch. 251, § 21, as added Mar. 11, 1964, Pub. L. 88–280, § 13, 78 Stat. 162, related to recordkeeping, contents of records, and access of officials to them.

Subject matter of such former provisions, except as otherwise indicated, is now covered by other sections of this title as follows:

Former provisions	*Present provisions*
1107a first sent.	1713 (a), (b)
1707a second sent.	See 1711 (4), (5)
1108 (a), (b)	1716 (a), (b)
1108(c)	Repealed
1108(d)	1716(c)
1108(e)	See 1716(d)
1109	1717
1110 intro. text	1718 intro. text
1110(1)–(7)	1718(1)–(7)
1110 (8), (9)	1718 (9), (10)
1110 conclu. text	1718 conclu. text
1111–1115	1719–1723
1116	Repealed
1117, 1118	1724, 1725
1119	1701 note
1120 (a), (b)	1726 (a), (b)

EFFECTIVE DATE OF REPEAL

Sections repealed as of the close of June 30, 1970, see section 52(a) of Pub. L. 91–258, set out as a note under former sections 1101 to 1103 of this title.

Chapter 15.—INTERNATIONAL AVIATION FACILITIES

Sec.
1151. Definitions.
1152. Establishment and operation of airport and airway property in foreign territories.
1153. Training of foreign nationals in aeronautical and related subjects.
1154. Acceptance of foreign funds for facilities supplied or services rendered to foreign governments or international organizations.

Sec.
1155. Transference of airport or airway property to foreign governments or international organizations.
1156. Facilities, service, and property provided the Canal Zone and the Republic of Panama.
(a) Approval.
(b) Consistency with treaties, conventions, and agreements.
(c) Transfer of property from Department of Defense.
(d) Authority.
1157. Transfer of certain property from the Department of Defense to the Secretary of Transportation or Weather Bureau.
1158. Repossession of property transferred under sections 1156 and 1157 of this title.
1159. Powers.
(a) Administration; penalties.
(b) Chief of Weather Bureau.
(c) Disposition of receipts.
(d) Leases or contracts unaffected by section 5 of Title 41.
1160. Utilization of facilities and services of other Government agencies.

§ 1151. Definitions.

For the purposes of this chapter:

(1) The term "airport property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of an airport, including but not limited to (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment (including parts and components thereof), furniture, vehicles, and supplies.

(2) The term "airway property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of any ground installation, facility, or equipment (including parts and components thereof) necessary or desirable for the orderly and safe operation of air traffic, including but not limited to air navigation, air-traffic control, airway communications, and meteorological facilities.

(3) The term "foreign territory" means any area of land or water over which no nation or a nation other than the United States exercises the incidents of sovereignty (including territory of undetermined sovereignty and the high seas), any area of land or water temporarily under military occupation by the United States, and any area of land or water occupied or administered by the United States or any other nation under any international agreement.

(June 16, 1948, ch. 473, § 2, 62 Stat. 450; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1403, 72 Stat. 808.)

AMENDMENTS

1958—Pub. L. 85–726 eliminated former cl. (1), which defined "Air Coordinating Committee", and redesignating cl. (2)—(4) as (1)—(3).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

SHORT TITLE

Section 1 of act June 16, 1948, provided that the Act enacting this chapter should be properly known as the "International Aviation Facilities Act."

APPROPRIATIONS

Section 12 of act June 16, 1948, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of the Act [this chapter]."

EX. ORD. NO. 9781. ESTABLISHMENT OF THE AIR COORDINATING COMMITTEE

Ex. Ord. No. 9781, Sept. 19, 1946, 11 F. R. 10645, as amended by Ex. Ord. No. 10360, June 11, 1952, 17 F. R. 5337, which established the Air Coordinating Committee, was superseded by Ex. Ord. No. 10655, Jan. 30, 1956, 21 F.R. 665.

EX. ORD. NO. 10655. AIR COORDINATING COMMITTEE

Ex. Ord. No. 10655, Jan. 30, 1956, 21 F.R. 665, as amended by Ex. Ord. No. 10796, Dec. 24, 1958, 23 F.R. 10391, which related to the Air Coordinating Committee, was revoked by Ex. Ord. No. 10883, Aug. 11, 1960, 25 F.R. 7710, set out as a note under this section.

EX. ORD. NO. 10883. TERMINATION OF AIR COORDINATING COMMITTEE

Ex. Ord. No. 10883, Aug. 11, 1960, 25 F.R. 7710, provided: By virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. The Air Coordinating Committee is hereby terminated.

2. Executive Order No. 10655 of January 28, 1956, relating to the Air Coordinating Committee, and Executive Order No. 10796 of December 24, 1958, amending that order, are hereby revoked.

3. The Administrator of the Federal Aviation Agency shall make such provisions as may be necessary for winding up any outstanding affairs of the Air Coordinating Committee, and such provisions may be made at any time after the date of this order.

4. Except as provided in paragraph 3, this order shall become effective on the sixtieth day following the date thereof.

DWIGHT D. EISENHOWER

§ 1152. Establishment and operation of airport and airway property in foreign territories.

Subject to concurrence of the Secretary of State, and with due regard for the objectives of the International Civil Aviation Organization, the Secretary of Transportation and the Chief of the Weather Bureau of the Department of Commerce, within their respective fields, are authorized, by contract or otherwise, to acquire, establish, and construct airport property and airway property in foreign territory: *Provided, however,* That, except in the case of airport property transferred under section 1157 of this title, no airport (as defined in section 401 of this title) may be acquired, established, or constructed under authority of this section unless funds for such purpose have been specifically appropriated by the Congress. (June 16, 1948, ch. 473, § 3, 62 Stat. 451; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1403, 72 Stat. 808.)

REFERENCES IN TEXT

Section 401 of this title, referred to in text, was repealed by Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, and is now covered by section 1301 of this title.

AMENDMENTS

1958—Pub. L. 85–726 substituted "Administrator of the Federal Aviation Agency" for "Administrator of Civil Aeronautics", and eliminated provisions which required consultation with the Air Coordinating Committee.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of these sections by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan. No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1156 of this title.

§ 1153. Training of foreign nationals in aeronautical and related subjects.

Subject to the concurrence of the Secretary of State, the Secretary of Transportation and the Chief of the Weather Bureau, within their respective fields, are authorized within or outside the United States to train foreign nationals directly, or in conjunction with any other United States Government agency, or through any United States public or private agency (including any State or municipal educational institution), or through any international organization, in aeronautical and related subjects essential to the orderly and safe operation of civil aircraft. (June 14, 1948, ch. 473, § 4, 62 Stat. 451.)

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

§ 1154. Acceptance of foreign funds for facilities supplied or services rendered to foreign governments or international organizations.

The Secretary of Transportation and the Chief of the Weather Bureau, respectively, are authorized to accept, on behalf of the United States, funds from any foreign government or from any international organization as payment for any facilities supplied or services performed for such government or international organization by the Secretary or the Chief of the Weather Bureau, either directly or indirectly, under authority of this chapter or the Civil Aeronautics Act of 1938, as amended, including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services. Funds so received may be credited (A) to appropriations current at the time the expenditures are to be or have been paid, (B) to appropriations current at the time such amounts are received, or (C) in part as provided under clause (A) and in part as provided under clause (B). (June 14, 1948, ch. 473, § 5, 62 Stat. 451.)

REFERENCES IN TEXT

The Cvil Aeronautics Act of 1938, referred to in text, was repealed by Pub. L. 85–726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, and is now covered by the Federal Aviation Act of 1958, which is classified principally to chapter 20 of this title.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferrd to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

§ 1155. Transference of airport or airway property to foreign governments or international organizations.

The Secretary of Transportation or the Chief of the Weather Bureau, as the case may be, upon request of the foreign government involved or of any international organization, may transfer any airport property or airway property operated and maintained by him within foreign territory, pursuant to the provisions of this chapter, to the foreign government involved or to any international organization. The Secretary or the Chief of the Weather Bureau, as the case may be, is authorized to make such transfer upon such terms and conditions as he deems proper, including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon through negotiations with the foreign government or international organization involved. (June 14, 1948, ch. 473, § 6, 62 Stat. 452; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1403, 72 Stat. 808.)

AMENDMENTS

1958—Pub. L. 85–726 eliminated provisions which related to unanimous approval of the Air Coordinating Committee.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

§ 1156. Facilities, service, and property provided the Canal Zone and the Republic of Panama.

(a) Approval.

Subject to the approval of the Secretary of Defense, the Secretary of Transportation is authorized to provide air navigation, communications, and air traffic control facilities and services in the Canal Zone and the Republic of Panama and to do all things necessary in connection with the operation and maintenance thereof.

(b) Consistency with treaties, conventions, and agreements.

In exercising and performing his powers and duties under this section, the Secretary of Transportation shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and the Republic of Panama.

(c) Transfer of property from Department of Defense.

Any department of the Department of Defense is authorized in its discretion to transfer without charge therefor to the Secretary of Transportation any airport property or airway property or other real or personal property which (1) is located in the Canal Zone or the Republic of Panama, and (2) is determined by the Secretary of Transportation to be, or likely to become, useful in carrying out the purposes of this chapter.

(d) Authority.

The authority conferred by this section may be exercised without regard to sections 1152 and 1157 (a) of this title. (June 16, 1948, ch. 473, § 7, 62 Stat. 452; Aug. 10, 1949, ch. 412, § 12 (a), 63 Stat. 591.)

CHANGE OF NAME

The National Military Establishment was changed to the Department of Defense by act Aug. 10, 1949.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1158 of this title.

§ 1157. Transfer of certain property from the Department of Defense to the Secretary of Transportation or Weather Bureau.

(a) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Department of Defense is authorized to transfer at its discretion to the Secretary of Transportation, without charge therefor, airport property and airway property, exclusive of meteorological facilities, installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes and which in the opinion of the Secretary of Transportation are, or are likely to become, necessary for carrying out the purposes of this chapter.

(b) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Department of Defense is authorized to transfer at its discretion to the Chief of the Weather Bureau without charge therefor, meteorological facilities installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes, and which, in the opinion of the Chief of the Weather Bureau are, or are likely to become, necessary for carrying out the purposes of this chapter.

(c) All property transferred to the Department of Commerce under the provisions of Executive Order 9709, dated March 29, 1946, and Executive Order 9797, dated November 6, 1946, and which is in the possession of the Department of Commerce on June 16, 1948, shall be considered as property transferred pursuant to this section. (June 16, 1948, ch. 473, § 8, 62 Stat. 452; Aug. 10, 1949, ch. 412, § 12 (a), 63 Stat. 591; Aug. 23, 1958, Pub. L. 85–726, title XIV, § 1403, 72 Stat. 808.)

AMENDMENTS

1958—Pub. L. 85–726 eliminated provisions in subsecs. (a) and (b) which required transfers of property to be made only after consultation with the Air Coordinating Committee.

CHANGE OF NAME

The National Military Establishment was changed to the Department of Defense by act Aug. 10, 1949.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified and took office on October 31, 1958.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding former section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1156, 1158 of this title.

§ 1158. Repossession of property transferred under sections 1156 and 1157 of this title.

When necessary to meet military requirements, as determined by the Secretary of the department which made the transfer, such department is authorized immediately to retake any property transferred under sections 1156 or 1157 of this title, together with any improvements or additions made thereto: *Provided,* That the Secretary of such department, upon the recommendation of the Secretary of Transportation or the Chief of the Weather Bureau, as the case may be, is authorized in any case to waive any right or privilege conferred or reserved by this section. In the event property is retaken which incorporates improvements or additions not made at Government expense, reasonable compensation shall be paid to the person or persons who made such improvements or additions, or to their successors in interest. The Secretary of the department which made the transfer, or his duly authorized representative, shall determine, for purposes of this section, what is reasonable compensation for such improvements or additions. (June 16, 1948, ch. 473, § 9, 62 Stat. 453.)

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services

Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

§ 1159. Powers.

(a) Administration; penalties.

With regard to airport property and airway property in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this chapter or any other provision of law, the Secretary of Transportation is empowered and directed to do and perform, by contract or otherwise, all acts and things necessary or incident to their consolidation, operation, protection, maintenance, improvement, and administration, including but not limited to the power (1) to adapt, from time to time, such properties to the needs of civil aeronautics by construction, installation, reengineering, relocation, or otherwise; (2) to make and amend such reasonable rules and regulations as he may deem necessary to the proper exercise of the powers granted by this section; (3) to lease under such conditions as he may deem proper and for such periods as may be desirable (not to exceed twenty years) space or property for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter; (4) to contract for, or to provide directly for, the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other facilities and services necessary or desirable for the operation and administration of such properties; (5) to make just and reasonable charges for aeronautical services (including but not limited to landing fees and fees for the use of communication services); and (6) to acquire, by purchase or otherwise, real or personal property, or interests therein, which he may consider necessary for the purposes of this section. Any person who knowingly and willfully violates any rule or regulation issued by the Secretary of Transportation under clause (2) of this section, if such violation is committed in any area under the civil jurisdiction of the United States, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(b) Chief of Weather Bureau.

With regard to meteorological facilities in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this chapter or any other provision of law, the Chief of the Weather Bureau is vested with all powers to consolidate, operate, protect, maintain, improve, and administer granted the Secretary of Transportation by subsection (a) of this section with respect to facilities the latter has acquired.

(c) Disposition of receipts.

All funds received under this section, as a result of direct sale or charge by the Secretary of Transportation or the Chief of the Weather Bureau and which, in the judgment of the Secretary of Transportation or the Chief of the Weather Bureau, as the case may be, are equivalent to the cost, including handling charges, of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished shall be credited to the appropriation from which the cost thereof was paid, and the balance, if any, shall be credited to miscellaneous receipts.

(d) Leases or contracts unaffected by section 5 of Title 41.

The provisions of section 5 of Title 41, shall not apply to any of the leases or contracts made by the Secretary of Transportation or the Chief of the Weather Bureau pursuant to the provisions of this chapter. (June 16, 1948, ch. 473, § 10, 62 Stat. 453.)

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff, July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c)

of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding former section 21 of Title 48, Territories and Insular Possessions.

ANNETTE ISLAND AIRPORT, ALASKA; RENEWAL OF LEASE

Act May 9, 1956, ch. 241, 70 Stat. 146, provided: "That the Congress of the United States hereby approves the extension, from year to year, until June 30, 1999, of a lease of certain land comprising part of Annette Island, Alaska, for use by the Civil Aeronautics Administration [now the Federal Aviation Administration] as an airport, entered into by the United States of America and the Council of the Annette Island Reserve on December 13, 1948, section 5 of which lease provides that no renewal thereof shall extend beyond June 30, 1959, unless approved by Congress."

§ 1160. Utilization of facilities and services of other Government agencies.

The Secretary of Transportation and the Chief of the Weather Bureau are authorized and directed, in carrying out the provisions of this chapter, insofar as they find it practicable, to arrange for the use of appropriate facilities or services of other United States Government agencies, and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Weather Bureau, as the case may be, to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated. Any agency of the United States Government receiving any such request is authorized to furnish such facilities or to perform such services. (June 16, 1948, ch. 473, § 11, 62 Stat. 454; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1403, 72 Stat. 808.)

AMENDMENTS

1958—Pub. L. 85-726 substituted "Federal Aviation Agency" for "Civil Aeronautics Administration".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment of this section by Pub. L. 85-726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Department of Transportation" has been substituted for "Federal Aviation Agency" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

Chapter 16.—DEVELOPMENT OF COMMERCIAL AIRCRAFT

§§ 1181 to 1185. Omitted.

CODIFICATION

Sections, act Sept. 30, 1950, ch. 1117, 64 Stat. 1090—1092, which related to Congressional declaration of policy, powers and duties of Secretary of Commerce and consultation with other agencies and groups, employment of personnel and contractual agreements, definitions, and reports to Congress, respectively, expired by the terms of section 7 of act Sept. 30, 1950, on Sept. 30, 1955.

APPROPRIATIONS

Section 6 of act Sept. 30, 1950, authorized to be appropriated to the Department of Commerce not to exceed $12,500,000 to carry out the purposes of act Sept. 30, 1950.

Chapter 17.—MEDALS OF HONOR FOR ACTS OF HEROISM

Sec.
1201. Awards for acts of heroism involving railroads or motor vehicles.
1202. Rosettes and ribbons; replacement.
1203. Appropriation.

§ 1201. Awards for acts of heroism involving railroads or motor vehicles.

The President of the United States is authorized to cause to be prepared bronze medals of honor, with suitable emblematic devices, which shall be bestowed upon any persons who shall, by extreme daring, endanger their own lives in saving, or endeavoring to save, lives from any wreck, disaster, or grave accident, or in preventing or endeavoring to prevent such wreck, disaster, or grave accident, upon any railroad within the United States engaged in interstate commerce or involving any motor vehicle on the public highways, roads, or streets of the United States: *Provided,* That no award of said medal shall be made to any person until sufficient evidence of his deserving shall have been furnished and placed on file, under such regulations as may be prescribed by the President of the United States. (Feb. 23, 1905, ch. 744, § 1, 33 Stat. 743; June 13, 1957, Pub. L. 85-50, § 1(1), 71 Stat. 69.)

AMENDMENTS

1957—Pub. L. 85-50 inserted the words "or involving any motor vehicle on the public highways, roads, or streets of the United States,".

SHORT TITLE

This section and sections 1202 and 1203 of this title, constitute an Act entitled "An Act to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life", and are known as the "Medals of Honor Act".

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission relating to medals for heroism under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 1203 of this title.

§ 1202. Rosettes and ribbons; replacement.

The President of the United States is authorized to issue to any person to whom a medal of honor may be awarded under the provisions of section 1201 of this title a rosette or knot, to be worn in lieu of the medal, and a ribbon to be worn with the medal; said rosette or knot and ribbon to be each of a pattern to be prescribed by the President of the United States: *Provided,* That whenever a ribbon issued under the provisions of sections 1201 to 1203 of this title shall have been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued, a new ribbon shall be issued to such person without charge therefor. (Feb. 23, 1905, ch. 744, § 2, 33 Stat. 743.)

TRANSFER OF FUNCTIONS

All powers, duties, and functions of the Interstate Commerce Commission relating to medals for heroism under this section were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(e)(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1203 of this title.

§ 1203. Appropriation.

Appropriations for the Department of Transportation are made available for carrying out the provisions of sections 1201 and 1202 of this title. (Feb. 23, 1905, ch. 744, § 3, 33 Stat. 743; June 13, 1957, Pub. L. 85-50, § 1(2), 71 Stat. 69.)

AMENDMENTS

1957—Pub. L. 85-50 substituted provision making appropriations for Interstate Commerce Commission available for carrying out sections 1201 and 1202 of this title, for provisions which made appropriations for enforcement and execution of sections 1—10 of Title 45 available for carrying out sections 1201 and 1202 of this title.

TRANSFER OF FUNCTIONS

The Department of Transportation was substituted for the Interstate Commerce Commission by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all powers, duties, and functions of the Interstate Commerce Commission relating to medals for heroism under this section to the Secretary of Transportation. See section 1655(e)(3) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1202 of this title.

Chapter 18.—AIRWAYS MODERNIZATION

§§ 1211 to 1215. Repealed. Pub. L. 85-726, title XIV, § 1401(d), Aug. 23, 1958, 72 Stat. 806.

Sections, Pub. L. 85-133, §§ 2—6, Aug. 14, 1957, 71 Stat. 349—351, provided for the establishment of an Airways Modernization Board, its membership, prescribed powers and duties of Chairman, authorized transfer of functions, and provided for its termination at the close of June 30, 1960.

EFFECTIVE DATE OF REPEAL

Section 1505(2) of Pub. L. 85-726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the repeal of these sections shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under Pub. L. 85-726 qualifies and takes office. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, records, property, facilities, employees, and unexpended balances of appropriations of the Airways Modernization Board were transferred to the Federal Aviation Agency by Ex. Ord. No. 10786, set out as a note under section 1345 of this title.

Chapter 19.—INTERSTATE COMMERCE ACT, PART V; LOAN GUARANTIES

Sec.
1231. Declaration of purpose.
1232. Definitions.
1233. Guarantee of loans, discounts, or advances; aggregate amount of loans.
1234. Conditions and limitations; statement of findings; declaration of dividends.
1235. Modification of guaranty.
1236. Payment of guaranties; action to recover payments made.
1237. Guaranty fees.
1238. Assistance of Government departments and agencies.
1239. Administrative expenses.
1240. Termination of authority.

INTERSTATE COMMERCE ACT

The Interstate Commerce Act of Feb. 4, 1887, ch. 104, 24 Stat. 379, as it existed prior to its division into parts, is embodied in chapter 1 of this title. The original act was designated "Part I" and a new Part II, comprising chapter 8 of this title, was added by act Aug. 9, 1935, ch. 498, 49 Stat. 543. Part III, constituting chapter 12 of this title, was added by act Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 929. Part IV, constituting chapter 13 of this title was added by act May 16, 1942, ch. 318, § 1, 56 Stat. 284. Part V, constituting this chapter was added by Pub. L. 85-625, § 2, Aug. 12, 1958, 72 Stat. 568.

NATIONAL TRANSPORTATION POLICY

Act Sept. 18, 1940, ch. 722, title I, § 1, 54 Stat. 899, amended the Interstate Commerce Act, chapters 1, 8, 12, 13, and 19 of this title, by inserting before Part I thereof (chapter I of this title) the following provision entitled "National Transportation Policy": "It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act [chapters 1, 8, 12, 13, and 19 of this title], so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act [chapters 1, 8, 12, 13, and 19 of this title] shall be administered and enforced with a view to carrying out the above declaration of policy."

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 225.

§ 1231. Declaration of purpose.

It is the purpose of this chapter to provide for assistance to common carriers by railroad subject to this Act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the na-

tional defense. (Feb. 4, 1887, ch. 104, pt. V, § 501, as added Aug. 12, 1958, Pub. L. 85-625, § 2, 72 Stat. 568.)

REFERENCES IN TEXT

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 13 of this title.

CODIFICATION

This chapter was enacted as Part V of the Interstate Commerce Act by Pub. L. 85-625. Parts I—IV of the Interstate Commerce Act are classified to chapters 1, 8, 12 and 13 of this title.

CHANGE OF NAME

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department to be deemed references to the United States Postal Service, see Pub. L. 91-375, § 6(o), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

SHORT TITLE

Section 1 of Pub. L. 85-625 provided that Pub. L. 85-625, which added this chapter and section 13a of this title, and amended sections 1(2)(a), (17)(a), 13(4), 15a(3) and 303 (b)(6), (c) of this title, should be popularly known as the "Transportation Act of 1958".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1233 of this title.

§ 1232. Definitions.

For the purposes of this chapter—

(a) The term "Commission" means the Interstate Commerce Commission.

(b) The term "additions and betterments or other capital expenditures" means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

(c) The term "expenditures for maintenance of property" means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission. (Feb. 4, 1887, ch. 104, pt. V, § 502, as added Aug. 12, 1958, Pub. L. 85-625, § 2, 72 Stat. 568.)

§ 1233. Guarantee of loans, discounts, or advances; aggregate amount of loans.

In order to carry out the purpose declared in section 1231 of this title, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this chapter, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this Act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property: *Provided,* That in no event shall the aggregate principal amount of all loans guaranteed by the Commission exceed $500,000,000. (Feb. 4, 1887, ch. 104, pt. V, § 503, as added Aug. 12, 1958, Pub. L. 85-625, § 2, 72 Stat. 569.)

REFERENCES IN TEXT

This Act, referred to in text, means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234 of this title.

§ 1234. Conditions and limitations; statement of findings; declaration of dividends.

(a) No guaranty shall be made under section 1233 of this title—

(1) unless the Commission finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

(2) if in the judgment of the Commission the loan involved is at a rate of interest which is unreasonably high;

(3) if the terms of such loan permit full repayment more than fifteen years after the date thereof; or

(4) unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

A statement of the findings of the Commission required under the provisions of this subsection shall be made a matter of public record by the Commission with respect to each loan guaranteed under the provisions of this chapter.

(b) It shall be unlawful for any common carrier by railroad subject to this Act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this chapter. (Feb. 4, 1887, ch. 104, pt. V, § 504, as added Aug. 12, 1958, Pub. L. 85-625, § 2, 72 Stat. 569.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the Interstate Commerce Act, which is classified to this chapter and chapters 1, 8, 12, and 13 of this title.

§ 1235. Modification of guaranty.

The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this chapter, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so. (Feb. 4, 1887, ch. 104, pt. V, § 505, as added Aug. 12, 1958, Pub. L. 85-625, § 2, 72 Stat. 569.)

§ 1236. Payment of guaranties; action to recover payments made.

(a) Payments required to be made as a consequence of any guaranty by the Commission made under this chapter shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this chapter.

(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor. (Feb. 4, 1887, ch. 104, pt. V, § 506, as added Aug. 12, 1958, Pub. L. 85–625, § 2, 72 Stat. 569.)

§ 1237. Guaranty fees.

The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this chapter. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this chapter. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts. (Feb. 4, 1887, ch. 104, pt. V, § 507, as added Aug. 12, 1958, Pub. L. 85–625, § 2, 72 Stat. 570.)

§ 1238. Assistance of Government departments and agencies.

(a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this chapter, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this chapter. (Feb. 4, 1887, ch. 104, pt. V, § 508, as added Aug. 12, 1958, Pub. L. 85–625, § 2, 72 Stat. 570.)

§ 1239. Administrative expenses.

Administrative expenses under this chapter shall be paid from appropriations made to the Commission for administrative expenses. (Feb. 4, 1887, ch. 104, pt. V, § 509, as added Aug. 12, 1958, Pub. L. 85–625, § 2, 72 Stat. 570.)

§ 1240. Termination of authority.

Except with respect to such applications as may then be pending, the authority granted by this chapter shall terminate at the close of June 30, 1963: *Provided,* That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission. (Feb. 4, 1887, ch. 104, pt. V, § 510, as added Aug. 12, 1958, Pub. L. 85–625, § 2, 72 Stat. 570, and amended Apr. 1, 1961, Pub. L. 87–16, 75 Stat. 41.)

AMENDMENTS

1961—Pub. L. 87–16 substituted "June 30, 1963" for "March 31, 1961."

Chapter 20.—FEDERAL AVIATION PROGRAM

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(d) Issuance.
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This chapter is referred to in title 14 section 82; title 26 section 47; title 39 sections 5401, 5402.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 1301. Definitions.

As used in this chapter, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Aeronautics" means the science and art of flight.

(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided,* That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this chapter to the extent and for such periods as may be in the public interest.

(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

(5) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(6) "Aircraft engine" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(7) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; and (except to the extent the Secretary of Transportation may otherwise provide with respect to individuals employed outside the United States) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances;

and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(8) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(9) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

(11) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(12) "Board" means the Civil Aeronautics Board.

(13) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(14) "Civil aircraft" means any aircraft other than a public aircraft.

(15) "Civil aircraft of the United States" means any aircraft registered as provided in this chapter.

(16) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(17) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(18) "Federal airway" means a portion of the navigable airspace of the United States designated by the Secretary of Transportation as a Federal airway.

(19) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(20) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof; whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(21) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(22) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(23) "Mail" means United States mail and foreign-transit mail.

(24) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(25) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(26) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft.

Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this chapter.

(27) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(28) "Propeller" includes all parts, appurtenances, and accessories thereof.

(29) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this chapter to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(30) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(31) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(32) The term "special aircraft jurisdiction of the United States" includes the following aircraft while in flight—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States; and

(c) any other aircraft—

(i) within the United States, or

(ii) outside the United States which has its next scheduled destination or last point of departure in the United States provided that in either case it next actually lands in the United States.

For the purpose of this definition, an aircraft is considered to be in flight from the moment when power is applied for the purpose of takeoff until the moment when the landing run ends.

(33) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

(34) "Supplemental air transportation" means charter trips, including inclusive tour charter trips, in air transportation, other than the transportation of mail by aircraft, rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 1371(d)(3) of this title to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 1371(d) (1) and (2) of this title. Nothing in this paragraph shall permit a supplemental air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.

(35) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(36) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof. (Pub. L. 85–726, title I, § 101, Aug. 23, 1958, 72 Stat. 737; Pub. L. 87–197, § 3, Sept. 5, 1961, 75 Stat. 467; Pub. L. 87–528, § 1, July 10, 1962, 76 Stat. 143; Pub. L. 90–514, § 1, Sept. 26, 1968, 82 Stat. 867; Pub. L. 91–449, § 1 (1), (2), Oct. 14, 1970, 84 Stat. 921.)

AMENDMENTS

1970—Pub. L. 91–449 redesignated pars. (32), (33), (34), and (35) as pars. (33), (34), (35) and (36) and added new par. (32).

1968—Par. (33). Pub. L. 90–514 expanded supplemental air transportation to include the conduct of inclusive tour charter trips but prohibited individually ticketed service by supplemental air carriers.

1962—Pars. (32), (33). Pub. L. 87–528 added pars. (32) and (33). Former pars. (32) and (33) redesignated (34) and (35), respectively.

Pars. (34), (35). Pub. L. 87–528 redesignated former pars. (32) and (33) as (34) and (35), respectively.

1961—Par. (4). Pub. L. 87–197 substituted "operation or navigation of aircraft within" for "operation or navigation or aircraft within."

CHANGE OF NAME

"Federal Aviation Administration" has been substituted for "Federal Aviation Agency" in par. (1) and "Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" in pars. (7) and (18) pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and a Federal Aviation Administration, headed by an Administrator, within such Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation, with specific function thus transferred to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655(c) of this title.

EFFECTIVE DATE

Section 1505 of Pub. L. 85–726 provided that:

"The provisions of this Act [see Short Title note under this section] shall become effective as follows:

"(1) Section 301, section 302(a), (b), (c), (f), (l), and (k), section 303 (a), section 304, and section 1502 [section 1341, section 1342, section 1343 (a), (d), (g), and (l), section 1344 (a), section 1345, and note set out under section 1341 of this title] shall become effective on the date of enactment of this Act [August 23, 1958]; and

"(2) The remaining provisions shall become effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now, Federal Aviation Administration] first appointed under this Act [this chapter] qualifies and takes office."

SHORT TITLE

Section 1 of Pub. L. 85–726 provided that Pub. L. 85–726, which enacted this chapter, amended sections 212, 485a, 485b, 1101, 1102, 1103, 1105, 1108, 1111, 1116, 1151, 1152, 1155, 1157, and 1160 of this title, sections 81, 82 and 90 of Title 14, Coast Guard, section 45 of Title 15, Commerce and Trade, section 7a of Title 16, Conservation, section 686 of Title 31, Money and Finance, section 474 of Title 40, Public Buildings, Property and Works, sections 485, 485c and 485d of Title 48, Territories and Insular Possessions, section 123 of Title 50, War and National Defense, and sections 1622—1622c of Appendix to Title 50, War and National Defense, repealed sections 171, 174—177, 179—184, 401—403, 421, 422, 423—427, 451—460, 481—485, 486—496, 521—524, 551—560 581, 582 601—603, 621—623, 641—649, 671—681, 701—705, 711—722, and 1211—1215 of this title, section 7 of 1940 Reorg. Plan No. III, section 7 of 1940 Reorg. Plan No. IV, and Reorg. Plan No. 10 of 1953, and enacted notes set out under this section and sections 486, 1321 and 1341 of this title, should be popularly known as the "Federal Aviation Act of 1958".

SEPARABILITY OF PROVISIONS

Section 1504 of Pub. L. 85–726 provided that: "If any provision of this Act [this chapter] or the application thereof to any person or circumstance is held invalid, the remainder of the Act [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby."

SAVINGS CLAUSE; EFFECT OF TRANSFERS, REPEALS, AND AMENDMENTS

Section 1501 of Pub. L. 85–726 provided that:

"(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Department of Commerce, the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Airways Modernization Board, the Secretary of the Treasury, the Secretary of Agriculture, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act [see Short Title note under this section], or in the exercise of duties, powers, or functions which, under this Act, are vested in the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] or the Civil Aeronautics Board, which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator or the Board, as the case may be, or by any court of competent jurisdiction, or by operation of law.

"(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Chairman of the Airways Modernization Board, the Secretary of the Treasury, or the Secretary of Agriculture; but any such proceedings shall be continued before the successor agency, orders therein issued, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Administrator, the Civil Aeronautics Board, the Secretary of the Treasury, or the Secretary of Agriculture or by operation of law.

"(c) The provisions of this Act shall not affect suits commenced prior to the date on which this section takes effect; and all such suits shall be continued by the successor agency, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this Act had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, or duties from such agency or officer to the Administrator or the Board under the provisions of this Act, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Administrator or the Board."

ADMINISTRATOR OF FEDERAL AVIATION AGENCY

The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

REPEAL OF INCONSISTENT LAWS

Section 1401(e) of Pub. L. 85–726 provided that: "All other Acts or parts of Acts inconsistent with any provision of this Act [this chapter] are hereby repealed."

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. The functions, powers and duties of the Civil Aeronautics Board and of the Chairman, members, offices and officers thereof now transferred to the secretary and redelegated to the National Transportation Safety Board. See sections 1655 (c), (d) and 1657(f), (g) of this title.

§ 1302. Consideration of matters in public interest by Board.

In the exercise and performance of its powers and duties under this chapter, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(e) The promotion of safety in air commerce; and

(f) The promotion, encouragement, and development of civil aeronautics. (Pub. L. 85–726, title I, § 102, Aug. 23, 1958, 72 Stat. 740.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualified and took office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

References to the Postal Service to be deemed references to the United States Postal Service, see section 6(o) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 5402.

§ 1303. Consideration of matters in public interest by Secretary of Transportation.

In the exercise and performance of his powers and duties under this chapter the Secretary of Transportation shall consider the following, among other things, as being in the public interest;

(a) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense;

(b) The promotion, encouragement, and development of civil aeronautics;

(c) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both;

(d) The consolidation of research and development with respect to air navigation facilities, as well as the installation and operation thereof;

(e) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft. (Pub. L. 85–726, title I, § 103, Aug. 23, 1958, 72 Stat. 740.)

EFFECTIVE DATE

Section as effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator" in view of Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and the Federal Aviation Administration within such Department of Transportation and which transferred to the Secretary of Transportation all functions, powers, and duties of the former Federal Aviation Agency and its Administrator and other offices and officers. For an enumeration of specific functions of the Secretary of Transportation thus transferred relating to aviation safety which are to be exercised by the Administrator of the Federal Aviation Administration, see section 6(c) of Pub. L. 89–670, set out as section 1655(c) of this title.

§ 1304. Public right of transit.

There is recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States. (Pub. L. 85–726, title I, § 104, Aug. 23, 1958, 72 Stat. 740.)

EFFECTIVE DATE

Section as effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter, were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655(c), (d) and 1657(f), (g), of this title.

SUBCHAPTER II.—CIVIL AERONAUTICS BOARD; GENERAL POWERS

§ 1321. Agency of the United States.

(a) Continuation; membership; removal of members; political affiliation; chairman.

(1) The Civil Aeronautics Board, created and established under the name "Civil Aeronautics Authority" by section 201 of the Civil Aeronautics Act of 1938 and redesignated as the "Civil Aeronautics Board" by Reorganization Plan No. IV of 1940, is continued as an agency of the United States, and shall continue to be composed of five members appointed by the President, by and with the advice and consent of the Senate, for terms of six years, beginning upon the expiration of the terms for which their predecessors were appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

(2) The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No more than three of the members shall be appointed from the same political party. The President shall designate annually one of the members of the Board to serve as chairman and one of the members to serve as vice chairman, who shall act as chairman in the absence or incapacity of the chairman.

(b) Qualifications of members.

The members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the powers and duties vested in and imposed upon the Board by this chapter. Each member of the Board shall be a citizen of the United States and no member of the Board shall have any pecuniary interest in or own any stock in or bonds of any civil aeronautics enterprise. No member of the Board shall engage in any other business, vocation, or employment.

(c) Quorum; principal office; seal.

Three of the members shall constitute a quorum of the Board. The principal office of the Board shall be in the District of Columbia where its general sessions shall be held, but whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, the Board may hold hearings or other proceedings at any other place. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board. (Pub. L. 85–726, title II, § 201, Aug. 23, 1958, 72 Stat. 741; Pub. L. 88–426, title III, § 305(16)(A), Aug. 14, 1964, 78 Stat. 424.)

REFERENCES IN TEXT

Section 201 of the Civil Aeronautics Act of 1938, referred to in subsec. (a)(1), was formerly classified to section 421 of this title, and was repealed by Pub. L. 85-726, § 1401(b).

Reorganization Plan No. IV of 1940, referred to in subsec. (a)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-426 repealed provisions in par. (2) which prescribed the salaries of the Chairman and members of the Board.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter, were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

STATUS OF MEMBERS, OFFICERS, AND EMPLOYEES OF CIVIL AERONAUTICS BOARD

Section 1503 of Pub. L. 85-726 provided that: "Nothing in this Act [this chapter] (1) shall affect the tenure of office of any individual who is a member of the Civil Aeronautics Board at the time title IV of this Act [subchapter IV of this chapter] takes effect, or to nullify any action theretofore taken by the President in designating any such person as chairman or vice chairman of the Board, or (2) subject to section 1502(a) [set out as a note under section 1341 of this title], change the status of the officers and employees under the jurisdiction of the Board at that time."

CROSS REFERENCES

Compensation of members of Board, see section 5311 et seq. of Title 5, Government Organization and Employees.

§ 1322. Officers and employees.

(a) Secretary of Board; secretaries and administrative assistants for members; other personnel.

The Board is authorized, without regard to the civil-service and classification laws, to appoint and prescribe the duties and fix the compensation of a secretary of the Board, and to fix the compensation of a secretary and an administrative assistant for each member, and subject to the civil-service and classification laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this chapter, and to define their authority and duties.

(b) Repealed. Pub. L. 87-367, title I, § 103(2), Oct. 4, 1961, 75 Stat. 787.

(c) Temporary personnel.

The Board may, from time to time, without regard to the provisions of the civil-service laws, engage for temporary service such duly qualified consulting engineers or agencies, or other qualified persons as are necessary in the exercise and performance of the powers and duties of each, and fix the compensation of such engineers, agencies, or persons without regard to chapter 51 and subchapter III of chapter 53 of Title 5, and the expenses of such employment shall be paid out of sums appropriated for the expenses of the Board.

(d) Cooperation with other Federal agencies.

The Board is authorized to use, with their consent, the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate, and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board. (Pub. L. 85-726, title II, § 202, Aug. 23, 1958, 72 Stat. 741; Pub. L. 87-367, title I, § 103(2), Oct. 4, 1961, 75 Stat. 787.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (a) and (c), are classified generally to Title 5, Government Organization and Employees.

The classification laws, referred to in subsec. (a), probably means the Classification Act of 1949, which is classified to chapter 51 and subchapter III of chapter 53 of Title 5.

AMENDMENTS

1961—Subsec. (b). Pub. L. 87-367 repealed provision which authorized the Civil Aeronautics Board to place eight additional positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949 (chapter 51 and subchapter III of chapter 53 of Title 5.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

SAVINGS CLAUSE

Positions existing prior to Oct. 4, 1961, compensation and appointments thereto unaffected by changes made by Pub. L. 87-367, and positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949 prior to Oct. 4, 1961, to remain in respective grades, until appropriate action is taken under Title I of Pub. L. 87-367 and section 1105 of Title 5, see section 104 of Pub. L. 87-367.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter, were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g), of this title.

PLACEMENT IN SALARY GRADE OF CERTAIN POSITIONS

Section 103(6) of Pub. L. 87-367 repealed such part of section 301 of Pub. L. 85-469, title III, June 25, 1958, 72 Stat. 237, which authorized the Chairman of the Civil Aeronautics Board to place one additional position in grade 18, two in grade 17 and seven in grade 16 of the General Schedule of the Classification Act of 1949 (chapter 51 and subchapter III of chapter 53 of Title 5.)

§ 1323. Authorization of expenditures and travel.

(a) The Board is empowered to make such expenditures at the seat of government and elsewhere as may be necessary for the exercise and perform-

ance of the powers and duties vested in and imposed upon the Board by law, and as from time to time may be appropriated for by Congress, including expenditures for (1) rent and personal services at the seat of government and elsewhere; (2) travel expenses; (3) office furniture, equipment and supplies, lawbooks, newspapers, periodicals, and books of reference (including the exchange thereof); (4) printing and binding; (5) membership in and cooperation with such organizations as are related to, or are part of, the civil-aeronautics industry or the art of aeronautics in the United States or in any foreign country; (6) making investigations and conducting studies in matters pertaining to aeronautics; and (7) acquisition (including exchange), operation, and maintenance of passenger-carrying automobiles and aircraft, and such other property as is necessary in the exercise and performance of the powers and duties of the Board: *Provided,* That no aircraft or motor vehicle purchased under the provisions of this section, shall be used otherwise than for official business.

(b) Travel by personnel of the United States Government on commercial aircraft, domestic or foreign, including travel between airports and centers of population or posts of duty when incidental to travel on commercial aircraft, shall be allowed at public expense when authorized or approved by competent authority, and transportation requests for such travel may be issued upon such authorizations. Such expense shall be allowed without regard to comparative costs of transportation by aircraft with other modes of transportation.

(c) The Board, on behalf of the United States, is authorized to accept any gift or donation of money or personal property, or of services, where appropriate, for the purposes of its functions under subchapter VII of this chapter. For adequate compensation, by sale, lease, or otherwise, the Board, on behalf of the United States, is authorized to dispose of any such personal property or interest therein: *Provided,* That such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949, as amended. (Pub. L. 85–726, title II, § 203, Aug. 23, 1958, 72 Stat. 742; Pub. L. 87–810, § 5, Oct. 15, 1962, 76 Stat. 921.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act, referred to in text, is act June 30, 1949, cls. 288, 63 Stat. 377. Titles I–IV and VI—III thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts, title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of title 44.

AMENDMENTS

1962—Subsec. (c). Pub. L. 87–810 added subsec. (c).

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter, were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657(f), (g), of this title.

§ 1324. General powers and duties of the Board.

(a) Performance of acts; conduct of investigations; orders, rules, regulations, and procedure.

The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this chapter, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under, this chapter.

(b) Cooperation with State aeronautical agencies.

The Board is empowered to confer with or to hold joint hearings with any State aeronautical agency, or other State agency, in connection with any matter arising under this chapter within its jurisdiction, and to avail itself of the cooperation, services, records, and facilities of such State agencies as fully as may be practicable in the administration and enforcement of this chapter.

(c) Exchange of information with foreign governments.

The Board is empowered to exchange with foreign governments, through appropriate agencies of the United States, information pertaining to aeronautics.

(d) Report of proceedings and investigations; publication; evidence.

Except as may be otherwise provided in this chapter, the Board shall make a report in writing in all proceedings and investigations under this chapter in which formal hearings have been held, and shall state in such report its conclusions together with its decision, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Board shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by it under this chapter in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Board shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Board therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof. (Pub. L. 85–726, title II, § 204, Aug. 23, 1958, 72 Stat. 743.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office,

see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter, were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g), of this title.

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under Act Sept. 7, 1957, 71 Stat. 629, set out in the note under this section, relating generally to aircraft, were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(A) of this title.

GUARANTY OF LOANS FOR PURCHASE OF AIRCRAFT AND EQUIPMENT

Pub. L. 85-307, Sept. 7, 1957, 71 Stat. 629, as amended by Pub. L. 86-3, § 21, Mar. 18, 1959, 73 Stat. 13; Pub. L. 86-70, § 39, June 25, 1959, 73 Stat. 150; Pub. L. 86-624, § 37, July 12, 1960, 74 Stat. 421; Pub. L. 87-820, § 1-7, Oct. 15, 1962, 76 Stat. 936; Pub. L. 90-568, Oct. 12, 1968, 82 Stat. 1003, provided:

"[SEC. 1. DECLARATION OF POLICY]. That it is hereby declared to be the policy of Congress, in the interests of the commerce of the United States, the postal service, and the national defense to promote the development of local, feeder, and short-haul air transportation. In furtherance of this policy it is deemed necessary and desirable that provision be made to assist certain air carriers engaged in such air transportation by providing governmental guaranties of loans to enable them to purchase aircraft suitable for such transportation on reasonable terms.

"SEC. 2. [DEFINITIONS]. As used in this Act—

"(a) 'Secretary' means the Secretary of Commerce [now the Secretary of Transportation].

"(b) 'Aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of a commercial transport aircraft, including spare parts normally associated therewith.

"SEC. 3. [ELIGIBLE LENDERS]. The Secretary is hereby authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board (a) designated therein to be for local or feeder air service, or (b) providing for operations wholly within the State of Hawaii, or (c) providing for operations (the major portion of which are conducted either within Alaska or between Alaska and the forty-eight contiguous States) within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (d) providing for operations with the Commonwealth of Puerto Rico (including service to the Virgin Islands and the Dominican Republic), or (e) providing for operations between Florida and the British West Indies (including service to Cuba), or (f) for the purpose of authorizing metropolitan helicopter service. Such guaranty shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.

"SEC. 4. [RESTRICTIONS]. No guaranty shall be made:

"(a) Extending to more than the unpaid interest and 90 percent of the unpaid principal of any loan.

"(b) on any loan or combination of loans for more than 90 percent of the purchase price of the aircraft, including spare parts, to be purchased therewith.

"(c) On any loan whose terms permit full repayment more than 10 years after the date thereof.

"(d) Wherein the total face amount of such loan, and of any other loans to the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act exceed $10,000,000.

"(e) Unless the Secretary finds that, without such guaranty, in the amount thereof, the air carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms.

"(f) Unless the Secretary finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the air carrier.

"(g) Unless the Secretary finds that the prospective earning power of the applicant air carrier, together with the character and value of the security pledged, furnish (1) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (2) reasonable protection to the United States.

"SEC. 5. [FEE]. The Secretary shall prescribe and collect from the lending institution a reasonable guaranty fee in connection with each loan guaranteed under this Act.

"SEC. 6. [COOPERATION WITH OTHER AGENCIES]. (a) To permit him to make use of such expert advice and services as he may require in carrying out the provisions of this Act, the Secretary may use available services and facilities of other agencies and instrumentalities of the Federal Government with their consent and on a reimbursable basis.

"(b) Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

"(c) The Secretary shall make available to the Comptroller General of the United States such information with respect to the loan guaranty program under this Act as the Comptroller General may require to carry out his duties under the Budget and Accounting Act, 1921 [sections 1, 2, 11, 13—24, 41—44, 46—50 and 52—57 of Title 31].

"SEC. 7. [RECEIPTS, AUTHORIZATION OF APPROPRIATION, EXPENSES]. (a) Receipts under this Act shall be credited to miscellaneous receipts of the Treasury.

"(b) Payments to lenders required as a consequence of any guaranty under this Act may be made from funds which are hereby authorized to be appropriated to the Department of Commerce for that purpose.

"(c) Administrative expenses under this Act shall be paid from appropriations to the Department of Commerce for administrative expenses.

"SEC. 8. [EFFECTIVE AND TERMINATION DATES]. This Act shall become effective upon enactment [Sept. 7, 1957], and the authority contained in section 3 hereof shall expire fifteen years thereafter."

Provisions respecting loans and financial aid inapplicable to guaranty of loans by the Secretary under Pub. L. 85-307, set out above, but consultation of the Secretary with and consideration of views and recommendations of the Board in making the guarantees, see section 1380 of this title.

GUARANTY OF LOANS FOR PURCHASE OF AIRCRAFT AND EQUIPMENT; ORDERS, ETC., EFFECTIVE UNTIL TERMINATED; PENDING PROCEEDINGS AND PRIOR SUITS UNAFFECTED; TRANSFER OF PERSONNEL AND EQUIPMENT

Sections 9 and 10 of Pub. L. 87-820, Oct. 15, 1962, 76 Stat. 936, provided:

"SEC. 9. (a) All orders, determinations, rules, regulations, permissions, approvals, agreements, rulings, directives, and privileges which have been issued, made, or granted, or allowed to become effective, by the Civil Aeronautics Board, or any court of competent jurisdiction, under any provision of law amended by this Act [amending note set out above and section 1380 of this title], or in the exercise of duties, powers, or functions which, under this Act, are vested in the Secretary of Commerce [now Secretary of Transportation], and which are in effect on the date of enactment of this Act [Oct. 15, 1962] shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Commerce [now Secretary of Transportation] or by any court of competent jurisdiction, or by operation of law.

"(b) The provisions of this Act [amending note set out above and section 1380 of this title] shall not affect any proceedings pending before the Civil Aeronautics Board

on the date of enactment of this Act [Oct. 15, 1962]; but any such proceedings shall be continued before the Secretary of Commerce [now Secretary of Transportation], orders issued therein, and payments made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Commerce, or by operation of law.

"(c) The provisions of this Act [amending note set out above and section 1380 of this title] shall not affect suits commenced prior to the date of its enactment [Oct. 15, 1962]; and all such suits shall be continued by the Secretary of Commerce [now Secretary of Transportation], proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this Act had not been enacted. No suit, action, or other proceeding lawfully commenced by or against the Civil Aeronautics Board or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, or duties from the Board or officer to the Secretary of Commerce [now Secretary of Transportation], under the provisions of this Act, but the court upon a motion or a supplemental petition field at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Secretary of Commerce [now Secretary of Transportation].

"SEC. 10. (a) The officers, employees, and property (including office equipment and official records) of the Civil Aeronautics Board which the Bureau of the Budget [now office of Management and Budget], after consultation with the Board, shall determine to have been employed by the Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Act of September 7, 1957 (71 Stat. 629), as in effect on the day before the date of enactment of this Act [Oct. 15, 1962], and which are vested by this Act [amending note set out above and section 1380 of this title] in the Secretary of Commerce [now Secretary of Transportation], shall be transferred to the Department of Commerce [now Department of Transportation] upon such date or dates as the Bureau of the Budget [now office of Management and Budget] shall specify. The transfer of personnel under this section shall be without reduction in classified or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

"(b) All records transferred to the Secretary of Commerce [now Secretary of Transportation] under this Act [amending note set out above and section 1380 of this title] shall be available for use by him to the same extent as if such records were originally records of the Secretary."

REORGANIZATION PLAN NO. 3 OF 1961

Eff. July 3, 1961, 26 F.R. 5989, 75 Stat. 837

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 3, 1961, pursuant to the provisions of the Reorganization Act of 1949, as amended.

CIVIL AERONAUTICS BOARD

SECTION 1. AUTHORITY TO DELEGATE

(a) In addition to its existing authority, the Civil Aeronautics Board, hereinafter referred to as the "Board", shall have the authority to delegate, by published order or rule, any of its functions to a division of the Board, an individual Board member, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended.

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Board shall retain a discretionary right to review the action of any such division of the Board, individual Board member, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Board shall by rule prescribe: *Provided, however,* That the vote of a majority of the Board less one member thereof shall be sufficient to bring any such action before the Board for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Board, then the action of any such division of the Board, individual Board member, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Board.

SEC. 2. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

In addition to the functions transferred by the provisions of Reorganization Plan No. 13 of 1950 (64 Stat. 1266) [set out as a note under this section], there are hereby transferred from the Board to the Chairman of the Board the functions of the Board with respect to the assignment of Board personnel, including Board members, to perform such functions as may have been delegated by the Board to Board personnel, including Board members, pursuant to section 1 of this reorganization plan.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Civil Aeronautics Board, see Parts 1, 15, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Enforcement under this chapter by Civil Aeronautics Board of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607(a)(5) of Title 15.

§ 1325. Annual report to Congress.

The Board shall make an annual report to the Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain in addition to a report of the work performed under this chapter, such information and data collected by the Board as may be considered of value in the determination of questions connected with the development and regulation of civil aeronautics, together with such recommendations as to additional legislation relating thereto as the Board may deem necessary, and the Board may also transmit recommendations as to legislation at any other time. (Pub. L. 85–726, title II, § 205, Aug. 23, 1958, 72 Stat. 744.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SUBCHAPTER III.—ORGANIZATION OF ADMINISTRATION; POWERS AND DUTIES OF ADMINISTRATOR

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1323, 1471, 1472, 1481 of this title.

§ 1341. Federal Aviation Administration.

(a) Establishment; Administrator; appointment; powers and duties.

There is established the Federal Aviation Administration, referred to in this chapter as the "Administration". The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof. In the exercise of his duties and the discharge of his responsibilities under this chapter, the Administrator shall not submit his decisions for the approval of, nor be bound by the decisions or recommendations of, any committee, board, or other organization created by Executive order.

(b) Qualifications of Administrator.

The Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness for the efficient discharge of the powers and duties vested in and imposed upon him by this chapter. At the time of his nomination he shall be a civilian and shall have had experience in a field directly related to aviation. The Administrator shall have no pecuniary interest in or own any stock in or bonds of any aeronautical enterprise nor shall he engage in any other business, vocation, or employment.

(c) Principal office; seal.

The principal office of the Administration shall be in or near the District of Columbia, but it may act and exercise all its powers at any other place. The Administration shall have an official seal which shall be judicially noticed. (Pub. L. 85–726, title III, § 301, Aug. 23, 1958, 72 Stat. 744; Pub. L. 88–426, title III, § 305(16)(B), Aug. 14, 1964, 78 Stat. 424.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which prescribed the salary of the Administrator.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

EFFECTIVE DATE

Section effective Aug. 23, 1958, see section 1505(1) of Pub. L. 85–726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

"Federal Aviation Administration" and "Administration" have been substituted for "Federal Aviation Agency" and "Agency", respectively, pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1652(e)(2), 1655(c) and 1657 (f), (g) of this title.

TRANSFER OF PERSONNEL, PROPERTY, AND APPROPRIATIONS

Section 1502 of Pub. L. 85–726 provided that:

"(a) The officers, employees, and property (including office equipment and official records) of the Civil Aeronautics Administration of the Department of Commerce, and of the Airways Modernization Board, and such employees and property (including office equipment and official records) as the President, after consultation with the Civil Aeronautics Board, shall determine to have been employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former chapter 9 of this title], and which are vested by this Act [this chapter] in the Agency, shall be transferred to the Agency upon such date or dates as the President shall specify: *Provided,* That the transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

"(b) Such of the unexpended balances of appropriations available for use by the Civil Aeronautics Administration of the Department of Commerce and by the Airways Modernization Board, and such of the unexpended balances of appropriations available for use by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former chapter 9 of this title], and which are vested by this Act [this chapter] in the Administrator, shall be transferred to the Agency upon such date or dates as the President shall specify, and shall be available for use in connection with the exercise and performance of the powers and duties vested in and imposed upon the Administrator by this Act [this chapter]. Where provisions of this Act [this chapter] which are to be administered by the Board are in substance reenactments (with or without modifications) of provisions of the Civil Aeronautics Act of 1938, as amended [former chapter 9 of this title], administered by the Board at the time this section takes effect, the Board, in carrying out such provisions of this Act [this chapter], may utilize unexpended balances of appropriations made for carrying out such provisions of the Civil Aeronautics Act of 1938, as amended [former chapter 9 of this title].

"(c) All records transferred to the Administrator under this Act [this chapter] shall be available for use by him to the same extent as if such records were originally records of the Administrator."

DELEGATION OF AUTHORITY

Delegation of authority to Director of the Bureau of the Budget [now Office of Management and Budget] and transfer of records and property, see Ex. Ord. No. 10797, set out as a note under section 1345 of this title.

APPOINTMENT OF RETIRED AIR FORCE OFFICER AS ADMINISTRATOR

Pub. L. 89–46, June 22, 1965, 79 Stat. 171, provided:

"That, notwithstanding the provisions of section 301(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341(b)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General William F. McKee (United States Air Force, retired) to the office of Administrator of the Federal Aviation Agency [now the Federal Aviation Administration]. General McKee's appointment to, acceptance of, and service in that office shall in no way affect any status, rank, or grade he may occupy or hold in the United States Air Force or any component thereof, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade: *Provided,* That so long as he holds the office of Administrator of the Federal Aviation

Agency [now Federal Aviation Administration], he shall receive the compensation of that office at the rate specified in the Federal Executive Salary Act of 1964 (title III of the Act of August 14, 1964, Public Law 88–426) [now covered by section 5313 of title 5] and shall retain the rank and grade which he now holds as an officer on the retired list of the Regular Air Force, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of the Dual Compensation Act (the Act of August 19, 1964, Public Law 88–448) [now covered by section 5531 et seq. of title 5].

"SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Agency [now Federal Aviation Administration], General McKee shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the Regular Air Force.

"SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Administrator of the Federal Aviation Agency [now Federal Aviation Administration] in the future."

QUALIFICATIONS OF THE ADMINISTRATOR OF THE FEDERAL AVIATION AGENCY APPLICABLE TO ADMINISTRATOR OF FEDERAL AVIATION ADMINISTRATION

Applicability of qualifications set out in subsec. (b) of this section for the Administrator of the Federal Aviation Agency to the Administrator of the Federal Aviation Administration as created by Pub. L. 89–670, see section 1652(e)(2) of this title.

CROSS REFERENCES

Compensation of Administrator, see section 5313 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1652 of this title.

§ 1342. Deputy Administrator; appointment; powers and duties; qualifications.

(a) There shall be a Deputy Administrator of the Administration who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(b) The Deputy Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness for the efficient discharge of the powers and duties vested in and imposed upon him by this chapter. At the time of his nomination he shall have had experience in a field directly related to aviation. He shall have no pecuniary interest in nor own any stocks in or bonds of any aeronautical enterprise, nor shall he engage in any other business, vocation, or employment. Nothing in this chapter or other law shall preclude appointment to the position of Deputy Administrator of an officer on active duty with the armed services; except that if the Administrator is a former regular officer of any one of the armed services, the Deputy Administrator shall not be an officer on active duty with one of the armed services or a retired regular officer or a former regular officer of one of the armed services. Any officer on active duty or any retired officer, while serving as Deputy Administrator, shall continue to hold rank and grade not lower than that in which serving at the time of his appointment as Deputy Administrator, and shall be entitled to receive (1) the compensation provided for the Deputy Administrator by subsection (a) of this section, or (2) the military pay and allowances (including personal money allowance) or the retired pay, as the case may be, payable to a commissioned officer of his grade and length of service, whichever he may elect. Whenever any officer serving as Deputy Administrator elects to receive his military pay and allowances (including personal money allowance), or his retired pay, as the case may be, the appropriate department shall be reimbursed from any funds available to defray the expenses of the Administration. (Pub. L. 85–726, title III, § 302 (a), (b), Aug. 23, 1958, 72 Stat. 744; Pub. L. 88–426, title III, § 305(16)(C), Aug. 14, 1964, 78 Stat. 424.)

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 302 of Pub. L. 85–726. Remainder of such section 302 is classified to section 1343 of this title.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which prescribed the salary of the Deputy Administrator. See section 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

EFFECTIVE DATE

Section effective Aug. 23, 1958, see section 1505(1) of Pub. L. 85–726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

QUALIFICATIONS AND STATUS OF DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION AGENCY APPLICABLE TO DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Applicability of qualifications and status set out in subsec. (b) of this section for the Deputy Administrator of the Federal Aviation Agency to the Deputy Administrator of the Federal Aviation Administration as created by Pub. L. 89–670, see section 1652(e)(2) of this title.

CROSS REFERENCES

Compensation of Deputy Administrator, see section 5315 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1652 of this title.

§ 1343. General powers and duties of Administrator.

(a) Military participation; detail of members of Armed Forces; report to the Congress.

(1) In order to insure that the interests of national defense are properly safeguarded and that the Administrator is properly advised as to the needs and special problems of the armed services, the Administrator shall provide for participation of military personnel in carrying out his functions relating to regulation and protection of air traffic, including provision of air navigation facilities, and research and development with respect thereto, and

the allocation of airspace. Members of the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard may be detailed by the appropriate Secretary, pursuant to cooperative agreements with the Administrator, including such agreement on reimbursement as may be deemed advisable by the Administrator and the Secretary concerned, for service in the Administration to effect such participation.

(2) Appointment to, acceptance of, and service as Deputy Administrator or under such cooperative agreements shall in no way affect status, office, rank, or grade which commissioned officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. No person so detailed or appointed shall be subject to direction by or control by the department from which detailed or appointed or by any agency or officer thereof directly or indirectly with respect to his responsibilities under this chapter or within the Administration.

(3) The Administrator, within six months of August 23, 1958 and semiannually thereafter, shall report in writing to the appropriate committees of the Congress on agreements entered into under this subsection, including the number, rank, and positions of members of the armed services detailed pursuant thereto, together with his evaluation of the effectiveness of such agreements and assignments of personnel thereunder in accomplishing the purposes of such subsection.

(b) Exchange of information.

In order to assist the Administrator further in the discharge of responsibilities under this chapter, the Administrator and the Secretary of Defense, and the Administrator and the Administrator of the National Aeronautics and Space Administration, are directed to establish by cooperative agreement suitable arrangements for the timely exchange of information pertaining to their programs, policies, and requirements directly relating to such responsibilities.

(c) Development of plans for discharge of responsibilities in event of war; legislative proposal; transfer of functions.

The Administrator shall develop, in consultation with the Department of Defense and other affected Government agencies, plans for the effective discharge of the responsibilities of the Administration in the event of war, and shall propose to Congress on or before January 1, 1960, legislation for such purpose: *Provided,* That in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Administration prior to enactment of such proposed legislation. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and personnel.

(d) Officers and employees.

The Administrator is authorized, subject to the civil-service and classification laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this chapter, and to define their authority and duties, except that the Administrator may fix the compensation for not more than twenty-three positions at rates not to exceed the highest rate of grade 18 of the General Schedule.

(e) Omitted.

(f) Scientific or professional personnel.

The Administrator is authorized to establish and fix the compensation for not to exceed twenty positions of officers and employees of the Administration of a scientific or professional nature without regard to chapter 51 and subchapter III of chapter 53 of Title 5, each such position being established to effectuate those research, development, and related activities of the Administration which require the services of specially qualified scientific or professional personnel. The rates of basic compensation for positions established pursuant to this subsection shall not exceed the maximum rate payable under sections 1161 to 1163 of Title 5, and Title V of the Act of July 31, 1956 (Public Law 854, Eighty-fourth Congress), and shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointment to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

(g) Advisory committees and consultants.

The Administrator is authorized to appoint such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Administration in performance of its functions hereunder and to obtain services authorized by section 55a of Title 5, at rates not to exceed $100 per diem for individuals, and for not to exceed one hundred days in any calendar year in the case of any individual. Members of such committees shall be entitled to travel expenses and per diem as authorized by the Administrative Expenses Act of 1946, for all persons employed intermittently as consultants or experts receiving compensation on a per diem basis.

(h) Repealed. Pub. L. 87-367, title I, § 103(2), Oct. 4, 1961, 75 Stat. 787.

(i) Cooperation with other agencies.

The Administrator is authorized to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate, and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Administration. The Administrator is further authorized to confer with and avail himself of the cooperation, services, records, and facilities of State, Territorial, municipal or other local agencies. (Pub. L. 85-726, title III, § 302 (c)—(k), Aug. 23, 1958, 72 Stat. 745; Pub. L. 87-367, title I, § 103(2), title II, § 205, Oct. 4, 1961, 75 Stat. 787, 791; Pub. L. 87-793, § 1001(h), Oct. 11, 1962, 76 Stat. 864.)

REFERENCES IN TEXT

The civil-service laws and classification laws, referred to in subsec. (d), are classified generally to Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (d), is now set out in section 5332 of Title 5, Government Organization and Employees.

Title V of the act of July 31, 1956 (Public Law 854, Eighty-fourth Congress), referred to in subsec. (f), is now covered by sections 3104, 3324, 3325, 5108, 5114, and 5361 et seq. of title 5.

Sections 1161 to 1163 of title 5, referred to in subsec. (f), are now covered by sections 3104, 3325, and 5361 of title 5.

Section 55a of title 5, referred to in subsec. (g), is now covered by section 3109(b) of Title 5, Government Organization and Employees.

The Administrative Expenses Act of 1946, referred to in subsec. (g), is classified to sections 105, 302, 503, 3109, 5701, 5703, 5707, 5721 to 5731, 5913 and 7903 of Title 5, section 1645 of Title 19, Customs Duties, section 529 of Title 31, Money and Finance, section 5 of Title 41, Public Contracts, and section 321 [now covered by section 3701] of Title 44, Public Printing and Documents.

CODIFICATION

Section is comprised of subsecs. (c)—(k) of section 302 of Pub. L. 85-726, which have been designated as subsecs. (a)—(i) of this section, respectively, for purposes of codification. Remainder of section 302 is classified to section 1342 of this title.

Subsection (e) of this section, which required the Administrator to make a special study of personnel problems with due regard to the need for (1) special qualifications and training, (2) special provisions as to pay, retirement, and hours of service, and (3) special provisions to assure availability, responsiveness, and security status of essential personnel in fulfilling national defense requirements and make a report to the Congress on or before January 1, 1960, was omitted as executed.

AMENDMENTS

1962—Subsec. (d). Pub. L. 87-793 substituted "not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "not to exceed $19,500 per annum."

1961—Subsec. (d). Pub. L. 87-367, § 205(b), authorized the Administrator of the Federal Aviation Agency to increase the number of persons employed at $19,500 per annum from 10 to 23.

Subsec. (f). Pub. L. 87-367, § 205(a), authorized the Administrator of the Federal Aviation Agency to increase the number of scientific and professional positions from 15 to 20.

Subsec. (h). Pub. L. 87-367, § 103(2), repealed provision which authorized Administrator of the Federal Aviation Agency to place additional positions in grades 16, 17, and 18 of the General Schedule, now set out in section 5332 of Title 5.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87-793.

EFFECTIVE DATE

Subsecs. (a), (d), (g) and (i) of this section effective August 23, 1958, see section 1505(1) of Pub. L. 85-726, set out as a note under section 1301 of this title.

Subsecs. (b), (c), (e), (f), and (h) of this section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title.

SAVINGS CLAUSE

Positions existing prior to Oct. 4, 1961, compensation and appointments thereto unaffected by changes made by Pub. L. 87-367 and positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949 prior to Oct. 4, 1961, to remain in respective grades, until appropriate action is taken under Title I of Pub. L. 87-367 and section 1105 of Title 5, see section 104 of Pub. L. 87-367.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

"Federal Aviation Administration" has been substituted for "Federal Aviation Agency" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and the Federal Aviation Administration within such Department of Transportation, and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

The transfer of functions from the Federal Aviation Agency to the Secretary of Transportation by Pub. L. 89-670 not to affect the power of the President under subsec. (c) of this section to transfer to the Department of Defense in the event of war any functions transferred by Pub. L. 89-670 from the Federal Aviation Agency, see section 1655(c)(2) of this title.

APPLICABILITY OF SECTION 1 (a) OF REORGANIZATION PLAN NO. 5 OF 1950

Section 1401(c) of Pub. L. 85-726 provided in part that no function vested in the Administrator by Pub. L. 85-726, which is classified principally to this chapter, shall hereafter be subject to the provisions of section 1(a) of Reorganization Plan No. 5 of 1950.

PLACEMENT IN SALARY GRADE OF CERTAIN POSITIONS

Section 103(15) of Pub. L. 87-367 repealed such part of section 101 of Pub. L. 85-469, title I, June 25, 1958, 72 Stat. 228, which authorized the Administrator of the Federal Aviation Agency to place one additional position in grade 18, two in grade 17 and seven in grade 16 of the General Schedule of the Classification Act of 1949, set out in section 5332 of title 5.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [subsec. (c) of this section] provides, in part, that in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [subsec. (c) of this section], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses

of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

Sec. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will assure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1344. Administration.

(a) Authorization of expenditures and travel.

The Administrator is empowered to make such expenditures at the seat of government and elsewhere as may be necessary for the exercise and performance of the powers and duties vested in and imposed upon him by law, and as from time to time may be appropriated for by Congress, including expenditures for (1) rent and personal services at the seat of government and elsewhere; (2) travel expenses; (3) office furniture, equipment and supplies, lawbooks, newspapers, periodicals, and books of reference (including the exchange thereof); (4) printing and binding; (5) membership in and cooperation with such organizations as are related to, or are part of, the civil aeronautics industry or the art of aeronautics in the United States or in any foreign country; (6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent as authorized from time to time for members of the Foreign Service of the United States of comparable grade; (7) making investigations and conducting studies in matters pertaining to aeronautics; and (8) acquisition (including exchange), operation and maintenance of passenger-carrying automobiles and aircraft, and such other property as is necessary in the exercise and performance of the powers and duties of the Administrator: *Provided,* That no aircraft or motor vehicles, purchased under the provisions of this section, shall be used otherwise than for official business.

(b) Supplies and materials for overseas installations.

When appropriations for any fiscal year for the Administration have not been made prior to the first day of March preceding the beginning of such fiscal year, the Administrator may authorize such officer or officers as may be designated by him to incur obligations for the purchase and transportation of supplies and materials necessary to the proper execution of the Administrator's functions at installations outside the continental United States, including those in Alaska, in amounts not to exceed 75 per centum of the amount that had been made available for such purposes for the fiscal year then current, payments of these obligations to be made from the appropriations for the next succeeding fiscal year when they become available.

(c) Acquisition and disposal of property.

The Administrator, on behalf of the United States, is authorized, where appropriate: (1) to accept any conditional or unconditional gift or donation of money or other property, real or personal, or of services; (2) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease, or otherwise, real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith: *Provided,* That the authority herein granted shall not include authority for the acquisition of space in buildings for use by the Federal Aviation Administration, suitable accommodations for which shall be provided by the Administrator of General Services, unless the Administrator of General Services determines, pursuant to section 1(d) of Reorganization Plan Numbered 18, 1950, that the space to be acquired is to be utilized for the special purposes of the Federal Aviation Administration and is not generally suitable for the use of other agencies; (3) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein: *Provided,* That, except for airport and airway property and technical equipment used for the special purposes of the Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949, as amended; and (4) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor. Any such acquisition by condemnation may be made in accordance with the provisions of the Act of August 1, 1888, the Act of February 26, 1931, or any other applicable Act: *Provided,* That in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

(d) Delegation of functions.

The Administrator may, subject to such regulations, supervision, and review as he may prescribe,

from time to time make such provision as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function under this chapter; or, with its consent, authorizing the performance by any other Federal department or agency of any function under section 1348(b) of this title.

(e) Negotiation of purchases and contracts; report to Congressional Committees.

The Secretary of Transportation may negotiate without advertising purchases of and contracts for technical or special property related to, or in support of, air navigation that he determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property. The Secretary shall, at the beginning of each fiscal year, report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate all transactions negotiated under this subsection during the preceding fiscal year. (Pub. L. 85–726, title III, § 303, Aug. 23, 1958, 72 Stat. 747; Pub. L. 91–258, title I, § 51(a)(1), May 21, 1970, 84 Stat. 234.)

REFERENCES IN TEXT

Section 1(d) of Reorganization Plan Numbered 18, 1950, referred to in subsec. (c), is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Property and Administrative Services Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of title 44.

The act of Aug. 1, 1888, referred to in subsec. (c), is classified to section 257 of Title 40, Public Buildings, Property and Works.

The act of Feb. 26, 1931, referred to in subsec. (c), is classified to sections 258a—258e of title 40.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91–258 added subsec. (e).

EFFECTIVE DATE

Subsec. (a) of this section effective Aug. 23, 1958, see section 1505(1) of Pub. L. 85–726, set out as a note under section 1301 of this title.

Subsecs. (b)—(d) of this section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

"Federal Aviation Administration" and "Administration" have been substituted for "Federal Aviation Agency" and "Agency" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and the Federal Aviation Administration therein and transferred to the Secretary of Transportation all functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657(f), (g) of this title.

§ 1345. Presidential authority to transfer certain functions.

The President may transfer to the Administrator any functions (including powers, duties, activities, facilities, and parts of functions) of the executive departments or agencies of the Government or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, evaluating, establishing, operating and maintaining systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and for necessary civilian and military personnel to be made available from the other office, department, or other agency from which the transfer is made. (Pub. L. 85–726, title III, § 304, Aug. 23, 1958, 72 Stat. 749.)

EFFECTIVE DATE

Section effective Aug. 23, 1958, see section 1505(1) of Pub. L. 85–726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657(f), (g), of this title.

EX. ORD. NO. 10786. TRANSFER OF FUNCTIONS OF THE AIRWAYS MODERNIZATION BOARD TO THE ADMINISTRATOR

Ex. Ord. No. 10786, Nov. 1, 1958, 23 F.R. 8573, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of appropriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

SEC. 2. Such further measures and dispositions, if any, as the Director of the Bureau of the Budge [now the Office of Management and Budget] shall determine to be necessary in connection with the transfers provided for hereinabove in respect of records, property, facilities, employees, and balances shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of the first person appointed as Administrator. The functions transferred by section 1 hereof may be performed by the Administrator until the effective date of the repeal [Aug. 23, 1958] of the Airways Modernization Act of 1957 [former chapter 18 of this title] effected by section 1401 (d) of the Federal Aviation Act of 1958.

DWIGHT D. EISENHOWER

EX. ORD. NO. 10797. DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 10797, Dec. 24, 1958, 23 F.R. 10391, provided:

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [this section], and by sections 1502(a) and 1502(b) [set out as a note under section 1341 of this title], of the Federal Aviation Act of 1958 (72 Stat. 749, 810), relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304 [this section], (i) for appropriate transfers of records and property, and (ii) for necessary

civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by the Federal Aviation Act of 1958 [this chapter] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) [set out as a note under section 1341 of this title] shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) [set out as a note under section 1341 of this title] shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957, is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [see note under former sections 1211—1215 of this title] and 1505(2) [set out as a note under section 1301 of this title] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [this section] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b)) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [this section] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out as a note under this section].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Agency, under authority of the said Section 304 [this section], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Agency shall transmit to the Director of the Bureau of the Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Bureau of the Budget [now Office of Management and Budget] may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

JOHN F. KENNEDY

§ 1346. Fostering of civil aeronautics and air commerce.

The Secretary of Transportation is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad. (Pub. L. 85–726, title III, § 305. Aug. 23, 1958, 72 Stat. 749.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657(f), (g), of this title.

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657(f), (g), of this title.

§ 1347. National defense and civil needs.

In exercising the authority granted in, and discharging the duties imposed by, this chapter, the Administrator shall give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace. (Pub. L. 85–726, title III, § 306, Aug. 23, 1958, 72 Stat. 749.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

§ 1348. Airspace control and facilities.

(a) Use of airspace.

The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest.

(b) Air navigation facilities.

The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation utilizing the facilities and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic.

(c) Air traffic rules.

The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(d) Applicability of Administrative Procedure Act.

In the exercise of the rulemaking authority under subsections (a) and (c) of this section, the Administrator shall be subject to the provisions of the Administrative Procedure Act, notwithstanding any exception relating to military or naval functions in section 1003 of Title 5.

(e) Exemptions.

The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this subchapter if he finds that such action would be in the public interest.

(f) Exception for military emergencies.

When it is essential to the defense of the United States because of a military emergency or urgent military necessity, and when appropriate military authority so determines, and when prior notice thereof is given to the Administrator, such military authority may authorize deviation by military aircraft of the national defense forces of the United States from air traffic rules issued pursuant to this subchapter. Such prior notice shall be given to the Administrator at the earliest time practicable and, to the extent time and circumstances permit, every reasonable effort shall be made to consult fully with the Administrator and to arrange in advance for the required deviation from the rules on a mutually acceptable basis. (Pub. L. 85–726, title III, § 307, Aug. 23, 1958, 72 Stat. 749.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (d), is now covered by section 551 et seq. and section 701 et seq. of Title 5, Government Organization and Employees.

Section 1003 of Title 5, referred to in subsec. (d), is now covered by section 553 of Title 5.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657(f), (g) of this title.

CROSS REFERENCES

National security to be considered in exercise of powers under subsec. (a) of this section, see section 1522 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1349, 1350, 1522, 1714 of this title.

§ 1349. Expenditure of Federal funds for certain airports and air navigation facilities; location of airports, landing areas, and missile and rocket sites.

(a) No Federal funds, other than those expended under this chapter, shall be expended, other than for military purposes (whether or not in cooperation with State or other local governmental agencies), for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area, or for the acquisition, establishment, construction, maintenance, or operation of air navigation facilities thereon, except upon written recommendation and certification by the Administrator that such landing area or facility is reasonably necessary for use in air commerce or in the interests of national defense. Any interested person may apply to the Administrator, under regulations prescribed by him, for such recommendation and certification with respect to any landing area or air

navigation facility proposed to be established, constructed, altered, repaired, maintained, or operated by, or in the interests of, such person. There shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended.

(b) In order to assure conformity to plans and policies for allocations of airspace by the Administrator under section 1348 of this title, no military airport or landing area, or missile or rocket site shall be acquired, established, or constructed, or any runway layout substantially altered, unless reasonable prior notice thereof is given the Administrator so that he may advise with the appropriate committees of the Congress and other interested agencies as to the effects of such acquisition, establishment, construction, or alteration on the use of airspace by aircraft. In case of a disagreement between the Administrator and the Department of Defense or the National Aeronautics and Space Administration the matter may be appealed to the President for final determination. (Pub. L. 85–726, title III, § 308, Aug. 23, 1958, 72 Stat. 750.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

§ 1350. Establishment or construction of airports and landing areas not involving expenditure of Federal funds.

In order to assure conformity to plans and policies for, and allocations of, airspace by the Administrator under section 1348 of this title, no airport or landing area not involving expenditure of Federal funds shall be established, or constructed, or any runway layout substantially altered unless reasonable prior notice thereof is given the Administrator, pursuant to regulations prescribed by him, so that he may advise as to the effects of such construction on the use of airspace by aircraft. (Pub. L. 85–726, title III, § 309, Aug. 23, 1958, 72 Stat. 751.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

§ 1351. Meteorological service.

The Secretary of Transportation is empowered and directed to make recommendations to the Secretary of Commerce for providing meteorological service necessary for the safe and efficient movement of aircraft in air commerce. In providing meteorological services, the Secretary of Commerce shall cooperate with the Secretary of Transportation and give full consideration to such recommendations. (Pub. L. 85–726, title III, § 310, Aug. 23, 1958, 72 Stat. 751.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Administration" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and the Federal Aviation Administration within such Department of Transportation and transferred to the Secretary of Transportation all functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

§ 1352. Collection and dissemination of information.

The Secretary of Transportation is empowered and directed to collect and disseminate information relative to civil aeronautics (other than information collected and disseminated by the Board under subchapters IV and VII of this chapter); to study the possibilities of the development of air commerce and the aeronautical industry; and to exchange with foreign governments, through appropriate governmental channels, information pertaining to civil aeronautics. (Pub. L. 85–726, title III, § 311, Aug. 23, 1958, 72 Stat. 751.)

REFERENCES IN TEXT

Information collected and disseminated by the "Board" under subchapter IV of this chapter has reference to the Civil Aeronautics Board, and information collected and disseminated by the "Board" under subchapter VII of this chapter has reference to the National Transportation Safety Board.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15,

1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

§ 1353. Development planning.

(a) Use of navigable airspace; location of landing areas, Federal airways, radar installations, and air navigation facilities.

The Administrator is directed to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and the orderly development and location of landing areas, Federal airways, radar installations and all other aids and facilities for air navigation. as will best meet the needs of, and serve the interest of civil aeronautics and national defense, except for those needs of military agencies which are peculiar to air warfare and primarily of military concern.

(b) Aircraft, aircraft engines, propellers, and appliances.

The Administrator is empowered to undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances. For such purpose, the Administrator is empowered to make purchases (including exchange) by negotiation, or otherwise, of experimental aircraft, aircraft engines, propellers, and appliances, which seem to offer special advantages to aeronautics.

(c) Research and development.

The Administrator shall develop, modify, test, and evaluate systems, procedures, facilities, and devices, as well as define the performance characteristics thereof, to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation except for those needs of military agencies which are peculiar to air warfare and primarily of military concern, and select such systems, procedures, facilities, and devices as will best serve such needs and will promote maximum coordination of air traffic control and air defense systems. Contracts may be entered into for this purpose without regard to section 529 of Title 31. When there is any substantial question as to whether a matter is of primary concern to the military, the Administrator is authorized and directed to determine whether he or the appropriate military agency shall have responsibility. Technical information concerning any research and development projects of the military agencies which have potential application to the needs of, or possible conflict with, the common system shall be furnished to the Administrator to the maximum extent necessary to insure that common system application potential is properly considered and potential future conflicts with the common system are eliminated. (Pub. L. 85–726, title III, § 312, Aug. 23, 1958, 72 Stat. 752.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1714 of this title.

§ 1354. Other powers and duties of Administrator.

(a) Generally.

The Administrator is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, pursuant to and consistent with the provisions of this chapter, as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this chapter.

(b) Report of proceedings and investigations; publication of reports, orders, decisions, rules and regulations; use as evidence.

Except as may be otherwise provided in this chapter, the Administrator shall make a report in writing on all proceedings and investigations under this chapter in which formal hearings have been held, and shall state in such report his conclusions together with his decision, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Administrator shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this chapter in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Administrator shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Administrator therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

(c) Power to conduct hearings and investigations.

In the conduct of any public hearings or investigations authorized by this chapter, the Federal Airport Act, or the Airport and Airway Development Act of 1970, the Administrator shall have the same powers to take evidence, issue subpenas, take depositions, and compel testimony as are vested in members of the Board and its duly designated examiners by section 1484 of this title. Actions of the Administrator in such cases shall be governed by the procedures specified in section 1484 of this title and be enforced in the manner provided therein.

(d) Training schools.

The Administrator is empowered to conduct a school or schools for the purpose of training employees of the Administration in those subjects

necessary for the proper performance of all authorized functions of the Administration. He may also authorize attendance at courses given in such school or schools of other governmental personnel, and personnel of foreign governments, or personnel of the aeronautics industry: *Provided,* That in the event the attendance of such persons shall increase the cost of operation of such school or schools, the Administrator may require the payment or transfer of sufficient funds or other appropriate consideration to offset the additional costs. In providing any training to employees of the Administration or of other agencies of the Federal Government, the Administrator shall be subject to the provisions of the Government Employees Training Act. Funds received by the Administrator hereunder may be credited (1) to appropriations current at the time the expenditures are to be or have been paid, (2) to appropriations current at the time such funds are received, or (3) in part as provided under clause (1) and in part as provided under clause (2).

(e) Annual report to the President and Congress.

The Administrator shall submit to the President and to the Congress an annual report. Such report shall contain, in addition to a report of the work performed under this chapter, such information and data collected by the Administrator as may be considered of value in the determination of questions connected with the development and regulation of civil aeronautics, the utilization of national airspace, and the improvement of the air navigation and traffic control system, together with such recommendations as to additional legislation related thereto as the Administrator may deem necessary, and the Administrator may also transmit recommendations as to legislation at any other time. (Pub. L. 85–726, title III, § 313, Aug. 23, 1958, 72 Stat. 752; Pub. L. 91–258, title I, § 52(b)(4)(A), May 21, 1970, 84 Stat. 235.)

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsec. (c), was formerly classified to chapter 14 of this title, was repealed by section 52(a) of Pub. L. 91–258, and is now covered by the Airport and Airway Development Act of 1970, classified to chapter 25 of this title.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is classified to chapter 25 of this title.

The Government Employees Training Act, referred to in subsec. (d), is now covered by section 4101 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–258 inserted reference to the Airport and Airway Development Act of 1970.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, powers, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g), of this title. "Administration" has been substituted for "Agency" to reflect the transfer of functions.

§ 1355. Delegation of powers and duties to private persons; application for reconsideration.

(a) In exercising the powers and duties vested in him by this chapter, the Administrator may, subject to such regulations, supervision, and review as he may prescribe, delegate to any properly qualified private person, or to any employee or employees under the supervision of such person, any work, business, or function respecting (1) the examination inspection, and testing necessary to the issuance of certificates under subchapter VI of this chapter, and (2) the issuance of such certificates in accordance with standards established by him. The Administrator may establish the maximum fees which such private persons may charge for their services and may rescind any delegation made by him pursuant to this subsection at any time and for any reason which he deems appropriate.

(b) Any person affected by any action taken by any private person exercising delegated authority under this section may apply for reconsideration of such action by the Administrator. The Administrator upon his own initiative, with respect to the authority granted under subsection (a) of this section, may reconsider the action of any private person either before or after it has become effective. If, upon reconsideration by the Administrator, it shall appear that the action in question is in any respect unjust or unwarranted, the Administrator shall reverse, change, or modify the same accordingly; otherwise such action shall be affirmed: *Provided,* That nothing in this subsection shall be construed as modifying, amending, or repealing any provisions of the Administrative Procedure Act. (Pub. L. 85–726, title III, § 314, Aug. 23, 1958, 72 Stat. 754.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (b), is now covered by section 551 et seq. and section 701 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof were transferred by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to the Secretary of Transportation, with the functions, power, and duties of the Secretary of Transportation under this section pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation. See sections 1655(c) and 1657 (f), (g), of this title.

SUBCHAPTER IV.—AIR CARRIER ECONOMIC REGULATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1352, 1471 of this title.

§ 1371. Certificate of public convenience and necessity.

(a) Essentiality.

No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation.

(b) Application.

Application for a certificate shall be made in writing to the Board and shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

(c) Notice of application; filing of protest or memorandum; hearing.

Upon the filing of any such application, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. Such application shall be set for public hearing, and the Board shall dispose of such application as speedily as possible.

(d) Issuance.

(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder.

(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, to any applicant not holding a certificate under paragraph (1) or (2) of this subsection, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this chapter.

(e) Terms, conditions, and limitations.

(1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

(2) A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. Any air carrier holding a certificate for foreign air transportation shall be authorized to handle and transport mail of countries other than the United States.

(3) A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered.

(4) No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require; except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d) (3) of this section.

(5) No air carrier shall be deemed to have violated any term, condition, or limitation of its certificate by landing or taking off during an emergency at a point not named in its certificate or by operating in an emergency, under regulations which may be prescribed by the Board, between terminal and intermediate points other than those specified in its certificate.

(6) Any air carrier, other than a supplemental air carrier, may perform charter trips (including inclusive tour charter trips) or any other special service, without regard to the points named in its certificate, or the type of service provided therein, under regulations prescribed by the Board.

(f) Effective date and duration.

Each certificate shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as hereinafter provided, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time under subsection (d) (2) of this section, shall continue in effect until the expiration thereof, unless, prior to the date of expiration, such certificate shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased: *Provided,* That if any service authorized by a certificate is not inaugurated

within such period, not less than ninety days, after the date of the authorization as shall be fixed by the Board, or if, for a period of ninety days or such other period as may be designated by the Board any such service is not operated, the Board may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.

(g) Alteration, amendment, modification, suspension, or revocation.

The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this subchapter or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided,* That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

(h) Transfer.

No certificate may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

(i) Rights in the use of airspace, airways, landing areas, or air-navigation facilities.

No certificate shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

(j) Abandonment of routes.

No air carrier shall abandon any route, or part thereof, for which a certificate has been issued by the Board, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.

(k) Compliance with labor legislation.

(1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with sections 181 to 188 of Title 45.

(5) The term "pilot" as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way including takeoff and landing of such aircraft, and the term "copilot" as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

(*l*) Carriage of mail.

Whenever so authorized by its certificate, any air carrier shall provide necessary and adequate facilities and service for the transportation of mail, and shall transport mail whenever required by the Postmaster General. Such air carrier shall be entitled to receive reasonable compensation therefor as hereinafter provided.

(m) Application for new mail service.

Whenever, from time to time, the Postmaster General shall find that the needs of the Postal Service require the transportation of mail by aircraft between any points within the United States or between the United States and foreign countries, in addition to the transportation of mail authorized in certificates then currently effective, the Postmaster General shall certify such finding to the Board and file therewith a statement showing such additional service and the facilities necessary in connection therewith, and a copy of such certification and statement shall be posted for at least twenty days in the office of the secretary of the Board. The Board shall, after notice and hearing, and if found by it to be required by the public convenience and necessity, make provision for such additional service, and the facilities necessary in connection therewith, by issuing a new certificate or certificates or by amending an existing certificate or certificates in accordance with the provisions of this section.

(n) Additional powers and duties of Board with respect to supplemental air carriers.

(1) No certificate to engage in supplemental air transportation, and no special operating authorization described in section 1387 of this title, shall be issued or remain in effect unless the applicant for

such certificate or the supplemental air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which such applicant or such supplemental air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the negligent operation or maintenance of aircraft under such certificate or such special operating authorization.

(2) In order to protect travelers and shippers by aircraft operated by supplemental air carriers, the Board may require any supplemental air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such supplemental air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

(3) If any service authorized by a certificate to engage in supplemental air transportation is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.

(4) The requirement that each applicant for a certificate to engage in supplemental air transportation must be found to be fit, willingly, and able properly to perform the transportation covered by his application and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board under this chapter shall be a continuing requirement applicable to each supplemental air carrier with respect to the transportation authorized by, and currently furnished or proposed to be furnished under, such carrier's certificate. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate, in whole or in part, for failure of such carrier (A) to comply with the continuing requirement that such carrier be so fit, willing, and able, or (B) to file such reports as the Board may deem necessary to determine whether such carrier is so fit, willing, and able.

(5) In any case in which the Board determines that the failure of a supplemental air carrier to comply with the provisions of paragraph (1), (3), or (4) of this subsection, or regulations or orders of the Board thereunder, requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's certificate, the Board shall suspend such certificate, in whole or in part, without notice or hearing, for not more than thirty days. The Board shall immediately enter upon a hearing to determine whether such certificate should be modified, suspended, or revoked and, pending the completion of such hearing, the Board may further suspend such certificate for additional periods aggregating not more than sixty days. If the Board determines that a carrier whose certificate is suspended under this paragraph comes into compliance with the provisions of paragraphs (1), (3), and (4) of this subsection, and regulations and orders of the Board thereunder, the Board may immediately terminate the suspension of such certificate and any pending proceeding commenced under this paragraph, but nothing in this sentence shall preclude the Board from imposing on such carrier a civil penalty for any violation of such provisions, regulations, or orders.

(6) The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection. (Pub. L. 85–726, title IV, § 401, Aug. 23, 1958, 72 Stat. 754; Pub. L. 87–528, §§ 2–4, July 10, 1962, 76 Stat. 143; Pub. L. 90–514, § 3, Sept. 26, 1968, 82 Stat. 867.)

REFERENCES IN TEXT

Section 186 of Title 45, included within the reference in subsec. (k)(4) to sections 181 to 188 of Title 45, was omitted as executed.

AMENDMENTS

1968—Subsec. (e)(6). Pub. L. 90–514 added inclusive tour charter trips to the charter trips which air carriers, other than supplemental air carriers, may perform.

1962—Subsec. (d). Pub L. 87–528, § 2, added par. (3).

Subsec. (e). Pub. L. 87–528, § 3, required certificates to engage in supplemental air transportation to designate terminal and intermediate points only as the Board deems practicable and otherwise only the geographical area or areas where service may be rendered, permitted the Board to impose terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section, and limited the performance of charter trips or any special service without regard to points named in the certificate, or the type of service provided therein, to air carriers other than supplemental air carriers.

Subsec. (n). Pub. L. 87–528, § 4, added subsec. (n).

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department to be deemed references to the United States Postal Service, see section 6(o) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

INCLUSIVE TOUR CHARTER TRIPS IN SUPPLEMENTAL AIR TRANSPORTATION VALIDATED

Section 2 of Pub. L. 90–514 provided that: "Certificates of public convenience and necessity for supplemental air transportation and statements of authorizations, issued by the Civil Aeronautics Board, are hereby validated, ratified, and continued in effect according to their terms, notwithstanding any contrary determinations by any court that the Board lacked power to authorize the performance of inclusive tour charter trips in air transportation."

APPLICATION FOR CERTIFICATE FOR SUPPLEMENTAL AIR TRANSPORTATION WITHIN 30 DAYS AFTER JULY 10, 1962

Section 7 of Pub. L. 87–528 provided that:

"(a) If any applicant who makes application under section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] for a certificate for supplemental air transportation within thirty days after

the date of enactment of this Act [July 10, 1962] shall show—

"(1) that it, or its predecessor in interest, was an air carrier authorized to furnish service between places within the United States under a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E-13436, adopted January 28, 1959, or order E-14196, adopted July 8, 1959, or that it was given interim authority to operate in interstate air transportation as a supplemental air carrier under Board order E-9744 of November 15, 1955, and has pending before the Board an application for certification as a supplemental air carrier which was filed prior to July 14, 1960;

"(2) that, during the period beginning on the date such certificate was issued or such interim operating authority was conferred by the Board and ending on the date of enactment of this Act [July 10, 1962], such applicant or his predecessor in interest lawfully performed (A) a substantial portion of the transportation authorized by such certificate or interim operating authority, (B) substantial operations in overseas or foreign air transportation, as a supplemental or large irregular air carrier, authorized by the Board, or (C) substantial operations for the Military Establishment of the United States authorized by the Board;

"(3) that such certificate or interim operating authority had not been revoked or otherwise terminated by the Board or had not otherwise expired prior to the enactment of this Act [July 10, 1962]: *Provided,* That for the purposes of this section such certificate or operating authority shall be considered to have been revoked or terminated if the Board has issued a final order to that effect on or before the date of enactment of this Act [July 10, 1962], notwithstanding a pending judicial review of such order; and

"(4) that such certificate or interim operating authority is held by the original grantee or has been transferred to the applicant with Board approval pursuant to section 401(h) of the Federal Aviation Act of 1958 [subsection (h) of this section]: *Provided,* That a person who on the date of enactment of this Act [July 10, 1962] had on file with the Board an application for the approval of transfer to him of a certificate for supplemental air transportation or interim operating authority, may be issued a new interim certificate or new interim operating authority under this section if the Board approves the transfer pursuant to section 401(h) of the Federal Aviation Act of 1958 [subsection (h) of this section]; the Board may issue a new interim certificate or new interim authority to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958 [this chapter], subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section], if it determines that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

"(b) If any applicant who makes application under section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] for a certificate for supplemental air transportation within thirty days after the date of enactment of this Act [July 10, 1962] shall show that it or its predecessor has received interim operating authority from the Civil Aeronautics Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), the Board may issue new interim authority to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958 [this chapter], subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section], if it determines that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

"(c) If an applicant who makes application under section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] for a certificate for supplemental air transportation shall show—

"(1) that it, or its predecessor in interest, was a carrier authorized to furnish all-cargo service between places within the United States by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order numbered E-3085, adopted July 29, 1949, order numbered E-9760, adopted November 21, 1955, or order numbered E-10084, adopted March 12, 1956;

"(2) that within thirty days prior to such application there has become final an order of the Civil Aeronautics Board in the domestic cargo-mail service case, docket numbered 10,067 and others, denying applicant's, or its predecessor's, application for renewal of such certificate; and

"(3) that immediately prior to the effective date of such denial the applicant, or its predecessor in interest, lawfully performed either (A) any portion of the service authorized by the certificate or (B) any operations for the Military Establishment of the United States authorized by the Board;

the Board may issue a new interim certificate to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958 [this chapter], subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section], if it determines that the applicant is fit, willing and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

"(d) A new interim certificate or new interim authority issued under this section shall not be deemed a license within the meaning of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)) [now covered by section 558(c) of Title 5, Government Organization and Employees]."

AUTHORITY FOR CERTAIN CARRIERS FOR CONTINUATION OF OPERATIONS

Section 8 of Pub. L. 87-528 provided that:

"(a) If any air carrier, or its predecessor in interest, was an air carrier authorized to furnish service between places within the United States by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E-13436, adopted January 28, 1959, or order E-14196, adopted July 8, 1959, or it or its predecessor received interim operating authority from the Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), and the operating authority described in this subsection has not been revoked or otherwise terminated by the Board, it may perform operations as described in such certificate or such interim operating authority, subject to the terms, conditions, and limitations applicable to such certificate or such interim operating authority, or both, as the case may be, for thirty days from the date of enactment of this Act [July 10, 1962], and if it has filed application pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] within said thirty days, may perform such operations, subject to such terms, conditions, and limitations, for a period of ninety days from the date of enactment of this Act [July 10, 1962]. Any air carrier whose application for certification as a supplemental air carrier is pending before the Board and which (A) has operated in interstate air transportation as a supplemental air carrier pursuant to authority granted under Board order E-9744 of November 15, 1955, and (B) had such application for a certificate as a supplemental air carrier pending before the Board on July 14, 1960, and whose operating authority described in this subsection has not been revoked or otherwise terminated by the Board, may continue to operate in interstate air transportation as described in such operating authority, subject to the terms, conditions, and limitations applicable to such operating authority, for thirty days from the

date of enactment of this Act [July 10, 1962], and if it has filed application pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] within said thirty days, may perform such operations, subject to such terms, conditions, and limitations, for a period of ninety days from the date of enactment of this Act [July 10, 1962].

"(b) The certificates of public convenience and necessity issued by the Board pursuant to order E-13436 adopted January 28, 1959, and order E-14196, adopted July 8, 1959, and the interim operating authority issued by the Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), and the exemption authority issued by the Board under order E-9744 of November 15, 1955, and prior authority under individual exemptions or Letters of Registration reinstated by the Board under order E-10161 of April 3, 1956, shall terminate thirty days from the date of enactment of this Act [July 10, 1962].

"(c) From and after the thirtieth day after the date of enactment of this Act [July 10, 1962] the provisions of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b) [now section 558(c) of Title 5, Government Organization and Employees]." shall not be applicable to any operating authority referred to in this section, or to any application for renewal thereof."

AUTHORITY TO PERFORM INDIVIDUALLY TICKETED AND WAYBILLED SERVICES

Section 9 of Pub. L. 87-528 provided that: "The Civil Aeronautics Board may, if it finds such authorization to be in the public interest to permit an orderly transition to an all-charter operation, authorize the holder of any certificate or other operating authority issued by the Board under this Act [which added section 1387 of this title, amended this section, and sections 1301, 1376, 1471, and 1472 of this title, and enacted provisions set out as notes under this section] or under section 401(d)(3) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section] to perform individually ticketed and individually waybilled services in air transportation during the two-year period beginning on the date of enactment of this Act [July 10, 1962], subject to such terms, conditions, and limitations as the Board may prescribe, except that the annual gross revenue of such holder from services authorized by this section during each year of such two-year period shall not exceed the average annual gross revenue from individually ticketed and individually waybilled services furnished by such holders, as authorized by the Board, during the period beginning January 1, 1959, and ending December 31, 1961, inclusive, as determined by the Board."

ENFORCEMENT OR COMPLIANCE PROCEEDINGS BY BOARD

Section 10 of Pub. L. 87-528 provided that:

"The provisions of this Act [which added section 1387 of this title, amended this section, and sections 1301, 1376, 1471, and 1472 of this title, and enacted provisions set out as notes under this section] shall in no way affect the authority of the Board—

"(1) to maintain any enforcement or compliance proceeding or action against the holder of a certificate of public convenience and necessity issued pursuant to Board order E-13436 of January 28, 1959, or Board order E-14196 of July 8, 1959, or against the holder of any interim operating authority conferred by the Board under paragraph (2) of the first section of Public Law 86-661 or under Board order E-9744 of November 15, 1955, which proceeding or action is pending before the Board on the date of enactment of this Act [July 10, 1962]; or

"(2) to institute, on or after the date of enactment of this Act [July 10, 1962], any enforcement or compliance proceeding or action against the holder of any certificate or interim operating authority referred to in paragraph (1) of this section with respect to any violation of—

"(A) the Federal Aviation Act of 1958 [this chapter],

"(B) the provisions of such certificate,

"(C) the terms of such operating authority, or

"(D) the regulations of the Board,

without regard to when such violation occurred. Any sanction which the Board lawfully could have imposed on the operating authority of the holder of any certificate or interim operating authority referred to in paragraph (1) of this section for any violation referred to in paragraph (2) of this section, which violation occurred prior to the issuance to such holder of a new interim certificate or new interim authority under section 7 of this Act [set out as a note under this section] or the issuance to such holder of a certificate of public convenience and necessity to engage in supplemental air transportation under paragraph (3) of section 401(d) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section], may be imposed on the certificate or other operating authority issued to such holder under section 7 of this Act [set out as a note under this section] or under paragraph (3) of section 401(d) of the Federal Aviation Act of 1958 [subsection (d)(3) of this section]."

DISPOSAL OF APPLICATIONS CONSOLIDATED INTO THE LARGE IRREGULAR AIR CARRIER INVESTIGATION PROCEEDING

Section 11 of Pub. L. 87-528 provided that: "Any application of an air carrier heretofore consolidated into the Board proceeding known as the Large Irregular Air Carrier Investigation, Docket Numbered 5132 and others, shall be deemed to have been finally disposed of upon the date of enactment of this Act [July 10, 1962]."

ADMINISTRATOR OF FEDERAL AVIATION AGENCY

The Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] was appointed, qualified and took office on Oct. 31, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1373, 1386, 1487 of this title; title 39 section 5402.

§ 1372. Permits to foreign air carriers.

(a) Necessity.

No foreign air carrier shall engage in foreign air transportation unless there is in force a permit issued by the Board authorizing such carrier so to engage.

(b) Issuance.

The Board is empowered to issue such a permit if it finds that such carrier is fit, willing, and able properly to perform such air transportation and to conform to the provisions of this chapter and the rules, regulations, and requirements of the Board hereunder, and that such transportation will be in the public interest.

(c) Application.

Application for a permit shall be made in writing to the Board, shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

(d) Notice of application; filing of protest or memorandum; hearing.

Upon the filing of an application for a permit the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a permit. Such application shall be set for public hearing and the Board shall dispose of such application as speedily as possible.

(e) Terms, conditions, and limitations.

The Board may prescribe the duration of any permit and may attach to such permit such reasonable

terms, conditions, or limitations as, in its judgment, the public interest may require.

(f) Alteration, modification, amendment, suspension, cancellation, or revocation.

Any permit issued under the provisions of this section may, after notice and hearing, be altered, modified, amended, suspended, canceled, or revoked by the Board whenever it finds such action to be in the public interest. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, modification, amendment, suspension, cancellation, or revocation of a permit.

(g) Transfer of permit.

No permit may be transferred unless such transfer is approved by the Board as being in the public interest. (Pub. L. 85–726, title IV, § 402, Aug. 23, 1958, 72 Stat. 757.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1508 of this title.

§ 1373. Tariffs of air carriers.

(a) Filing, posting, and publication; rejection of tariffs.

Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and showing to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.

(b) Observance of tariffs; granting of rebates.

No air carrier or foreign air carrier shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in its currently effective tariffs; and no air carrier or foreign air carrier shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs, except those specified therein. Nothing in this chapter shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation to ministers of religion on a space-available basis.

(c) Notice of change in tariff.

No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after thirty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(d) Filing of divisions of rates and charges.

Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for air transportation in which such air carrier or foreign air carrier participates. (Pub. L. 85–726, title IV, § 403, Aug. 23, 1958, 72 Stat. 758; Pub. L. 86–627, July 12, 1960, 74 Stat. 445.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86–627 authorized free or reduced-rate transportation to retired directors, officers, and employees who are receiving retiree benefits from any air carrier or foreign air carrier; the parents and immediate families of the officers and employees, and the immediate families of the directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of an air carrier or foreign air carrier; and immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

§ 1374. Rates for carriage of persons and property; duty to provide service, rates, and divisions; discrimination.

(a) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers; to provide safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (Pub. L. 85–726, title IV, § 404, Aug. 23, 1958, 72 Stat. 760.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

§ 1375. Transportation of mail.

(a) Postal rules and regulations.

The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provisions of this chapter, or any order, rule, or regulation made by the Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

(b) Mail schedules.

Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail, and may, by order, require the air carrier to establish additional schedules for the transportation of mail between such points. No change shall be made in any schedules designated or ordered to be established by the Postmaster General except upon ten days' notice thereof filed as herein provided. The Postmaster General may by order disapprove any such change or alter, amend, or modify any such schedule or change. No order of the Postmaster General under this subsection shall become effective until ten days after its issuance. Any person who would be aggrieved by any such order of the Postmaster General under this subsection may, before the expiration of such ten-day period, apply to the Board, under such regulations as it may prescribe, for a review of such order. The Board may review, and, if the public convenience and necessity so require, amend, revise, suspend, or cancel such order; and, pending such review and the determination thereof, may postpone the effective date of such order. The Board shall give preference to proceedings under this subsection over all proceedings pending before it. No air carrier shall transport mail in accordance with any schedule other than a schedule designated or ordered to be established under this subsection for the transportation of mail.

(c) Maximum mail load.

The Board may fix the maximum mail load for any schedule or for any aircraft or any type of aircraft; but, in the event that mail in excess of the maximum load is tendered by the Postmaster General for transportation by any air carrier in accordance with any schedule designated or ordered to be established by the Postmaster General under subsection (b) of this section for the transportation of mail, such air carrier shall, to the extent such air carrier is reasonably able as determined by the Board, furnish facilities sufficient to transport, and shall transport, such mail as nearly in accordance with such schedule as the Board shall determine to be possible.

(d) Tender of mail.

From and after the issuance of any certificate authorizing the transportation of mail by aircraft, the Postmaster General shall tender mail to the holder thereof, to the extent required by the Postal Service, for transportation between the points named in such certificate for the transportation of mail, and such mail shall be transported by the air carrier holding such certificate in accordance with such rules, regulations, and requirements as may be promulgated by the Postmaster General under this section.

(e) Foreign postal arrangement.

(1) Nothing in this chapter shall be deemed to abrogate or affect any arrangement made by the United States with the postal administration of any foreign country with respect to transportation of mail by aircraft, or to impair the authority of the Postmaster General to enter into any such arrangement with the postal administration of any foreign country.

(2) The Postmaster General may, in any case where service may be necessary by a person not a citizen of the United States who may not be obligated to transport the mail for a foreign country, make arrangements, without advertising, with such person for transporting mail by aircraft to or within any foreign country.

(f) Transportation of foreign mail.

(1) Any air carrier holding a certificate to engage in foreign air transportation and transporting mails of foreign countries shall transport such mails subject to control and regulation by the United States. The Postmaster General shall from time to time fix the rates of compensation that shall be charged the respective foreign countries for the transportation of their mails by such air carriers, and such rates shall be put into effect by the Postmaster General in accordance with the provisions of the postal convention regulating the postal relations between the United States and the respective foreign countries, or as provided hereinafter in this subsection. In any case where the Postmaster General deems such action to be in the public interest, he may approve rates provided in arrangements between any such air carrier and any foreign country covering the transportation of mails of such country, under which mails of such country have been carried on scheduled operations prior to January 1, 1938, or in extensions or modifications of such arrangements, and may permit any such air carrier to enter into arrangements with any foreign country for the transportation of its mails at rates fixed by the Postmaster General in advance of the making of any such arrangement. The Postmaster General may authorize any such air carrier, under such limitations as the Postmaster General may prescribe, to change the rates to be charged any foreign country for the transportation of its mails by such air carrier within that country or between that country and another foreign country.

(2) In any case where such air carrier has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection, it shall collect its compensation from the foreign country under its arrangement, and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection, the collections made from the foreign country by the United States shall be for the account of such air carrier: *Provided,* That no such air carrier shall be entitled to receive compensation both from such foreign country and from the United States in respect of the transportation of the same mail or the same mails of foreign countries.

(g) Evidence of performance of mail service.

Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor.

(h) Emergency mail service.

In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities. No operation pursuant to any such contract, for such period, shall be air transportation within the purview of this chapter. Payment of compensation for service performed under such contracts shall be made, at rates provided in such contracts, from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts.

(i) Experimental airmail service.

Nothing contained in this chapter shall be construed to repeal in whole or in part the provisions of section 470 of Title 39. The transportation of mail under contracts entered into under such sec-

tion shall not, except for sections 1371(k) and 1386(b) of this title, be deemed to be "air transportation" as used in this chapter, and the rates of compensation for such transportation of mail shall not be fixed under this chapter.

(j) Free travel for postal employees.

Every air carrier carrying the mails shall carry on any plane that it operates and without charge therefor, the persons in charge of the mails when on duty, and such duly accredited agents and officers of the Post Office Department, and post office inspectors, while traveling on official business relating to the transportation of mail by aircraft, as the Board may by regulation prescribe, upon the exhibition of their credentials. (Pub. L. 85–726, title IV, § 405, Aug. 23, 1958, 72 Stat. 760.)

REFERENCES IN TEXT

Section 470 of Title 39, referred to in subsec. (i), was repealed by Pub. L. 86–682, § 12(c), Sept. 2, 1960, 74 Stat. 708, and is now covered by section 5402 of Title 39, The Postal Service.

Such section, referred to in subsec. (i), refers to section 470 of Title 39.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

CHANGE OF NAME

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department to be deemed references to the United States Postal Service, see Pub. L. 91–375, § 6(o), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1376. Rates for transportation of mail.

(a) Authorization to fix rates.

The Board is empowered and directed, upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method of methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same.

(b) Rate-making elements.

In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.

(c) Payments for transportation of mail.

The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose.

(d) Treatment of proceeds of disposition of certain property.

In determining the need of an air carrier for compensation for the transportation of mail, and such carrier's "other revenue" for the purpose of this section, the Board shall not take into account—

(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable expenses and taxes) derived from such sale or other disposition in flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

(2) losses sustained from the sale or other disposition of flight equipment.

Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of this section until expended as provided above: *Provided,* That the flight equipment in which said gains may be invested shall not include equipment delivered to the carrier prior to April 6, 1956: *Provided further,* That the provisions of this subsection shall be effective as to all capital gains or losses realized on and after April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not the Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier.

(e) Statements of Postmaster General and carrier.

Any petition for the fixing of fair and reasonable rates of compensation under this section shall include a statement of the rate the petitioner believes to be fair and reasonable. The Postmaster General shall introduce as part of the record in all proceedings under this section a comprehensive statement of all service to be required of the air carrier and such other information in his possession as may be deemed by the Board to be material to the inquiry.

(f) Weighing of mail.

The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this chapter. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this chapter, to have additional and more frequent weighing of the mails, the Postmaster General, upon request of the Board shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.

(g) Availability of appropriations.

Except as otherwise provided in section 1375(h) of this title, the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Air Mail Act of 1934, as amended, and the unexpended balances of all appropriations available for the transportation of mail by aircraft in Alaska, shall be available, in addition to the purposes stated in such appropriations, for the payment of compensation by the Postmaster General as provided in this chapter, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the continental United States or between points in Hawaii or in Alaska or between points in the continental United States and points in Canada within one hundred and fifty miles of the international boundary line. Except as otherwise provided in section 1375(h) of this title, the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Act of March 8, 1928, as amended, shall be available, in addition to the purposes stated in such appropriations, for payment to be made by the Postmaster General, as provided by this chapter, in respect of the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the United States and points outside thereof, or between points in the continental United States and Territories or possessions of the United States, or between Territories or possessions of the United States.

(h) Payments to foreign air carriers.

In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this subchapter and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States. (Pub. L. 85–726, title IV, § 406, Aug. 23, 1958, 72 Stat. 763; Pub. L. 87–528, § 5, July 10, 1962, 76 Stat. 145; Pub. L. 89–670, § 8(a), Oct. 15, 1966, 80 Stat. 942.)

REFERENCES IN TEXT

The Air Mail Act of 1934, as amended, referred to in subsec. (g), means act Mar. 27, 1934, ch. 100, 48 Stat. 508, which is not classified to this Code.

The act of Mar. 8, 1928, as amended, referred to in subsec. (g), means act Mar. 8, 1928, ch. 149, 45 Stat. 248, which was repealed by act June 23, 1938, ch. 601, § 1107(k), 52 Stat. 1029.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–670 provided that, in applying clause (3), the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.

1962—Subsec. (b). Pub. L. 87–528 inserted "(other than a supplemental air carrier)" following "each such air carrier" in cl. (3).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective 90 days after the Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as the President pre-

scribes and publishes in the Federal Register, see section 15(a) of Pub. L. 89–670, set out as a note under section 1651 of this title.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department to be deemed references to the United States Postal Service, pursuant to Pub. L. 91–375, § 6(o), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3401.

§ 1377. Accounts, records, and reports.

(a) Filing of reports.

The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this chapter.

(b) Disclosure of stock ownership.

Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself. Any person owning, beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall submit annually, and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person, and the amount thereof.

(c) Disclosure of stock ownership by officer or director.

Each officer and director of an air carrier shall annually and at such other times as the Board shall require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

(d) Form of accounts, records, and memoranda.

The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided,* That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

(e) Inspection of accounts and property.

The Board shall at all times have access to all lands, buildings, and equipment of any carrier and to all accounts, records, and memoranda, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers; and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this chapter, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of this title. (Pub. L. 85–726, title IV, § 407, Aug. 23, 1958, 72 Stat. 766; Pub. L. 91–62, § 1(1), Aug. 20, 1969, 83 Stat. 103.)

AMENDMENTS

1969—Subsec. (b). Pub. L. 91–62 added the provision requiring any person owning, beneficially or as trustee, more than 5 per centum of any class of capital stock or capital of an air carrier to submit annually, and at such other times as the Board requires, a description of the shares of stock or other interest owned by such person, and the amount thereof.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 2 of Pub. L. 91–62 provided that: "The amendments made by this Act [amending this section and section 1378 of this title] shall take effect as of August 5, 1969."

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657(f), (g) of this title.

§ 1378. Consolidation, merger, and acquisition of control.

(a) Prohibited acts.

It shall be unlawful unless approved by order of the Board as provided in this section—

(1) For two or more air carriers, or for any air carrier and any other common carrier or any person engaged in any other phase of aeronautics, to consolidate or merge their properties, or any part thereof, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

(2) For any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any air carrier;

(3) For any air carrier or person controlling an air carrier to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics otherwise than as an air carrier;

(4) For any foreign air carrier or person controlling a foreign air carrier to acquire control, in any manner whatsoever, of any citizen of the United States engaged in any phase of aeronautics;

(5) For any air carrier or person controlling an air carrier, any other common carrier, any person engaged in any other phase of aeronautics, or any other person to acquire control of any air carrier in any manner whatsoever: *Provided,* That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest;

(6) For any air carrier or person controlling an air carrier to acquire control, in any manner whatsoever, of any person engaged in any phase of aeronautics otherwise than as an air carrier; or

(7) For any person to continue to maintain any relationship established in violation of any of the foregoing subdivisions of this subsection.

(b) Application to Board; hearing; approval; disposal without hearing.

Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Board finds that the consolidation, merger, purchase, lease, operating contract, or acquisition of control will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall by order approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided,* That the Board shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control: *Provided further,* That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of this title, such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition: *Provided further,* That, in any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General not later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction.

(c) Interests in ground facilities.

The provisions of this section and section 1379 of this title shall not apply with respect to the acquisition or holding by any air carrier, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of any of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility.

(d) Jurisdiction of accounts of noncarriers.

Whenever, after the effective date of this section, a person, not an air carrier, is authorized, pursuant to this section, to acquire control of an air carrier, such person thereafter shall, to the extent found by the Board to be reasonably necessary for the administration of this chapter, be subject, in the same manner as if such person were an air carrier, to the provisions of this chapter relating to accounts, records, and reports, and the inspection of facilities and records, including the penalties applicable in the case of violations thereof.

(e) Investigation of violations.

The Board is empowered, upon complaint or upon its own initiative, to investigate and, after notice and hearing, to determine whether any person is violating any provision of subsection (a) of this

section. If the Board finds after such hearing that such person is violating any provision of such subsection, it shall by order require such person to take such action, consistent with the provisions of this chapter, as may be necessary, in the opinion of the Board, to prevent further violation of such provision.

(f) Presumption of control; beneficial ownership.

For the purposes of this section, any person owning beneficially 10 per centum or more of the voting securities or capital, as the case may be, of an air carrier shall be presumed to be in control of such air carrier unless the Board finds otherwise. As used herein, beneficial ownership of 10 per centum of the voting securities of a carrier means ownership of such amount of its outstanding voting securities as entitles the holder thereof to cast 10 per centum of the aggregate votes which the holders of all the outstanding voting securities of such carrier are entitled to cast. (Pub. L. 85–726, title IV, § 408, Aug. 23, 1958, 72 Stat. 767; Pub. L. 86–758, § 1, Sept. 13, 1960, 74 Stat. 901.)

REFERENCES IN TEXT

Section 5(8) of this title, referred to in subsec. (b), probably should be section 5(6) of this title which defines affiliation with a carrier.

AMENDMENTS

1969—Subsec. (a)(5). Pub. L. 91–62, § 1(2), added "or any other person" following "phase of aeronautics", and the proviso authorizing the Board to exempt any acquisition of a noncertificated air carrier from the prohibition of this subsection to the extent and for such periods as may be in the public interest.

Subsec. (f). Pub. L. 91–62, § 1(3)(A), added subsec. (f).

1960—Subsec. (b). Pub. L. 86–758 added the proviso permitting the Board to dispose of an application without a hearing, where it does not affect the control of an air carrier directly engaged in operating aircraft in air transportation, does not create a monopoly or restrain competition, where no one with a substantial interest is currently requesting a hearing, and publication in the Federal Register of such intention to dispose is made.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–62 effective Aug. 5, 1969, see section 2 of Pub. L. 91–62, set out as a note under section 1377 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86–758 provided that: "The amendment made by the first section of this Act [to subsec. (b) of this section] shall apply only with respect to applications submitted to the Civil Aeronautics Board on or after the date of enactment of this Act [Sept. 13, 1960]."

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1384 of this title.

§ 1379. Prohibited interests; interlocking relationships; profit from transfer of securities.

(a) It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(2) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(6) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(b) It shall be unlawful for any officer or director of any air carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof. (Pub. L. 85–726, title IV, § 409, Aug. 23, 1958, 72 Stat. 768.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation

Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed and took office on Oct. 31, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1378, 1384 of this title.

§ 1380. Loans and financial aid; aircraft loan guarantees.

The Board is empowered to approve or disapprove, in whole or in part, any and all applications made after the effective date of this section for or in connection with any loan or other financial aid from the United States or any agency thereof to, or for the benefit of, any air carrier. No such loan or financial aid shall be made or given without such approval, and the terms and conditions upon which such loan or financial aid is provided shall be prescribed by the Board. The provisions of this section shall not be applicable to the guaranty of loans by the Secretary of Transportation under the provisions of such Act of September 7, 1957, as amended, but the Secretary of Transportation shall consult with and consider the views and recommendations of the Board in making such guaranties. (Pub. L. 85–726, title IV, § 410, Aug. 23, 1958, 72 Stat. 769; Pub. L. 87–820, § 8, Oct. 15, 1962, 76 Stat. 936.)

REFERENCES IN TEXT

Such Act of September 7, 1957, as amended, referred to in text, refers to Pub. L. 85–307, Sept. 7, 1957, 71 Stat. 629, as amended, which is set out as "Guaranty of Loans for Purchase of Aircraft and Equipment" note under section 1324 of this title.

AMENDMENTS

1962—Pub. L. 87–820 added the aircraft loan guarantee provisions.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Secretary of Commerce" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft to the Secretary of Transportation. See section 1655(a)(3) of this title.

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1381. Methods of competition.

The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier, or ticket agent, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier, or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find, after notice and hearing, that such air carrier, foreign air carrier, or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier, or ticket agent to cease and desist from such practices or methods of competition. (Pub. L. 85–726, title IV, § 411, Aug. 23, 1958, 72 Stat. 769.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

§ 1382. Pooling and other agreements; filing; approval by Board.

(a) Every air carrier shall file with the Board a true copy, or, if oral, a true and complete memorandum, of every contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting air transportation and in force on the effective date of this section or hereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications, or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating destructive, oppressive, or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

(b) The Board shall by order disapprove any such contract or agreement, whether or not previously approved by it, that it finds to be adverse to the public interest, or in violation of this chapter, and shall by order approve any such contract or agreement, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this chapter; except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it. (Pub. L. 85–726, title IV, § 412, Aug. 23, 1958, 72 Stat. 770.)

REFERENCES IN TEXT

The Interstate Commerce Act, as amended, referred to in subsec. (b) is classified to chapters 1, 8, 12, 13 and 19 of this title.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1384 of this title.

§ 1383. Form of control.

For the purposes of this subchapter, whenever reference is made to control, it is immaterial whether such control is direct or indirect. (Pub. L. 85-726, title IV, § 413, Aug. 23, 1958, 72 Stat. 770.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-720, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g), of this title.

§ 1384. Legal restraints.

Any person affected by any order made under sections 1378, 1379, or 1382 of this title shall be, and is hereby, relieved from the operations of the "antitrust laws", as designated in section 12 of Title 15, and of all other restraints or prohibitions made by, or imposed under, authority of law, insofar as may be necessary to enable such person to do anything authorized, approved, or required by such order. (Pub. L. 85-726, title IV, § 414, Aug. 23, 1958, 72 Stat. 770.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

§ 1385. Inquiry into air carrier management.

For the purpose of exercising and performing its powers and duties under this chapter, the Board is empowered to inquire into the management of the business of any air carrier and, to the extent reasonably necessary for any such inquiry, to obtain from such carrier, and from any person controlling or controlled by, or under common control with, such air carrier, full and complete reports and other information. (Pub. L. 85-726, title IV, § 415, Aug. 23, 1958, 72 Stat. 770.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1567 (f), (g) of this title.

§ 1386. Classification and exemption of carriers.

(a) The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this subchapter as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this subchapter, to be observed by each such class or group, as the Board finds necessary in the public interest.

(b) (1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this subchapter or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any air carrier or class of air carriers, if it finds that the enforcement of this subchapter or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier or class of air carriers and is not in the public interest.

(2) The Board shall not exempt any air carrier from any provision of subsection (k) of section 1371 of this title, except that (A) any air carrier not engaged in scheduled air transportation, and (B), to the extent that the operations of such air carrier are conducted during daylight hours, any air carrier engaged in scheduled air transportation, may be exempted from the provisions of paragraphs (1) and (2) of such subsection if the Board finds, after notice and hearing, that, by reason of the limited extent of, or unusual circumstances affecting, the operations of any such air carrier, the enforcement of such paragraphs is or would be such an undue

burden on such air carrier as to obstruct its development and prevent it from beginning or continuing operations, and that the exemption of such air carrier from such paragraphs would not adversely affect the public interest: *Provided,* That nothing in this subsection shall be deemed to authorize the Board to exempt any air carrier from any requirement of this subchapter, or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder which provides for maximum flying hours for pilots or copilots. (Pub. L. 85–726, title IV, § 416, Aug. 23, 1958, 72 Stat. 771.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administrator] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657(f), (g), of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1373 of this title; title 39 section 5402.

§ 1387. Special operating authorizations.

(a) Authority of Board to issue.

If the Board finds upon an investigation conducted on its own initiative or upon request of an air carrier—

(1) that the capacity for air transportation being offered by the holder of a certificate of public convenience and necessity between particular points in the United States is, or will be, temporarily insufficient to meet the requirements of the public or the postal service; or

(2) that there is a temporary requirement for air transportation between two points, one or both of which is not regularly served by any air carrier; and

(3) that any supplemental air carrier can provide the additional service temporarily required in the public interest;

the Board may issue to such supplemental air carrier a special operating authorization to engage in air transportation between such points.

(b) Terms of authorization.

A special operating authorization issued under this section—

(1) shall contain such limitations or requirements as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized will alleviate the insufficiency which otherwise would exist, without significant diversion of traffic from the holders of certificates for the route;

(2) shall be valid for not more than thirty days and may be extended for additional periods aggregating not more than sixty days; and

(3) shall not be deemed a license within the meaning of section 1008(b) of Title 5.

(c) Procedure.

The Board shall by regulation establish procedures for the expeditious investigation and determination of requests for such special operating authorizations. Such procedures shall include written notice to air carriers certificated to provide service between the points involved, and shall provide for such opportunity to protest the application in writing, and at the Board's discretion to be head orally in support of such protest, as will not unduly delay issuance of such special operating authorization, taking into account the degree of emergency involved. (Pub. L. 85–726, title IV, § 417, as added Pub. L. 87–528, § 6, July 10, 1962, 76 Stat. 145.)

REFERENCES IN TEXT

Section 1008(b) of Title 5, referred to in subsec. (b)(3), is now covered by section 558(c) of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657(f), (g), of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1371 of this title.

SUBCHAPTER V.—NATIONALITY AND OWNERSHIP OF AIRCRAFT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1471, 1472 of this title.

§ 1401. Registration of aircraft nationality.

(a) Necessity; aircraft of national-defense forces; transfer of ownership.

It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1508 of this title) to operate or navigate within the United States any aircraft not eligible for registration: *Provided,* That aircraft of the national-defense forces of the United States may be operated and navigated without being so registered if such aircraft are identified, by the agency having jurisdiction over them, in a manner satisfactory to the Secretary of Transportation. The Secretary of transportation may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Secretary may prescribe.

(b) Eligibility for registration.

An aircraft shall be eligible for registration if, but only if—

(1) It is owned by a citizen of the United States and it is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government, or of a State, Territory, or possession of the United States, or the District of Columbia, or of a political subdivision thereof.

(c) Issuance of certificate.

Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by

the Secretary of Transportation and the Secretary shall issue to the owner thereof a certificate of registration.

(d) Applications.

Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Secretary of Transportation may require.

(e) Suspension or revocation.

Any such certificate may be suspended or revoked by the Secretary of Transportation for any cause which renders the aircraft ineligible for registration.

(f) Effect of registration.

Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue. (Pub. L. 85–726, title V, § 501, Aug. 23, 1958, 72 Stat. 771.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

§ 1402. Registration of engines, propellers, and appliances.

The Secretary of Transportation may establish reasonable rules and regulations for registration and identification of aircraft engines, propellers, and appliances, in the interest of safety, and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation. (Pub. L. 85–726, title V, § 502, Aug. 23, 1958, 72 Stat. 772.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was apportation. See section 1655(c) of this title.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See sections 1655(c) of this title.

§ 1403. Recordation of aircraft ownership.

(a) Establishment of recording system.

The Secretary of Transportation shall establish and maintain a system for the recording of each and all of the following:

(1) Any conveyance which affects the title to, or any interest in, any civil aircraft of the United States;

(2) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horsepower for each such engine or the equivalent of such horsepower, or any specifically identified aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower, and also any assignment or amendment thereof or supplement thereto;

(3) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 1424 (b) of this title for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof; and also any assignment or amendment thereof or supplement thereto.

(b) Recording of releases, cancellations, discharges, or satisfactions.

The Secretary of Transportation shall also record under the system provided for in subsection (a) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

(c) Validity of conveyances or other instruments; filing.

No conveyance or instrument the recording of which is provided for by subsection (a) of this section shall be valid in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts against any person other than the person by whom the conveyance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the office of the Secretary of Transportation: *Provided,* That previous recording of any conveyance or instrument with the Administrator of the Civil Aeronautics Administration under the provisions of the Civil Aeronautics Act of 1938 shall have the same force and effect as though recorded as provided herein; and conveyances, the recording of which is provided for by subsection (a)(1) of this section made on or before August 21, 1938, and instruments, the recording of which is provided for by subsections (a)(2) and (a)(3) of this section made on or before June 19, 1948, shall not be subject to the provisions of this subsection.

(d) Effect of recording.

Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of this section shall from the time of its filing for recordation be valid as to all persons without further or other recordation, except that an instrument recorded pursuant to subsection (a)(3) of this section shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated: *Provided,* That an instrument recorded under subsection (a)(2) of this section shall not be affected as to the engine or engines, or propeller or propellers, specifically identified therein, by any instrument theretofore or thereafter recorded pursuant to subsection (a)(3) of this section.

(e) Form of conveyances or other instruments.

Except as the Secretary of Transportation may by regulation prescribe, no conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, territory, or possesion thereof, or the District of Columbia, to take acknowledgment of deeds.

(f) Index of conveyances and other instruments.

The Secretary of Transportation shall keep a record of the time and date of the filing of conveyances and other instruments with him and of the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception, in files to be kept for that purpose, and indexed according to—

(1) the identifying description of the aircraft, aircraft engine, or propeller, or in the case of an instrument referred to in subsection (a)(3) of this section, the location or locations specified therein. and

(2) the names of the parties to the conveyance or other instrument.

(g) Regulations.

The Secretary of Transportation is authorized to provide by regulation for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft for which each certificate is issued, the recording of discharges and satisfactions of recorded instruments, and other transactions affecting title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings, and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the United States, aircraft engines, propellers, appliances, or parts.

(h) Previously unrecorded ownership of aircraft.

The person applying for the issuance or renewal of an airworthiness certificate for an aircraft with respect to which there has been no recordation of ownership as provided in this section shall present with his application such information with respect to the ownership of the aircraft as the Secretary of Transportation shall deem necessary to show the persons who are holders of property interests in such aircraft and the nature and extent of such interests. (Pub. L. 85–726, title V, § 503, Aug. 23, 1958, 72 Stat. 772; Pub. L. 86–81, §§ 1, 3, 4, July 8, 1959, 73 Stat. 180, 181; Pub. L. 88–346, § 2, June 30, 1964, 78 Stat. 236.)

REFERENCES IN TEXT

The Civil Aeronautics Act of 1938, referred to in subsec. (c), was formerly classified to chapter 9 of this title, and was repealed by Pub. L. 85–726, § 1401(b).

AMENDMENTS

1964—Subsec. (e). Pub. L. 88–346 inserted "Except as the Administrator may by regulation prescribe."

1959—Subsec. (a)(2). Pub. L. 86–81, § 1, substituted "takeoff" for "take-off" and provided for the central recording of interests in specifically identified aircraft propellers.

Subsec. (d). Pub. L. 86–81, § 3, included in the proviso specifically identified propellers.

Subsec. (f)(1). Pub. L. 86–81, § 4, required the indexing of conveyances of specifically identified propellers.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointment under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1406 of this title.

§ 1404. Limitation of security owners' liability.

No person having a security interest in, or security title to, any civil aircraft, aircraft engine, or propeller under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft, aircraft engine, or propeller under a bona fide lease of thirty days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessor or owner of the aircraft, aircraft engine, or propeller so leased, for any injury to or death of persons, or damage to or loss of property, on the surface of the earth (whether on land or water) caused by such aircraft, aircraft engine, or propeller, or by the ascent, descent, or flight of such aircraft, aircraft engine, or propeller or by the dropping or falling of an object therefrom, unless such aircraft, aircraft engine, or propeller is in the actual possession or control of such person at the time of such injury, death, damage, or loss. (Pub. L. 85–726, title V, § 504, Aug. 23, 1958, 72 Stat. 774; Pub. L. 86–81, § 2, July 8, 1959, 73 Stat. 180.)

AMENDMENTS

1959—Pub. L. 86–81 exempted security owners and lessors of both aircraft engines and propellers from liability without fault for injury or damage to persons or property on the surface of the earth which might be caused by these instruments.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

§ 1405. Dealers' aircraft registration certificates.

The Secretary of Transportation may, by such reasonable regulations as he may find to be in the public interest, provide for the issuance, and for the suspension or revocation, of dealers' aircraft registration certificates, and for their use in connection with aircraft eligible for registration under this chapter by persons engaged in the business of manufacturing, distributing, or selling aircraft. Aircraft owned by holders of dealers' aircraft registration certificates shall be deemed registered under this chapter to the extent that the Secretary of Transportation may, by regulation, provide. It shall be unlawful for any person to violate any regulation, or any term, condition, or limitation contained in any certificate, issued under this section. (Pub. L. 85-726, title V, § 505, Aug. 23, 1958, 72 Stat. 774.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

§ 1406. Law governing validity of certain instruments.

The validity of any instrument the recording of which is provided for by section 1403 of this title, shall be governed by the laws of the State, District of Columbia, or territory or possession of the United States in which such instrument is delivered, irrespective of the location or the place of delivery of the property which is the subject of such instrument. Where the place of intended delivery of such instrument is specified therein, it shall constitute presumptive evidence that such instrument was delivered at the place so specified. (Pub. L. 85-726, title V, § 506, as added Pub. L. 88-346, § 1(a), June 30, 1964, 78 Stat. 236.)

EFFECTIVE DATE

Section 1(d) of Pub. L. 88-346 provided that: "The amendments made by this section [enacting this section] shall not be applicable with respect to any instrument delivered before the date of enactment of this Act [June 30, 1964]."

CONVENTION ON THE INTERNATIONAL RECOGNITION OF RIGHTS IN AIRCRAFT

Section 1(c) of Pub. L. 88-346 provided that: "The amendments made by this section [enacting this section] shall not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830)."

SUBCHAPTER VI.—SAFETY REGULATION OF CIVIL AERONAUTICS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1355, 1471, 1472, 1481 of this title.

§ 1421. Powers and duties of Administrator.

(a) Minimum standards; rules and regulations.

The Administrator is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time:

(1) Such minimum standards governing the design, materials, workmanship, construction, and performance of aircraft, aircraft engines, and propellers as may be required in the interest of safety;

(2) Such minimum standards governing appliances as may be required in the interest of safety;

(3) Reasonable rules and regulations and minimum standards governing, in the interest of safety, (A) the inspection, servicing, and overhaul of aircraft, aircraft engines, propellers, and appliances; (B) the equipment and facilities for such inspection, servicing, and overhaul; and (C) in the discretion of the Administrator, the periods for, and the manner in, which such inspection, servicing, and overhaul shall be made, including provision for examinations and reports by properly qualified private persons whose examinations or reports the Administrator may accept in lieu of those made by its officers and employees;

(4) Reasonable rules and regulations governing the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, required in the interest of safety, including the reserve supply of aircraft fuel and oil which shall be carried in flight;

(5) Reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen, and other employees, of air carriers; and

(6) Such reasonable rules and regulations, or minimum standards, governing other practices, methods, and procedure, as the Administrator may find necessary to provide adequately for national security and safety in air commerce.

(b) Consideration of needs of service; classification of standards, rules, regulations, and certificates.

In prescribing standards, rules, and regulations, and in issuing certificates under this subchapter, the Administrator shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest and to any differences between air transportation and other air commerce; and he shall make classifications of such standards, rules, regulations, and certificates appropriate to the differences between air transportation and other air commerce. The Administrator may authorize any aircraft, aircraft engine, propeller, or appliance, for which an aircraft certificate authorizing use thereof in air transportation has been issued, to be used in other air commerce without the issuance of a further certificate. The Administrator shall exercise

and perform his powers and duties under this chapter in such manner as will best tend to reduce or eliminate the possibility of, or recurrence of, accidents in air transportation, but shall not deem himself required to give preference to either air transportation or other air commerce in the administration and enforcement of this subchapter.

(c) Exemptions.

The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this subchapter if he finds that such action would be in the public interest.

(d) Installation of emergency locator beacons; aircraft subject to coverage.

(1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator beacons shall be installed—

(A) on any fixed-wing, powered aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following December 29, 1970; and

(B) on any fixed-wing, powered aircraft used in air commerce after three years following such date.

(2) The provisions of this subsection shall not apply to jet-powered aircraft; aircraft used in air transportation (other than air taxis and charter aircaft); military aircraft; aircraft used solely for training purposes not involving flights more than twenty miles from its base; and aircraft used for the aerial application of chemicals.

(d) Aviation fuel standards.

The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 1857f-9 of Title 42) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards. (Pub. L. 85-726, title VI, § 601, Aug. 23, 1958, 72 Stat. 775; Pub. L. 91-596, § 31, Dec. 29, 1970, 84 Stat. 1619; Pub. L. 91-604, § 11(b)(1), Dec. 31, 1970, 84 Stat. 1705.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91-604 added subsec. (d), relating to aviation fuel standards.

Pub. L. 91-596 added subsec. (d), relating to emergency locator beacons.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of section by Pub. L. 91-596 effective 120 days after Dec. 29, 1970, see section 3A of Pub. L. 91-596, set out as a note under section 651 of Title 29, Labor.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying regulations promulgated under this section, see Pub. L. 86-613, § 17, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1430 of this title.

§ 1422. Airman certificates.

(a) Authorization to issue.

The Administrator is empowered to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft.

(b) Application; issuance or denial; petition for review; hearing; determination; issuance of certificates to aliens.

Any person may file with the Administrator an application for an airman certificate. If the Administrator finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform the duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Administrator may determine to be necessary to assure safety in air commerce. Except in the case of persons whose certificates are, at the time of denial, under order of suspension or whose certificates have been revoked within one year of the date of such denial, any person whose application for the issuance or renewal of an airman certificate is denied may file with the National Transportation Safety Board a petition for review of the Administrator's action. The National Transportation Safety Board shall thereupon assign such petition for hearing at a place convenient to the applicant's place of residence or employment. In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. At the conclusion of such hearing, the National Transportation Safety Board shall issue its decision as to whether the airman meets the pertinent rules, regulations, and standards and the Administrator shall be bound by such decision: *Provided*, That the Administrator may, in his discretion, prohibit or restrict the issuance of airman certificates to aliens, or may make such issuance dependent on the terms of reciprocal agreements entered into with foreign governments.

(c) Form and recording.

Each certificate shall be numbered and recorded by the Administrator; shall state the name and address of, and contain a description of, the person to whom the certificate is issued; and shall be entitled with the designation of the class covered thereby. Certificates issued to all pilots serving in scheduled air transportation shall be designated "airline transport pilot" of the proper class. (Pub. L. 85–726, title VI, § 602, Aug. 23, 1958, 72 Stat. 776.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655(c), (d) and 1657(f), (g) of this title.

§ 1423. Aircraft certificates.

(a) Authorization to issue; application; investigation; tests; issuance of type certificate.

(1) The Administrator is empowered to issue type certificates for aircraft, aircraft engines, and propellers; to specify in regulations the appliances for which the issuance of type certificates is reasonably required in the interest of safety; and to issue such certificates for appliances so specified.

(2) Any interested person may file with the Administrator an application for a type certificate for an aircraft, aircraft engine, propeller, or appliance specified in regulations under paragraph (1) of this subsection. Upon receipt of an application, the Administrator shall make an investigation thereof and may hold hearings thereon. The Administrator shall make, or require the applicant to make, such tests during manufacture and upon completion as the Administrator deems reasonably necessary in the interest of safety, including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance. If the Administrator finds that such aircraft, aircraft engine, propeller, or appliance is of proper design, material, specification, construction, and performance for safe operation, and meets the minimum standards, rules, and regulations prescribed by the Administrator, he shall issue a type certificate therefor. The Administrator may prescribe in any such certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety. The Administrator may record upon any certificate issued for aircraft, aircraft engines, or propellers, a numerical determination of all of the essential factors relative to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(b) Production certificates.

Upon application, and if it satisfactorily appears to the Administrator that duplicates of any aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued will conform to such certificate, the Administrator shall issue a production certificate authorizing the production of duplicates of such aircraft, aircraft engines, propellers, or appliances. The Administrator shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof. The Administrator may prescribe in any such production certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety.

(c) Airworthiness certificates.

The registered owner of any aircraft may file with the Administrator an application for an airworthiness certificate for such aircraft. If the Administrator finds that the aircraft conforms to the type certificate therefor, and, after inspection, that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Administrator may prescribe in such certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, and limitations, as are required in the interest of safety. Each such certificate shall be registered by the Administrator and shall set forth such information as the Administrator may deem advisable. The certificate number, or such other individual designation as may be required by the Administrator, shall be displayed upon each aircraft in accordance with regulations prescribed by the Administrator. (Pub. L. 85–726, title VI, § 603, Aug. 23, 1958, 72 Stat. 776.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency, [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655(c), (d) and 1657(f), (g) of this title.

§ 1424. Air carrier operating certificates; authorization to issue; minimum safety standards; application; issuance.

(a) The Administrator is empowered to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued.

(b) Any person desiring to operate as an air carrier may file with the Administrator an application for an air carrier operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this chapter and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, and shall specify the points to and from which, and the Federal airways over which, such person is authorized to operate as an air carrier under an air carrier operating certificate. (Pub. L. 85–726, title VI, § 604, Aug. 23, 1958, 72 Stat. 778.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency, [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655(c), (d) and 1657(f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1403 of this title.

§ 1425. Maintenance of equipment in air transportation; duty of carriers and airmen; inspection of aircraft and equipment.

(a) It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this chapter, or the orders, rules, and regulations of the Administrator issued thereunder. And it shall be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this chapter relating thereto, and the orders, rules, and regulations issued thereunder.

(b) The Administrator shall employ inspectors who shall be charged with the duty (1) of making such inspections of aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture, and while used by an air carrier in air transportation, as may be necessary to enable the Administrator to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; and (2) of advising and cooperating with each air carrier in the inspection and maintenance thereof by the air carrier. Whenever any inspector shall, in the performance of his duty, find that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the carrier, in such form and manner as the Administrator may prescribe; and, for a period of five days thereafter, such aircraft, aircraft engine, propeller, or appliance shall not be used in air transportation, or in such manner as to endanger air transportation, unless found by the Administrator or his inspector to be in condition for safe operation. (Pub. L. 85–726, title VI, § 605, Aug. 23, 1958, 72 Stat. 778.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655(c), (d) and 1657(f), (g) of this title.

§ 1426. Air navigation facility rating; issuance of certificate.

The Administrator is empowered to inspect, classify, and rate any air navigation facility available for the use of civil aircraft, as to its suitability for such use. The Administrator is empowered to issue a certificate for any such air navigation facility. (Pub. L. 85–726, title VI, § 606, Aug. 23, 1958, 72 Stat. 779.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties

transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1427. Air agency rating; issuance of certificate.

The Administrator is empowered to provide for the examination and rating of (1) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; (2) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, or appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, and the competency of those engaged in the work or giving any instruction therein; and (3) such other air agencies as may, in his opinion, be necessary in the interest of the public. The Administrator is empowered to issue certificates for such schools, repair stations, and other agencies. (Pub. L. 85–726, title VI, § 607, Aug. 23, 1958, 72 Stat. 779.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1428. Form of applications for certificates.

Applications for certificates under this subchapter shall be in such form, contain such information, and be filed and served in such manner as the Administrator may prescribe, and shall be under oath whenever the Administrator so requires. (Pub. L. 85–726, title VI, § 608, Aug. 23, 1958, 72 Stat. 779.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1429. Reinspection or reexamination; amendment, suspension, or revocation of certificates; notification; hearing; appeal to National Transportation Safety Board; judicial review.

The Administrator may, from time to time, reinspect any civil aircraft, aircraft, engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If, as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Administrator, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the National Transportation Safety Board and the National Transportation Safety Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order. In the conduct of its hearings the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the National Transportation Safety Board that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the National Transportation Safety Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of said order under the provisions of section 1486 of this title, and the Administrator shall be made a party to such proceedings. (Pub. L. 85–726, title VI, § 609, Aug. 23, 1958, 72 Stat. 779.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first

appointed under this chapter qualifies and takes office see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, officers, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431 of this title.

§ 1430. Violations; exemption of foreign aircraft and airmen.

(a) It shall be unlawful—

(1) For any person to operate in air commerce any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate;

(2) For any person to serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use, in air commerce without an airman certificate authorizing him to serve in such capacity, or in violation of any term, condition, or limitation thereof, or in violation of any order, rule, or regulation issued under this subchapter;

(3) For any person to employ for service in connection with any civil aircraft used in air commerce an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed;

(4) For any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate;

(5) For any person to operate aircraft in air commerce in violation of any other rule, regulation, or certificate of the Administrator under this subchapter; and

(6) For any person to operate a seaplane or other aircraft of United States registry upon the high seas in contravention of the regulations proclaimed by the President pursuant to section 143 of Title 33;

(7) For any person holding an air agency or production certificate, to violate any term, condition, or limitation thereof, or to violate any order, rule, or regulation under this subchapter relating to the holder of such certificate;

(8) For any person to operate an airport serving air carriers certificated by the Civil Aeronautics Board without an airport operating certificate, or in violation of the terms of any such certificate;

(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 1421(d) of this title.

(b) Foreign aircraft and airmen serving in connection therewith may, except with respect to the observance by such airmen of the air traffic rules, be exempted from the provisions of subsection (a) of this section, to the extent, and upon such terms and conditions, as may be prescribed by the Administrator as being in the interest of the public. (Pub. L. 85–726, title VI, § 610, Aug. 23, 1958, 72 Stat. 78; Pub. L. 91–258, title I, § 51(b)(3), May 21, 1970, 84 Stat. 235; Pub. L. 91–604, § 11(b)(2), Dec. 31, 1970, 84 Stat. 1705.)

REFERENCES IN TEXT

Section 143 of Title 33, referred to in subsec. (a)(6), was repealed. See chapter 21 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–604 added par. (9). Pub. L. 91–258 added par. (8).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 51(b)(4) of Pub. L. 91–258 provided that: "The amendments made by paragraph (3) of this subsection [enacting subsec. (a)(8) of this section] shall take effect upon the expiration of the two-year period beginning on the date of their enactment [May 21, 1970]."

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1431. Control and abatement of aircraft noise and sonic boom.

(a) Consultations; standards; rules and regulations.

In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this subchapter.

(b) Considerations determinative of standards, rules, and regulations.

In prescribing and amending standards, rules, and regulations under this section, the Administrator shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activites conducted pursuant to this chapter and chapter 23 of this title;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard, rule, or regulation will contribute to carrying out the purposes of this section.

(c) Amendment, modification, suspension, or revocation of certificate; notice and appeal rights.

In any action to amend, modify, suspend, or revoke a certificate in which violation or aircraft noise or sonic boom standards, rules, or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 1429 of this title, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the Administrator if it finds that control or abatement of aircraft noise or sonic boom and the public interest do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation. (Pub. L. 85–726, title IV, § 611, as added Pub. L. 90–411, § 1, July 21, 1968, 82 Stat. 395.)

§ 1432. Airport operating certificates.

(a) Power to issue.

The Administrator is empowered to issue airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board and to establish minimum safety standards for the operation of such airports.

(b) Issuance; terms and conditions.

Any person desiring to operate an airport serving air carriers certificated by the Civil Aeronautics Board may file with the Administator an application for an airport operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this chapter and the rules, regulations, and standards prescribed thereunder, he shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, including but not limited to terms, conditions, and limitations relating to—

(1) the installation, operation, and maintenance of adequate air navigation facilities; and

(2) the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

(Pub. L. 85–726, title VI, § 612, as added Pub. L. 91–258, title I, § 51(b)(1), May 21, 1970, 84 Stat. 234.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1711 of this title.

SUBCHAPTER VII.—AIRCRAFT ACCIDENT INVESTIGATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1352, 1471, 1472 of this title.

§ 1441. Accidents involving civil aircraft.

(a) General duties of National Transportation Safety Board.

It shall be the duty of the National Transportation Safety Board to—

(1) Make rules and regulations governing notification and report of accidents involving civil aircraft;

(2) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;

(3) Make such recommendations to the Administrator as, in its opinion, will tend to prevent similar accidents in the future;

(4) Make such reports public in such form and manner as may be deemed by it to be in the public interest; and

(5) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents.

(b) Employment of temporary personnel.

The National Transportation Safety Board may, without regard to the civil-service laws, engage, for temporary service in the investigation of any accident involving aircraft, persons other than officer or employees of the United States and may fix their compensation without regard to chapter 51 and subchapter III of chapter 53 of Title 5; and may, with consent of the head of the executive department or independent establishment under whose jurisdiction the officer or employee is serving, secure for such service any officer or employee of the United States.

(c) Conduct of investigations; examinations and tests; autopsies and protection of religious beliefs.

In conducting any hearing or investigation, any member of the National Transportation Safety Board or any officer or employee of the National Transportation Safety Board or any person engaged or secured under subsection (b) of this section shall have the same powers as the Board has with respect to hearings or investigations conducted by it. In carrying out its duties under this subchapter, the National Transportation Safety Board is authorized to examine and test to the extent necessary any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce. In the case of any fatal accident, the National Transportation Safety Board is authorized to examine the remains of any deceased person aboard the aircraft at the time of the accident, who

dies as a result of the accident, and to conduct autopsies or such other tests thereof as may be necessary to the investigation of the accident: *Provided,* That to the extent consistent with the needs of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

(d) Preservation of aircraft, engines, propellers, appliances or property aboard aircraft involved in accidents.

Any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce, shall be preserved in accordance with, and shall not be moved except in National Transportation Safety Board.

(e) Use of records and reports as evidence.

No part of any report or reports of the National Transportation Safety Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

(f) Investigations by Administrator; report.

Upon the request of the National Transportation Safety Board, the Administrator is authorized to make investigations with regard to aircraft accidents and to report to the Board the facts, conditions, and circumstances thereof, and the Board is authorized to utilize such reports in making its determinations of probable cause under this subchapter.

(g) Participation by Administrator in investigations.

In order to assure the proper discharge by the Administrator of his duties and responsibilities, the National Transportation Safety Board shall provide for the appropriate participation of the Administrator and his reresentatives in any investigations conducted by the National Transportation Safety Board under this subchapter: *Provided,* That the Administrator or his representatives shall not participate in the determination of probable cause by the National Transportation Safety Board under this subchapter. (Pub. L. 85–726, title VII, § 701, Aug. 23, 1958, 82 Stat. 781; Pub. L. 87–810, §§ 1, 2, Oct. 15, 1962, 76 Stat. 921.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (b), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1962—Subsec. (c). Pub. L. 87–810, § 1, provided for examinations and tests, including autopsies subject to protection of religious beliefs by local law.

Subsec. (d). Pub. L. 87–810, § 2, provided for preservation of property aboard aircraft.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1654 of this title.

§ 1442. Accidents involving military aircraft.

(a) Participation in investigations by military authorities.

In the case of accidents involving both civil and military aircraft, the National Transportation Safety Board shall provide for participation in the investigation by appropriate military authorities.

(b) Participation in investigations by Administrator.

In the case of accidents involving solely military aircraft and in which a function of the Administrator is or may be involved, the military authorities shall provide for participation in the investigation by the Administrator.

(c) Furnishing information to Administrator and National Transportation Safety Board.

With respect to other accidents involving solely military aircraft, the military authorities shall provide the Administrator and the National Transportation Safety Board with any information with respect thereto which, in the judgment of the military authorities, would contribute to the promotion of air safety. (Pub. L. 85–726, title VII, § 702, Aug. 23, 1958, 72 Stat. 782.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of the title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1443. Special Boards of Inquiry.

(a) Establishment; composition.

In any accident which involves substantial questions of public safety in air transportation the National Transportation Safety Board may establish a Special Board of Inquiry consisting of three members; one member of the National Transportation Safety Board who shall act as Chairman of the Special Board of Inquiry; and two members representing the public who shall be appointed by the President upon notification of the creation of such Special Board of Inquiry by the National Transportation Safety Board.

(b) Qualifications of public members.

Such public members of the Special Board of Inquiry shall be duly qualified by training and experience to participate in such inquiry and shall have no pecuniary interest in any aviation enterprise involved in the accident to be investigated.

(c) Authority of Boards.

The Special Board of Inquiry when convened to investigate an accident certified to it by the National Transportation Safety Board shall have all authority of the National Transportation Safety Board as described in this subchapter. (Pub. L. 85–726, title VII, § 703, Aug. 23, 1958, 72 Stat. 782.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31. 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under this subchapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931. The powers, functions and duties transferred from the Federal Aviation Agency pertaining to aviation safety to be exercised by the Federal Aviation Administrator in the Department of Transportation and the powers, functions, and duties transferred from the Civil Aeronautics Board to be exercised by the National Transportation Safety Board, see sections 1655 (c), (d), and 1657 (f), (g), of this title.

SUBCHAPTER VIII.—OTHER ADMINISTRATIVE AGENCIES

§ 1461. The President of the United States.

The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in overseas or foreign air transportation, or air transportation between places in the same Territory or possession, or any permit issuable to any foreign air carrier under section 1372 of this title, shall be subject to the approval of the President. Copies of all applications in respect of such certificates and permits shall be transmitted to the President by the Board before hearing thereon, and all decisions thereon by the Board shall be submitted to the President before publication thereof. (Pub. L. 85–726, title VIII, § 801, Aug. 23, 1958, 72 Stat. 782.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, to be exercised by the National Transportation Safety Board. See sections 1655(d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1486 of this title.

§ 1462. The Department of State.

The Secretary of State shall advise the Secretary of Transportation, the Board, and the Secretary of Commerce, and consult with the Secretary of Transportation, the Board, or Secretary of Commerce, as appropriate, concerning the negotiations of any agreement with foreign governments for the establishment or development of air navigation, including air routes and services. (Pub. L. 85–726, title VIII, § 802, Aug. 23, 1958, 72 Stat. 783.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

§ 1463. Weather Bureau.

In order to promote safety and efficiency in air navigation to the highest possible degree, the Chief of the Weather Bureau, under the direction of the Secretary of Commerce, shall, in addition to any other functions or duties pertaining to weather information for other purposes, (1) make such observations, measurements, investigations, and studies of atmospheric phenomena, and establish such meteorological offices and stations, as are necessary or best suited for ascertaining, in advance, information concerning probable weather conditions; (2) furnish such reports, forecasts, warnings, and advices to the Secretary of Transportation, and to such persons engaged in civil aeronautics as may be designated by the Secretary of Transportation, and to such other persons as the Chief of the Weather Bureau may determine, and such reports shall be made in such manner and with such frequency as will best result in safety in and in facilitating air navigation; (3) cooperate with persons engaged in air commerce, or employees thereof, in meteorological service, establish and maintain reciprocal arrangements under which this provision is to be carried out and collect and disseminate weather reports available from aircraft in flight; (4) establish and coordinate the international exchanges of meteorological information required for the safety and efficiency of air navigation; (5) participate in the development of an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries in cooperation with other governmental agencies of the United States and the meteorological services of foreign countries and with persons engaged in air

commerce; (6) coordinate meteorological requirements in the United States in order to maintain standard observations, promote efficient use of facilities and avoid duplication of services unless such duplication tends to promote the safety and efficiency of air navigation; and (7) promote and develop meteorological science and foster and support research projects in meteorology through the utilization of private and governmental research facilities and provide for the publication of the results of such research projects unless such publication would be contrary to the public interest. (Pub. L. 85–726, title VIII, § 803, Aug. 23, 1958, 72 Stat. 783.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transporation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation. See section 1655(c) of this title.

The Weather Bureau of the Department of Commerce was consolidated with the Coast and Geodetic Survey to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration and the office of Chief of the Weather Bureau was abolished by Reorg. Plan. No. 2 of 1965, eff. July 13, 1965. 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the Bureau, the Chief of the Bureau, and the officers, employees, and organizational entities of the Bureau were transferred to the Secretary of Commerce and all personnel and property of the Bureau were deemed transferred to the Administration.

SUBCHAPTER IX.—PENALTIES

§ 1471. Civil penalties; compromise; liens.

(a) (1) Any person who violates (A) any provision of subchapter III, IV, V, VI, VII, or XII of this chapter or any rule, regulation, or order issued thereunder, or under section 1482(i) of this title, or any term, condition, or limitation of any permit or certificate issued under subchapter IV of this chapter, or (B) any rule or regulation issued by the Postmaster General under this chapter, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. If such violation is a continuing one, each day of such violation shall constitute a separate offense: *Provided,* That this subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

(2) Any such civil penalty may be compromised by the Administrator in the case of violations of subchapters III, V, VI, or XII of this chapter, or any rule, regulation, or order issued thereunder, or by the Board in the case of violations of subchapters IV or VII of this chapter, or any rule, regulation, or order issued thereunder, or under section 1482(i) of this title, or any term, condition, or limitation of any permit or certificate issued under subchapter IV of this chapter, or by the Postmaster General in the case of reglations issued by him. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(b) In case an aircraft is involved in such violation and the violation is by the owner or person in command of the aircraft, such aircraft shall be subject to lien for the penalty: *Provided,* That this subsection shall not apply to a violation of a rule or regulation of the Postmaster General. (Pub. L. 85–726, title IX, § 901, Aug. 23, 1958, 72 Stat. 783; Pub. L. 87–528, § 12, July 10, 1962, 76 Stat. 149.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a), is classified to chapter 47 of Title 10, Armed Forces.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–528 included violations of provisions of subchapter IV, or any rule, regulation, or order issued thereunder, and of section 1482(i) of this title, or terms, conditions, or limitations of permits or certificates issued under subchapter IV, provided that each day of violation of the subsection constitutes a separate offense, and empowered the Board to compromise penalties in case of violations of subchapter IV, or rules, regulations, or orders thereunder, or of section 1482(i) of its title, or terms, conditions, or limitations thereunder.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

References to the Post Office Department, the Postal Service, the postal field service, the field postal service, or the departmental service or departmental headquarters of the Post Office Department to be deemed references to the United States Postal Service, see Pub. L. 91–375, § 6(o), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

§ 1472. Criminal penalties.

(a) Generally.

Any person who knowingly and willfully violates any provision of this chapter (except subchapters III, V, VI, VII, and XII of this chapter), or any order, rule, or regulation issued by the Administrator or by the Board under any such provision or any

term, condition, or limitation of any certificate or permit issued under subchapter IV of this chapter, for which no penalty is otherwise provided in this section or in section 1474 of this title, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(b) Forgery of certificates and false marking of aircraft.

Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this chapter, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be subject to a fine of not exceeding $1,000 or to imprisonment not exceeding three years, or to both such fine and imprisonment.

(c) Interference with air navigation.

A person shall be subject to a fine of not exceeding $5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—

(1) with intent to interfere with air navigation within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this chapter, or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

(d) Offering, granting, or giving rebates or concessions.

Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the provisions of this chapter, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this chapter at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than $100 and not more than $5,000.

(e) Failure to file reports; falsification of records.

Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this chapter, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000.

(f) Divulging information; information to Congressional committees.

If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1504 of this title, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than $5,000 or imprisonment for not more than two years, or both: *Provided,* That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

(g) Refusal to testify.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than $100 nor more than $5,000, or imprisonment for not more than one year, or both.

(h) Transportation of explosives and other dangerous articles.

(1) Any person who knowingly delivers or causes to be delivered to an air carrier or to the operator of any civil aircraft for transportation in air commerce, or who causes the transportation in air commerce of, any shipment, baggage, or property, the transportation of which would be prohibited by any rule, regulation, or requirement prescribed by the Administrator under subchapter VI of this chapter, relating to the transportation, packing, marking, or description of explosives or other dangerous articles shall, upon conviction thereof for each such offense, be subject to a fine of not more than $1,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment: *Provided,* That when death or bodily injury of any person results from an offense punishable under this subsection, the person or persons convicted thereof shall, in lieu of the foregoing penalty, be subject to a fine of not more than $10,000 or to imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) In the exercise of his authority under subchapter VI of this chapter, the Administrator may provide by regulation for the application in whole or in part of the rules or regulations of the Interstate Commerce Commission (including future amendments and additions thereto) relating to the

transportation, packing, marking, or description of explosives or other dangerous articles for surface transportation, to the shipment and carriage by air of such articles. Such applicability may be terminated by the Administrator at any time. While so made applicable, any such rule or regulation, or part thereof, of the Interstate Commerce Commission shall for the purposes of this chapter be deemed to be a regulation of the Administrator prescribed under subchapter VI of this chapter.

(i) Aircraft piracy.

(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

(2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the United States.

(j) Interference with flight crew members or flight attendants.

Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than $10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.

(k) Certain crimes aboard aircraft in flight.

(1) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of Title 18, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such Title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act, which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.

(*l*) Carrying weapons aboard aircraft.

Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, and except for such other persons as may be so authorized under regulations issued by the Administrator, whoever, while aboard an aircraft being operated by an air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon, or whoever attempts to board such an aircraft while having on or about his person a concealed deadly or dangerous weapon, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(m) False information.

(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(n) Investigations by Federal Bureau of Investigation.

Violations of subsections (i) through (m), inclusive, of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

(*o*) Interference with aircraft accident investigation.

Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both. (Pub. L. 85-726, title IX, § 902, Aug. 23, 1958, 72 Stat. 784; Pub. L. 87-197, § 1, Sept. 5, 1961, 75 Stat. 466; Pub. L. 87-528, § 13, July 10, 1962, 76 Stat. 150; Pub. L. 87-810 § 4, Oct. 15, 1962, 76 Stat. 921; Pub. L. 91-449, § 1(3), Oct. 14, 1970, 84 Stat. 921.)

AMENDMENTS

1970—Subsecs. (i), (j) and (k). Pub. L. 91-449 substituted "within the special aircraft jurisdiction of the United States", for "in flight in air commerce" in subsecs. (i), (j) and (k), wherever appearing.

1962—Subsec. (a). Pub. L. 87-528 inserted "by the Administrator or by the Board" and included violations of section 1474 of this title within the subsection.

Subsec. (*o*). Pub. L. 87-810 added subsec. (*o*).

1961—Subsecs. (i)—(n). Pub. L. 87-197 added subsecs. (i)—(n).

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the

Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this section, see Pub. L. 86–613, § 17, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

CROSS REFERENCES

Penalties for violation of security provisions, see section 1523 of this title.

§ 1473. Venue and prosecution of offenses; procedure in respect of civil penalties.

(a) The trial of any offense under this chapter shall be in the district in which such offense is committed; or, if the offense is committed out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia. Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and punished in any jurisdiction in which such offense was begun, continued, or completed, in the same manner as if the offense had been actually and wholly committed therein.

(b) (1) Any civil penalty imposed under this chapter may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds $20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

(2) Any aircraft subject to such lien may be summarily seized by and placed in the custody of such persons as the Board or Administrator may by regulation prescribe, and a report of the cause shall thereupon be transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Board or Administrator of his failure to so act.

(3) The aircraft shall be released from such custody upon payment of the penalty or the amount agreed upon in compromise; or seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings; or deposit of a bond in such amount and with such sureties as the Board or Administrator may prescribe, conditioned upon the payment of the penalty or the amount agreed upon in compromise.

(4) The Supreme Court of the United States, and under its direction other courts of the United States, may prescribe rules regulating such proceedings in any particular not provided by law. (Pub. L. 85–726, title IX, § 903, Aug. 23, 1958, 72 Stat. 786; Pub. L. 87–197, § 2, Sept. 5, 1961, 75 Stat. 467.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87–197 substituted provision for trial of an offense committed out of the jurisdiction of any particular State or district in the district where the offender, or any one of two or more offenders, is arrested or is first brought, for provision directing trial of an offense committed upon the high seas or out of the jurisdiction of any particular State or district in the district where the offender may be found or into which he shall be first brought, and inserted provisions for the filing of indictment or information in the district of the last known residence of the offender or any one of two or more joint offenders, or if no such residence is known, in the District of Columbia, and for trial of offenses, including offenses committed in more than one jurisdiction, in the jurisdiction described in the section, including the jurisdiction in which the offense was continued.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1474. Violations of section 1509 of this title.

(a) Any person who (1) violates any entry or clearance regulation made under section 1509(c) of this title, or (2) any immigration regulations made under such section, shall be subject to a civil penalty of $500 which may be remitted or mitigated by the Secretary of the Treasury, or the Attorney General, respectively, in accordance with such proceedings as the Secretary or Attorney General shall by regulation prescribe. Any person violating any customs regulation made under section 1509(b) of this title, or any provision of the customs or public-health laws or regulations thereunder made applicable to aircraft by regulation under such section shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture as provided for in such customs laws, which penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury. In case the violation is by

the owner or person in command of the aircraft, the penalty shall be a lien against the aircraft. Any person violating any provision of the laws and regulations relating to animal and plant quarantine made applicable to civil air navigation by regulation in accordance with section 1509(d) of this title shall be subject to the same penalties as those provided by the said laws for violations thereof. Any civil penalty imposed under this section may be collected by proceedings in personam against the person subject to the penalty and/or in case the penalty is a lien, by proceedings in rem against the aircraft. Such proceedings shall conform as nearly as may be to civil suits in admiralty; except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds $20, and facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States, shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings in any particular not provided by law. The determination under this section as to the remission or mitigation of a civil penalty imposed under this section shall be final. In case libel proceedings are pending at any time during the pendency of remission or mitigation proceedings, the Secretary or Attorney General shall give notice thereof to the United States attorney prosecuting the libel proceedings.

(b) Any aircraft subject to a lien for any civil penalty imposed under this section may be summarily seized by and placed in the custody of such persons as the appropriate Secretary or Attorney General may by regulation prescribe and a report of the case thereupon transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Secretary of his failure so to act. The aircraft shall be released from such custody upon (1) payment of the penalty or so much thereof as is not remitted or mitigated, (2) seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings, or (3) deposit of a bond in such amount and with such sureties as the Secretary or Attorney General may prescribe, conditioned upon the payment of the penalty or so much thereof as is not remitted or mitigated. (Pub. L. 85–726, title IX, § 904, Aug. 23, 1958, 72 Stat. 787.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

SUBCHAPTER X.—PROCEDURE

§ 1481. Conduct of proceedings.

The Board and the Administrator, subject to the provisions of this chapter and the Administrative Procedure Act, may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or Administration shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or Administration and be heard in person or by attorney. The Board, in its discretion, may enter its appearance and participate as an interested party in any proceeding conducted by the Administrator under subchapter III of this chapter, and in any proceeding conducted by the Administrator under subchapter VI of this chapter from which no appeal is provided to the Board. Every vote and official act of the Board and the Administration shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Administrator determines that secrecy is requisite on grounds of national defense. (Pub. L. 85–726, title X, § 1001, Aug. 23, 1958, 72 Stat. 788.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in text, is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Administration" meaning "Federal Aviation Administration" has been substituted for "Federal Aviation Agency" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation with specified functions to be exercised by the Administration. See section 1655(c) of this title.

§ 1482. Complaints to and investigations by the Administrator and the Board.

(a) Filing of complaints; complaints against members of the Armed Forces.

Any person may file with the Administrator or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this

chapter, or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Administrator or the Board to investigate the matters complained of. Whenever the Administrator or the Board is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of his official duties, the Administrator or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Administrator or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

(b) Investigations on initiative of Administrator or Board.

The Administrator or Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Administrator or Board by any provision of this chapter, or concerning which any question may arise under any of the provisions of this chapter, or relating to the enforcement of any of the provisions of this chapter. The Administrator or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

(c) Entry of orders for compliance with chapter.

If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this chapter or any requirement established pursuant thereto, the Administrator or the Board shall issue an appropriate order to compel such person to comply therewith.

(d) Power to prescribe rates and practices of air carriers.

Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided,* That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(e) Rule of rate making.

In exercising and performing its powers and duties with respect to the determination of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(1) The effect of such rates upon the movement of traffic;

(2) The need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service;

(3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;

(4) The inherent advantages of transportation by aircraft; and

(5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

(f) Removal of discrimination in foreign air transportation.

Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier or foreign air carrier for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

(g) Suspension of rates.

Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for

a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period: *Provided,* That this subsection shall not apply to any initial tariff filed by any air carrier.

(h) Power to prescribe divisions of rates.

Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares, or charges for air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable.

(i) Power to establish through air transportation service.

The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate or overseas air transportation, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated: *Provided,* That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges. (Pub. L. 85–726, title X, § 1002, Aug. 23, 1958, 72 Stat. 788.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under this chapter qualifies and Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1471 of this title.

§ 1483. Joint Boards.

(a) Designation.

The Board and the Interstate Commerce Commission shall direct their respective chairmen to designate, from time to time, a like number of members of each to act as a joint board to consider and pass upon matters referred to such board as provided in subsection (c) of this section.

(b) Through service and joint rates.

Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to the Interstate Commerce Act. In case of through service by air carriers and common carriers subject to the Interstate Commerce Act, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classifications, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to the Interstate Commerce Act, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges.

(c) Jurisdiction of Boards.

Matters relating to such through service and joint rates, fares, or charges may be referred by the Board or the Interstate Commerce Commission, upon complaint or upon its own initiative, to a joint board created as provided in subsection (a) of this section. Complaints may be made to the Interstate Commerce Commission or the Board with respect to any matter which may be referred to a joint board under this subsection.

(d) Power of Boards.

With respect to matters referred to any joint board as provided in subsection (c) of this section, if such board finds, after notice and hearing, that any such joint rate, fare, or charge, or classification, rule, regulation, or practice, affecting such joint rate, fare, or charge or the value of the service thereunder is or will be unjust, unreasonable, un-

justly discriminatory, or unduly preferential or prejudicial, or that any division of any such joint rate, fare, or charge, is or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, it is authorized and directed to take the same action with respect thereto as the Board is empowered to take with respect to any joint rate, fare, or charge, between air carriers, or any divisions thereof, or any classification, rule, regulation, or practice affecting such joint rate, fare, or charge or the value of the service thereunder.

(e) Judicial enforcement and review of orders.

Orders of the joint boards shall be enforceable and reviewable as provided in this chapter with respect to orders of the Board. (Pub. L. 85–726, title X, § 1003, Aug. 23, 1958, 72 Stat. 791.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (b), is classified to chapters 1, 8, 12, 13, and 19 of this title.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1484. Evidence.

(a) Power to take evidence.

Any member or examiner of the Board, when duly designated by the Board for such purpose, may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Board. In all cases heard by an examiner or a single member the Board shall hear or receive argument on request of either party.

(b) Issuance of subpenas; witness fees.

For the purposes of this chapter the Board shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(c) Enforcement of subpenas.

The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

(d) Contempt.

Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Depositions.

The Board may order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as hereinbefore provided.

(f) Method of taking depositions.

Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Board.

(g) Foreign depositions.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer or other person commissioned by the Board, or agreed upon by the parties by stipulation in writing to be filed with the Board, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Board.

(h) Fees in connection with depositions.

Witnesses whose depositions are taken as authorized in this chapter, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States: *Provided,* That with respect to commissions or letters rogatory issued at the initiative of the Board, executed in foreign countries, the Board shall pay such fees, charges, or expenses incidental thereto as may be found necessary, in accordance with regulations on the subject to be prescribed by the Board. (Pub. L. 85–726, title X, § 1004, Aug. 23, 1958, 72 Stat. 792; Pub. L. 91–452, title II, § 246, Oct. 15, 1970, 84 Stat. 931.)

AMENDMENTS

1970—Subsec. (i). Pub. L. 91–452 struck out subsec. (i) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 1485. Orders, notices, and service.

(a) Effective date of orders; emergency orders.

Except as otherwise provided in this chapter, all orders, rules, and regulations of the Board or the Administrator shall take effect within such reasonable time as the Board or Administrator may prescribe, and shall continue in force until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation: *Provided*, That whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, the Administrator is authorized, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce to meet such emergency: *Provided further*, That the Administrator shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation, and shall, insofar as practicable, give preference to such proceedings over all others under this chapter.

(b) Designation of agent for service.

It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent upon whom service of all notices and process and all orders, decisions, and requirements of the Board and the Administrator may be made for and on behalf of said carrier, and to file such designation with the Administrator and in the office of the secretary of the Board, which designation may from time to time be changed by like writing similarly filed. Service of all notices and process and orders, decisions, and requirements of the Administrator or the Board may be made upon such carrier by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such carrier, and in default of such designation of such agent, service of any notice or other process in any proceedings before said Administrator or Board or of any order, decision, or requirements of the Administrator or Board, may be made by posting such notice, process, order, requirement, or decision in the office of the Administrator or with the secretary of the Board.

(c) Manner of service.

Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service, or upon an agent designated in writing for the purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

(d) Suspension or modification of orders.

Except as otherwise provided in this chapter, the Administrator or the Board is empowered to suspend or modify their orders upon such notice and in such manner as they shall deem proper.

(e) Compliance with orders.

It shall be the duty of every person subject to this chapter, and its agents and employees, to observe and comply with any order, rule, regulation, or certificate issued by the Administrator or the Board under this chapter affecting such person so long as the same shall remain in effect.

(f) Findings of fact; service of orders.

Every order of the Administrator or the Board shall set forth the findings of fact upon which it is based, and shall be served upon the parties to the proceeding and the persons affected by such order. (Pub. L. 85–726, title X, § 1005, Aug. 23, 1958, 72 Stat. 794; Pub. L. 86–199, Aug. 25, 1959, 73 Stat. 427.)

AMENDMENTS

1959—Subsec. (c). Pub. L. 86–199 authorized service by certified mail.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties

of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1486. Judicial review.

(a) Orders subject to review; petition for review.

Any order, affirmative or negative, issued by the Board or Administrator under this chapter, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 1461 of this title, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

(b) Venue.

A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

(c) Notice to Board or Administrator; filing of record.

A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of Title 28.

(d) Power of court.

Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

(e) Conclusiveness of findings of fact; objections.

The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(f) Review by Supreme Court.

The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of Title 28. (Pub. L. 85-726, title X, § 1006, Aug. 23, 1958, 72 Stat. 795; Pub. L. 86-546, § 1, June 29, 1960, 74 Stat. 255; Pub. L. 87-225, § 2, Sept. 13, 1961, 75 Stat. 497.)

AMENDMENTS

1961—Subsec. (d). Pub. L. 87-225 substituted a requirement of reasonable notice to the Board or Administrator for provisions which required five days' notice.

1960—Subsec. (c). Pub. L. 86-546 substituted "shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of Title 28" for "shall thereupon certify and file in the court a transcript of the record, if any, upon which the order complained of was entered."

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

NOTICE TO BOARD OR ADMINISTRATOR; FILING OF RECORD

Section 1006(c) of act June 23, 1938, ch. 601, title X, 52 Stat. 1024, was amended by Pub. L. 85-791, § 18, Aug. 28, 1958, 72 Stat. 947, to read as follows: "(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board by the clerk of the court; and the Board shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1429 of this title.

§ 1487. Judicial enforcement; jurisdiction; application; costs.

(a) If any person violates any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this chapter, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 1371(a) of this title, any party in interest, may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this chapter, or of such rule, regulation, requirement, order, term, condition, or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives, from further violation of such provision of this chapter or of such rule, regulation, requirement, order, term, condition, or limitation, and requiring their obedience thereto.

(b) Upon the request of the Board or Administrator, any district attorney of the United States to whom the Board or Administrator may apply is

authorized to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this chapter or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States. (Pub. L. 85–726, title X, § 1007, Aug. 23, 1958, 72 Stat. 796.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1488. Participation by Board or Administrator in court proceedings.

Upon request of the Attorney General, the Board or Administrator, as the case may be, shall have the right to participate in any proceeding in court under the provisions of this chapter. (Pub. L. 85–726, title X, § 1008, Aug. 23, 1958, 72 Stat. 796.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1489. Joinder of parties; intervention.

In any proceeding for the enforcement of the provisions of this chapter, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, whether such proceedings be instituted before the Board or be begun originally in any court of the United States, it shall be lawful to include as parties, or to permit the intervention of, all persons interested in or affected by the matter under consideration; and inquiries, investigations, orders, and decrees may be made with reference to all such parties in the same manner, to the same extent, and subject to the same provisions of law as they may be made with respect to the persons primarily concerned. (Pub. L. 85–726, title X, § 1009, Aug. 23, 1958, 72 Stat. 796.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

SUBCHAPTER XI.—MISCELLANEOUS

§ 1501. Hazards to air commerce.

The Administrator shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Administrator, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce. (Pub. L. 85–726, title XI, § 1101, Aug. 23, 1958, 72 Stat. 797.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1502. International agreements.

In exercising and performing their powers and duties under this chapter, the Board and the Secretary of Transportation shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries, and shall take into consideration any applicable laws and requirements of foreign countries and the Board shall not, in exercising and performing its powers and duties with respect

to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any foreign country: *Provided,* That this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any foreign country, if such contract or agreement is disapproved by the Board as being contrary to the public interest. (Pub. L. 85-726, title XI, § 1102, Aug. 23, 1958, 72 Stat. 797.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Administrator of the Federal Aviation Agency" and "Administrator" pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and the Administrator and other offices and officers thereof to the Secretary of Transportation.

WARSAW CONVENTION

49 Stat. 3000; TS 876

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR

THE PRESIDENT OF THE GERMAN REICH, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE UNITED STATES OF BRAZIL, HIS MAJESTY THE KING OF THE BULGARIANS, THE PRESIDENT OF THE NATIONALIST GOVERNMENT OF CHINA, HIS MAJESTY THE KING OF DENMARK AND ICELAND, HIS MAJESTY THE KING OF EGYPT, HIS MAJESTY THE KING OF SPAIN, THE CHIEF OF STATE OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND, AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MOST SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF LATVIA, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG, THE PRESIDENT OF THE UNITED MEXICAN STATES, HIS MAJESTY THE KING OF NORWAY, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE REPUBLIC OF POLAND, HIS MAJESTY THE KING OF RUMANIA, HIS MAJESTY THE KING OF SWEDEN, THE SWISS FEDERAL COUNCIL, THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, THE PRESIDENT OF THE UNITED STATES OF VENEZUELA, HIS MAJESTY THE KING OF YUGOSLAVIA:

Having recognized the advantage of regulating in a uniform manner the conditions of international transportation by air in respect of the documents used for such transportation and of the liability of the carrier,

Have nominated to this end their respective Plenipotentiaries, who being thereto duly authorized, have concluded and signed the following convention:

CHAPTER I.—SCOPE—DEFINITIONS

Article 1

(1) This convention shall apply to all international transportation of persons, baggage, or goods performed by aircraft for hire. It shall apply equally to gratuitous transportation by aircraft performed by an air transportation enterprise.

(2) For the purpose of this convention the expression "international transportation" shall mean any transportation in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the transportation or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another power, even though that power is not a party to this convention. Transportation without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party shall not be deemed to be international for the purposes of this convention.

(3) Transportation to be performed by several successive air carriers shall be deemed, for the purposes of this convention, to be one undivided transportation, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party.

Article 2

(1) This convention shall apply to transportation performed by the state or by legal entities constituted under public law provided it falls within the conditions laid down in article 1.

(2) This convention shall not apply to transportation performed under the terms of any international postal convention.

CHAPTER II.—TRANSPORTATION DOCUMENTS

SECTION I.—PASSENGER TICKET

Article 3

(1) For the transportation of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the carrier or carriers;

(*e*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(2) The absence, irregularity, or loss of the passenger ticket shall not affect the existence or the validity of the contract of transportation, which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this convention which exclude or limit his liability.

SECTION II.—BAGGAGE CHECK

Article 4

(1) For the transportation of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

(2) The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The baggage check shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The name and address of the carrier or carriers;

(*d*) The number of the passenger ticket;

(*e*) A statement that delivery of the baggage will be made to the bearer of the baggage check;

(*f*) The number and weight of the packages;

(*g*) The amount of the value declared in accordance with article 22(2);

(*h*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(4) The absence, irregularity, or loss of the baggage check shall not affect the existence or the validity of the contract of transportation which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (*d*), (*f*), and (*h*) above, the carrier shall not be entitled to avail himself of those provisions of the convention which exclude or limit his liability.

SECTION III.—AIR WAYBILL

Article 5

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air waybill": every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity, or loss of this document shall not affect the existence or the validity of the contract of transportation which shall, subject to the provisions of article 9, be none the less governed by the rules of this convention.

Article 6

(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate waybills when there is more than package.

Article 8

The air waybill shall contain the following particulars:

(*a*) The place and date of its execution;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the consignor;

(*e*) The name and address of the first carrier;

(*f*) The name and address of the consignee, if the case so requires;

(*g*) The nature of the goods;

(*h*) The number of packages, the method of packing, and the particular marks or numbers upon them;

(*i*) The weight, the quantity, the volume, or dimensions of the goods;

(*j*) The apparent condition of the goods and of the packing;

(*k*) The freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;

(*l*) If the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;

(*m*) The amount of the value declared in accordance with article 22(2);

(*n*) The number of parts of the air waybill;

(*o*) The documents handed to the carrier to accompany the air waybill;

(*p*) The time fixed for the completion of the transportation and a brief note of the route to be followed, of these matters have been agreed upon;

(*q*) A statement that the transportation is subject to the rules relating to liability established by this convention.

Article 9

If the carrier accepts goods without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in article 8 (*a*) to (*i*), inclusive, and (*q*), the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

Article 10

(1) The consignor shall be responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air waybill.

(2) The consignor shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The air waybill shall be *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of transportation.

(2) The statements in the air waybill relating to the weight, dimensions, and packing of the goods, as well as those relating to the number of packages, shall be *prima facie* evidence of the facts stated; those relating to the quantity, volume, and condition of the goods shall not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

(1) Subject to his liability to carry out all his obligations under the contract of transportation, the consignor shall have the right to dispose of the goods by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination, or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors, and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor shall cease at the moment when that of the consignee begins in accordance with article 13, below. Nevertheless, if the consignee declines to accept the waybill or the goods, or if he cannot be communicated with, the consignor shall resume his right of disposition.

Article 13

(1) Except in the circumstances set out in the preceding article, the consignee shall be entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the goods to him, on payment of the charges due and on complying with the conditions of transportation set out in the air waybill.

(2) Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of transportation.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

(1) Articles 12, 13, and 14 shall not affect either the relations of the consignor and the consignee with each other or the relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of articles 12, 13, and 14 can only be varied by express provision in the air waybill.

Article 16

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi, or police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency, or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.—LIABILITY OF THE CARRIER

Article 17

The carrier shall be liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

(1) The carrier shall be liable for damage sustained in the event of the destruction or loss of, or of damage to, any checked baggage or any goods, if the occurrence which caused the damage so sustained took place during the transportation by air.

(2) The transportation by air within the meaning of the preceding paragraph shall comprise the period during which the baggage or goods are in charge of the carrier, whether in an airport or on board an aircraft, or in the case of a landing outside an airport, in any place whatsoever.

(3) The period of the transportation by air shall not extend to any transportation by land, by sea, or by river performed outside an airport. If, however, such transportation takes place in the performance of a contract for transportation by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the transportation by air.

Article 19

The carrier shall be liable for damage occasioned by delay in the transportation by air of passengers, baggage, or goods.

Article 20

(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the transportation of goods and baggage the carrier shall not be liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft, or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

(1) In the transportation of passengers the liability of the carrier for each passenger shall be limited to the sum of 125,000 francs. Where, in accordance with the law of the court to which the case is submitted, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the transportation of checked baggage and of goods, the liability of the carrier shall be limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier shall be limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams of gold at the standard of fineness of nine hundred thousandths. These sums may be converted into any national currency in round figures.

Article 23

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this convention shall be null and void, but the nullity of any such provision shall not involve the nullity of the whole contract, which shall remain subject to the provisions of this convention.

Article 24

(1) In the cases covered by articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this convention.

(2) In the cases covered by article 17 the provisions of the preceding paragraph shall also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

(1) The carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability, if the damage is caused by his willful misconduct or by such default on his part as, in accordance with the law of the court to which the case is submitted, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused under the same circumstances by any agent of the carrier acting within the scope of his employment.

Article 26

(1) Receipt by the person entitled to the delivery of baggage or goods without complaint shall be *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of transportation.

(2) In case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within 3 days from the date of receipt in the case of baggage and 7 days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within 14 days from the date on which the baggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of transportation or by separate notice in writing dispatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this convention against those legally representing his estate.

Article 28

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court of the domicile of the carrier or of his principal place of business, or where he has a place of business through which the contract has been made, or before the court at the place of destination.

(2) Questions of procedure shall be governed by the law of the court to which the case in submitted.

Article 29

(1) The right to damages shall be extinguished if an action is not brought within 2 years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted.

Article 30

(1) In the case of transportation to be performed by various successive carriers and falling within the definition set out in the third paragraph of article 1, each carrier who accepts passengers, baggage or goods shall be subject to the rules set out in this convention, and shall be deemed to be one of the contracting parties to the contract of transportation insofar as the contract deals with that part of the transportation which is performed under his supervision.

(2) In the case of transportation of this nature, the passenger or his representative can take action only against the carrier who performed the transportation during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or goods, the passenger or consignor shall have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery shall have a right of action against the last carrier, and further, each may take action against the carrier who performed the transportation during which the destruction, loss, damage, or delay took place. These carriers shall be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV.—PROVISIONS RELATING TO COMBINED TRANSPORTATION

Article 31

(1) In the case of combined transportation performed partly by air and partly by any other mode of transportation, the provisions of this convention shall apply only to the transportation by air, provided that the transportation by air falls within the terms of article 1.

(2) Nothing in this convention shall prevent the parties in the case of combined transportation from inserting in the document of air transportation conditions relating to other modes of transportation, provided that the provisions of this convention are observed as regards the transportation by air.

CHAPTER V.—GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the transportation of goods arbitration clauses shall be allowed, subject to this convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of article 28.

Article 33

Nothing contained in this convention shall prevent the carrier either from refusing to enter into any contract of transportation or from making regulations which do not conflict with the provisions of this convention.

Article 34

This convention shall not apply to international transportation by air performed by way of experimental trial by air navigation enterprises with the view to the establishment of regular lines of air navigation, nor shall it apply to transportation performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression "days" when used in this convention means current days, not working days.

Article 36

This convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

(1) This convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which shall give notice of the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the nineteenth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties which shall have ratified and the High Contracting Party which deposits its instrument of ratification on the ninetieth day afer the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify the Government of each of the High Contracting Parties of the date on which this convention comes into force as well as the date of the deposit of each ratification.

Article 38

(1) This convention shall, after it has come into force, remain open for adherence by any state.

(2) The adherence shall be effected by a notification addressed to the Government of the Republic of Poland, which shall inform the Government of each of the High Contracting Parties thereof.

(3) The adherence shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

(1) Any one of the High Contracting Parties may denounce this convention by a notification addressed to the Government of the Republic of Poland, which shall at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the party which shall have proceeded to denunciation.

Article 40

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of adherence, declare that the acceptance which it gives to this convention does not apply to all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or its authority, or any other territory under its suzerainty.

(2) Accordingly any High Contracting Party may subsequently adhere separately in the name of all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority or any other territory under its suzerainty which have been thus excluded by its original declaration.

(3) Any High Contracting Party may denounce this convention, in accordance with its provisions, separately or for all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority, or any other territory under its suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this convention to call for the assembling of a new international conference in order to consider any improvements which may be made in this convention. To this end it will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such conference.

This convention, done at Warsaw on October 12, 1929, shall remain open for signature until January 31, 1930.

ORDER OF CIVIL AERONAUTICS BOARD APPROVING INCREASES IN LIABILITY LIMITATIONS OF WARSAW CONVENTION AND HAGUE PROTOCOL

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of May 1966.

The Convention for the Unification of Certain Rules Relating to International Transportation by Air, generally known as the Warsaw Convention, creates a uniform body of law with respect to the rights and responsibilities of passengers, shippers, and air carriers in international air transportation. The United States became a party to the Convention in 1934, and eventually over 90 countries likewise became parties to the Convention.[1] On November 15, 1965, the U.S. Government gave notice of denunciation of the Convention, emphasizing that such action was solely because of the Convention's low limits of liability for personal injury or death to passengers. Pursuant to Article 39 of the Convention this notice would become effective upon 6 months' notice, in this case, May 15, 1966. Subsequently, the International Air Transport Association (IATA) made efforts to effect an arrangement among air carriers, foreign air carriers, and other carriers (including carriers not members of IATA) providing the major portions of international air carriage to and from the United States to increase the limitations of liability now applicable to claims for personal injury and death under the Convention and the Protocol. The purpose of such action is to provide a basis upon which the United States could withdrawn its notice of denunciation.

The arrangement proposed has been embodied in an agreement (Agreement CAB 18900) between various air carriers, foreign air carriers, and other carriers which has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 [section 1382(a) of this title] and Part 261 of the Board's economic regulations and assigned the abovedesignated CAB number.

By this agreement, the parties thereto bind themselves to include in their tariffs, effective May 16, 1966, a special contract in accordance with Article 22(1) of the Convention or the Protocol providing for a limit of liability for each passenger for death, wounding, or other bodily injury of $75,000 inclusive of legal fees, and, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, a limit of $58,000 exclusive of legal fees and costs. These limitations shall be applicable to international transportation by the carrier as defined in the Convention or Protocol which includes a point in the United States as a point of origin, point of destination, or agreed stopping place. The parties further agree to provide in their tariffs that the Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of the Convention or the Convention as amended by the Protocol. The tariff provisions would stipulate, however, that nothing therein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding, or other bodily injury of a passenger.

The carriers by the agreement further stipulate that they will, at time of delivery of the tickets, furnish to each passenger governed by the Convention or the Protocol and by the special contract described above, a notice in 10 point type advising international passengers of the limitations of liability established by the Convention or the Protocol, or the higher liability agreed to by the special contracts pursuant to the Convention or Protocol as described above. The agreement is to become effective upon arrival by this Board, and any carrier may become a party to it by signing a counterpart thereof and depositing it with the Board. Withdrawal from the agreement may be effected by giving 12 months' written notice to the Board and the other Carrier parties thereto.

As indicated, the decision of the U.S. Government to serve notice to denounce the Convention was predicated upon the low liability limits therein for personal injury and death. The Government announced, however, that it would be prepared to withdraw the Notice of Denunciation if, prior to its effective date, there is a reasonable prospect for international agreement on limits of liability for international transportation in the area of $100,000 per passenger or on uniform rules without any limit of liability, and if pending such international agreement there is a provisional arrangement among the principal international air carriers providing for liability up to $75,000 per passenger.

Steps, have been taken by the signing carriers to have tariffs become effective May 16, 1966, upon approval of this agreement, which will increase by special contract their liability for personal injury or death as described herein. The signatory carriers provide by far the greater portion of international transportation to, from, and within the United States. The agreement will result in a salutory increase in the protection given to passengers from the increased liability amounts and the waiver of defenses under Article 20(1) of the Convention or Protocol. The U.S. Government has concluded that such arrangements warrant withdrawal of the Notice of Denunciation of the Warsaw Convention. Implementation of the agreement will permit continued adherence to the Convention with the benefits to be derived therefrom, but without the imposition of the low liability limits therein contained upon most international travel involving travel to or from the United States. The stipulation that no tariff provision shall be deemed to affect the rights and liabilities of the carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding or other bodily injury of a passenger operates to diminish any incentive for sabotage.

Upon consideration of the agreement, and of matters relating thereto of which the Board takes notice, the Board does not find that the agreement is adverse to the public interest or in violation of the Act and it will be approved.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958 [see short title note set out under section 1301 of this title], and particularly sections 102, 204(a), and 412 thereof [sections 1302, 1324(a), and 1382 of this title]:

It is ordered, That: 1. Agreement CAB 18900 is approved.

§ 1503. Documents as evidence.

The copies of tariffs and of all contracts, agreements, understandings, and arrangements filed with the Board as herein provided, and the statistics, tables, and figures contained in the annual or other reports of air carriers and other persons made to the Board as required under the provisions of this chapter shall be preserved as public records (except as otherwise provided in this chapter) in the custody of the secretary of the Board, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Board and in all judicial proceedings; and copies of, and extracts from, any of such tariffs, contracts, agreements, understandings, arrangements, or reports, certified by the secretary of the Board, under the seal of the Board, shall be received in evidence with like effect as the originals. (Pub. L. 85-726, title XI, § 1103, Aug. 23, 1958, 72 Stat. 797.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first

[1] The Convention was amended by the Protocol signed at Hague in 1955 which has never been ratified by the United States. The Convention (subject to certain provisions) limits carriers' liability for death or injury to passengers in international transportation to 125,000 gold francs, or approximately $8,300. The Protocol, subject to certain provisions, provides for liability limitations of approximately $16,600.

appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

§ 1504. Public disclosure of information.

Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to the provisions of this chapter or of information obtained by the Board or the Administrator, pursuant to the provisions of this chapter, stating the grounds for such objection. Whenever such objection is made, the Board or Administrator shall order such information withheld from public disclosure when, in their judgment, a disclosure of such information would adversely affect the interests of such person and is not required in the interest of the public. The Board or Administrator shall be responsible for classified information in accordance with appropriate law: *Provided,* That nothing in this section shall authorize the withholding of information by the Board or Administrator from the duly authorized committees of the Congress. (Pub. L. 85–726, title XI, § 1104, Aug. 23, 1958, 72 Stat. 797.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1505. Cooperation with government agencies.

The Board and the Administrator may avail themselves of the assistance of the National Aeronautics and Space Administration and any research or technical agency of the United States on matters relating to aircraft fuel and oil and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. The Board may avail itself of the assistance of the Federal Bureau of Investigation and of any investigatory or intelligence agency of the United States in the investigation of the activities of any person in connection with an aircraft accident. The Board may avail itself of the assistance of any medical agency of the United States in the conduct of such autopsies or tests on the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, as may be necessary to aid the Board in the investigation of an aircraft accident. Each such agency is authorized to conduct such scientific and technical researches, investigations, and tests as may be necessary to aid the Board and Administrator in the exercise and performance of their powers and duties. Nothing contained in this chapter shall be construed to authorize the duplication of the laboratory research activities of any existing governmental agency. (Pub. L. 85–726, title XI, § 1105, Aug. 23, 1958, 72 Stat. 798; Pub. L. 87–810 § 3, Oct. 15, 1962, 76 Stat. 921.)

AMENDMENTS

1962—Pub. L. 87–810 authorized the Board to avail itself of the assistance of the Federal Bureau of Investigation, any investigatory or intelligence agency of the United States and any medical agency of the United States.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1506. Remedies not exclusive.

Nothing contained in this chapter shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies. (Pub. L. 85–726, title XI, § 1106, Aug. 23, 1958, 72 Stat. 798.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

§ 1507. Public use of facilities; emergency sale of equipment, supplies and services.

(a) Air navigation facilities owned or operated by the United States may be made available for public use under such conditions and to such extent as the head of the department or other agency having jurisdiction thereof deems advisable and may by regulation prescribe.

(b) The head of any Government department or other agency having jurisdiction over any airport or emergency landing field owned or operated by the United States may provide for the sale to any aircraft of fuel, oil, equipment, and supplies, and the furnishing to it of mechanical service, temporary shelter, and other assistance under such regulations as the head of the department or agency may prescribe, but only if such action is by reason of an emergency necessary to the continuance of

such aircraft on its course to the nearest airport operated by private enterprise. All such articles shall be sold and such assistance furnished at the fair market value prevailing locally as ascertained by the head of such department or agency. All amounts received under this subsection shall be covered into the Treasury; but that part of such amounts which, in the judgment of the head of the department or agency, is equivalent to the cost of the fuel, oil, equipment, supplies, services, shelter, or other assistance so sold or furnished shall be credited to the appropriation from which such cost was paid, and the balance, if any, shall be credited to miscellaneous receipts. (Pub. L. 85–726, title XI, § 1107, Aug. 23, 1958, 72 Stat. 798.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1508. Declaration of national sovereignty in air space; operation of foreign aircraft.

(a) The United States of America is declared to possess and exercise complete and exclusive national sovereignty in the airspace of the United States, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the United States exercises national jurisdiction. Aircraft of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone, except in accordance with an authorization granted by the Secretary of State.

(b) Foreign aircraft, which are not a part of the armed forces of a foreign nation, may be navigated in the United States by airmen holding certificates or licenses issued or rendered valid by the United States or by the nation in which the aircraft is registered if such foreign nation grants a similar privilege with respect to aircraft of the United States and only if such navigation is authorized by permit, order, or regulation issued by the Board hereunder, and in accordance with the terms, conditions, and limitations thereof. The Board shall issue such permits, orders, or regulations to such extent only as it shall find such action to be in the interest of the public: *Provided, however,* That in exercising its powers hereunder, the Board shall do so consistently with any treaty, convention, or agreement which may be in force between the United States and any foreign country or countries. Foreign civil aircraft permitted to navigate in the United States under this subsection may be authorized by the Board to engage in air commerce within the United States except that they shall not take on at any point within the United States, persons, property, or mail carried for compensation or hire and destined for another point within the United States. Nothing contained in this subsection shall be deemed to limit, modify, or amend section 1372 of this title, but any foreign air carrier holding a permit under said section shall not be required to obtain additional authorization under this subsection with respect to any operation authorized by said permit. (Pub. L. 85–726, title XI, § 1108, Aug. 23, 1958, 72 Stat. 798.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1401 of this title.

ADMINISTRATOR OF FEDERAL AVIATION AGENCY

The Administrator of the Federal Aviation Agency was appointed, qualified and took office on Oct. 31, 1958.

§ 1509. Application of existing laws relating to foreign commerce.

(a) Navigation and shipping.

Except as specifically provided in section 143 to 147d of Title 33, the navigation and shipping laws of the United States, including any definition of "vessel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) Ports of entry for civil aircraft.

The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) Entry and clearance of vessels.

The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) Animal and plant quarantine.

The Secretary of Agriculture is authorized by regulation to provide for the application to civil air navigation of the laws and regulations related to animal and plant quarantine, including the importation, exportation, transportation, and quarantine of animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums, to such extent and upon such conditions as he deems necessary.

(e) Appropriations; acquisition of space by Administrator of General Services.

There are authorized to be appropriated such sums as may be necessary to enable the head of any department or agency of the Federal Government charged with any duty of inspection, clearance, collection of taxes or duties, or other similar function, with respect to persons or property moving in air commerce, to acquire such space at public airports (as defined in the Airport and Airway Development Act of 1970) as he determines, after consultation with the Secretary of Transportation, to be necessary for the performance of such duty. In acquiring any such space, the head of such department or agency shall act through the Administrator of General Services in accordance with the procedures established by law which are generally applicable to the acquisition of space to be used by departments and agencies of the Federal Government. (Pub. L. 85–726, title XI, § 1109, Aug. 23, 1958, 72 Stat. 799; Pub. L. 87–255, § 9, Sept. 20, 1961, 75 Stat. 527; Pub. L. 91–258, title I, § 52(b)(4)(B), May 21, 1970, 84 Stat. 235.)

REFERENCES IN TEXT

Sections 143—147d of Title 33, referred to in subsec. (a), were repealed. See chapter 21 of Title 33, Navigation and Navigable Waters.

Airport and Airway Development Act of 1970, referred to in subsec. (e), is classified to chapter 25 of this title.

AMENDMENTS

1970 Subsec. (e). Pub. L. 91–258 substituted "Airport and Airway Development Act of 1970" for "Federal Airport Act".

1961—Subsec. (e). Pub. L. 87–255 added subsec. (e).

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of this section by Pub. L. 87–255 inapplicable to projects for which amounts have been obligated by execution of grant agreements before Sept. 20, 1961, such projects being subject to former chapter 14 of this title prior to its amendment by Pub. L. 87–255, see section 10 of Pub. L. 87–255.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

The Secretary of Transportation was substituted for the Administrator of the Federal Aviation Agency by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and transferred all functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, under this section, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter to the Secretary of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1474 of this title.

§ 1510. Geographical extension of jurisdiction.

Whenever the President determines that such action would be in the national interest, he may, to the extent, in the manner, and for such periods of time as he may consider necessary, extend the application of this chapter to any areas of land or water outside of the United States and the overlying airspace thereof in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement has the necessary legal authority to take such action. (Pub. L. 85–726, title XI, § 1110, Aug. 23, 1958, 72 Stat. 800.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. § 1301 et seq.) [this chapter], to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III and XII thereof [sections 1341–1355 and 1521–1523 of this title], is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided* that the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

EX. ORD. NO. 11326. REGULATION OF AIR TRANSPORTATION IN RYUKYU ISLANDS

Ex. Ord. No. 11326, Feb. 13, 1967, 32 F.R. 2841, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 1110 of the Federal Aviation Act of 1958 (72 Stat 800, 49 U.S.C. 1510), and as President of the United States and Commander in Chief of the Armed Forces of the United States, and having determined that such action would be in the national interest, it is hereby ordered as follows:

SECTION 1. As used in this order,

(a) "Ryukyu Islands" means the territory, including territorial waters and overlying airspace, to which Executive Order No. 10713 of June 5, 1957, as amended, applies.

(b) "Act" means the Federal Aviation Act of 1958 (72 Stat. 731, 49 U.S.C. 1301 *et seq.*), as amended.

(c) "Board" means the Civil Aeronautics Board.

(d) "High Commissioner" means the High Commissioner of the Ryukyu Islands.

SEC. 2. The provisions of Titles IV, VII, IX, X, and Section 1108 (b) of the Act [sections 1371—1387, 1461—1463, 1471—1474, 1481—1489, and 1508(b) of this title], together with the related definitions in Section 101 thereof [section 1301 of this title], are extended to the Ryukyu Islands insofar as applicable to the economic regulation by the Board of civil air transportation originating in the Ryukyu Islands and terminating elsewhere, or terminating in the Ryuyku Islands and originating elsewhere, or transiting the Ryukyu Islands.

SEC. 3. The provisions of Title VII of the Act [sections 1441—1443 of this title] are extended to the Ryukyu Islands for all purposes.

SEC. 4. Before taking action on any application filed pursuant to the Act as extended by this order, the Board shall obtain and consider the views of the High Commissioner concerning such application. The High Commissioner shall promptly provide such views to the Board on request.

SEC. 5. All presently outstanding orders, authorizations, and regulations applicable to the Ryukyu Islands, heretofore entered by the Board under the Act or by a predecessor agency under the Civil Aeronautics Act of 1938 (52 Stat. 973), are hereby ratified and confirmed.

SEC. 6. The High Commissioner shall control and regulate aviation within the Ryukyu Islands except as provided in Sections 2 and 3. The Board and the Secretary of Transportation shall furnish the High Commissioner such technical advice and assistance, pursuant to interagency agreement, as he shall require to carry out this responsibility.

SEC. 7. The Ryukyu Islands are removed from the applicability of Executive Order No. 10854 of November 27, 1959.

LYNDON B. JOHNSON

§ 1511. Authority to refuse transportation.

Subject to reasonable rules and regulations prescribed by the Administrator, any air carrier is authorized to refuse transportation to a passenger or to refuse to transport property when, in the opinion of the air carrier, such transportation would or might be inimical to safety of flight. (Pub. L. 85-726, title XI, § 1111, as added Pub. L. 87-197, § 4, Sept. 5, 1961, 75 Stat. 467.)

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d) and 1657 (f), (g) of this title.

§ 1512. State or subdivision income tax withholding on compensation paid to interstate air carrier employees.

(a) Withholding where employee earns more than 50 per centum of compensation paid by carrier to him or where employee resides; filing of information return by carrier.

No part of the compensation paid by any air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State shall be withheld for income tax purposes pursuant to the laws of any State or subdivision thereof other than the State or subdivision wherein more than 50 per centum of the compensation paid by the carrier to such employee is earned: *Provided, however,* That if the employee did not earn more than 50 per centum of his compensation from said carrier in any one State or subdivision thereof during the preceding calendar year, then withholding shall be required only for the State or subdivision of the employee's residence, as shown on the employment records of any such carrier; nor shall such carrier file any information return or other report for income tax purposes with respect to such compensation with any State or subdivision thereof other than such State or subdivision of residence and the State or subdivision for which the withholding of such tax has been required under this subsection.

(b) State or subdivision where employee deemed to have earned more than 50 per centum of compensation.

For the purposes of subsection (a) of this section, an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

(c) Definitions.

For the purposes of this section the term "State" also means the District of Columbia and any of the possessions of the United States; and the term "compensation" shall mean all moneys received for services rendered by an employee, as defined in subsection (a) of this section in the performance of his duties and shall include wages and salary. (Pub. L. 85-726, title XI, § 1112, as added Pub. L. 91-569, § 4(a), Dec. 23, 1970, 84 Stat. 1502.)

EFFECTIVE DATE

Section effective January 1, 1971, see section 5 of Pub. L. 91-659, set out as a note under section 26a of this title.

SUBCHAPTER XII.—SECURITY PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1471, 1472 of this title.

§ 1521. Declaration of purpose.

The purpose of this subchapter is to establish security provisions which will encourage and permit the maximum use of the navigable airspace by civil aircraft consistent with the national security. (Pub. L. 85-726, title XII, § 1201, Aug. 23, 1958, 72 Stat. 800.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters

VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1522. Security control of air traffic.

In the exercise of his authority under section 1348(a) of this title, the Administrator, in consultation with the Department of Defense, shall establish such zones or areas in the airspace of the United States as he may find necessary in the interests of national defense, and by rule, regulation, or order restrict or prohibit the flight of civil aircraft, which he cannot identify, locate, and control with available facilities, within such zones or areas. (Pub. L. 85–726, title XII, § 1202, Aug. 23, 1958, 72 Stat. 800.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation, with specified functions relating to aviation safety to be exercised by the Administrator of the Federal Aviation Administration. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

§ 1523. Penalties.

In addition to the penalties otherwise provided for by this chapter, any person who knowingly or willfully violates any provision of this subchapter, or any rule, regulation, or order issued thereunder shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding $10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment. (Pub. L. 85–726, title XII, § 1203, Aug. 23, 1958, 72 Stat. 800.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers and duties of the Federal Aviation Agency and of the Administrator and other offices and officers thereof, and all functions, powers, and duties of the Civil Aeronautics Board and of the Chairman, members, offices, and officers thereof under subchapters VI and VII of this chapter were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See sections 1655 (c), (d), and 1657 (f), (g) of this title.

SUBCHAPTER XIII.—WAR RISK INSURANCE

§ 1531. Definitions.

As used in this subchapter—

(a) The term "American aircraft" means "civil aircraft of the United States" as defined in section 1301(15) of this title, and any aircraft owned or chartered by or made available to the United States, or any department or agency thereof, or the government of any State, Territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia.

(b) The term "war risks" includes, to such extent as the Secretary may determine, all or any part of those risks which are described in "free of capture and seizure" clauses, or analogous clauses.

(c) The term "Secretary" means the Secretary of Transportation.

(d) The terms "insurance company" and "insurance carrier" in sections 1535 (a) and (b) and 1537(d) of this title shall include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States. (Pub. L. 85–726, title XIII, § 1301, Aug. 23, 1958, 72 Stat. 800.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was subsituted for "Secretary of Commerce" pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under this subchapter to the Secretary of Transportation. See section 1655(a)(3)(C).

§ 1532. Authority to provide insurance; consideration of risk.

(a) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of war risks in the manner and to the extent provided in this subchapter, whenever it is determined by the Secretary that such insurance adequate for the needs of the air commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States: *Provided,* That no insurance shall be issued under this subchapter to cover war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

(b) Any insurance or reinsurance issued under any of the provisions of this subchapter shall be based, insofar as practicable, upon consideration of the risk involved. (Pub. L. 85–726, title XIII, § 1302, Aug. 23, 1958, 72 Stat. 801.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a) (3) (c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1533 of this title.

§ 1533. Persons, property, and interests insurable.

The Secretary may provide the insurance and reinsurance, authorized by section 1532 of this title with respect to the following persons, property, or interest:

(a) American aircraft, and those foreign-flag aircraft engaged in aircraft operations deemed by the Secretary to be in the interest of the national defense or the national economy of the United States, when so engaged.

(b) Cargoes transported or to be transported on any such aircraft, including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its Territories, or possessions; air cargoes imported to, or exported from, the United States, its Territories, or possessions and air cargoes sold, or purchased by citizens or residents of the United States, its Territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss by war risks or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its Territories, or possessions; air cargoes transported between any point in the United States and any point in a Territory or possession of the United States, between any point in any such Territory or possession and any point in any other such Territory or possession, or between any point in any such Territory or possession and any other point in the same Territory or possession.

(c) The personal effects and baggage of the captains, pilots, officers, members of the crews of such aircraft, and of other persons employed or transported on such aircraft.

(d) Captains, pilots, officers, members of the crews of such aircraft, and other persons employed or transported thereon against loss of life, injury, or detention.

(e) Statutory or contractual obligations or other liabilities of such aircraft or of the owner or operator of such aircraft of the nature customarily covered by insurance. (Pub. L. 85-726, title XIII, § 1303, Aug. 23, 1958, 72 Stat. 801.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a) (3) (c) of this title.

§ 1534. Insurance of property of Government departments and agencies; indemnity agreements.

(a) Any department or agency of the United States may, with the approval of the President, procure from the Secretary any of the insurance provided under this subchapter, except with respect to valuables covered by sections 721 and 722 of Title 40.

(b) The Secretary is authorized with such approval to provide such insurance at the request of the Secretary of Defense, and such other agencies as the President may prescribe, without premium in consideration of the agreement of the Secretary of Defense or such agency to indemnify the Secretary against all losses covered by such insurance, and the Secretary of Defense and such other agencies are authorized to execute such indemnity agreement with the Secretary. (Pub. L. 85-726, title XIII, § 1304, Aug. 23, 1958, 72 Stat. 802.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a) (3) (c) of this title.

§ 1535. Reinsurance; rates; allowances to insurance carriers.

(a) To the extent that he is authorized by this subchapter to provide insurance, the Secretary may reinsure, in whole or in part, any company authorized to do an insurance business in any State of the United States. The Secretary may reinsure with, or cede or retrocede to, any such company, any insurance or reinsurance provided by the Secretary in accordance with the provisions of this subchapter.

(b) Reinsurance shall not be provided by the Secretary at rates less than nor obtained by the Secretary at rates more than the rates established by the Secretary on the same or similar risks or the rates charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such

allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business. (Pub. L. 85–726, title XIII, § 1305, Aug. 23, 1958, 72 Stat. 802.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1531 of this title.

§ 1536. Insurance fund.

(a) Creation of revolving fund; payments from fund.

Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter shall be deposited in a revolving fund in the Treasury of the United States. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this subchapter shall be made from such funds through the disbursing facilities of the Treasury Department.

(b) Appropriations.

Such sums as shall be necessary to carry out the provisions of this subchapter are authorized to be appropriated to such fund.

(c) Payment of surplus into Treasury.

At least annually, any balance in the revolving fund in excess of an amount determined by the Secretary to be necessary for the requirements of the fund, and for reasonable reserves to maintain the solvency of the fund shall be paid into the Treasury as miscellaneous receipts.

(d) Annual payments to Treasury as miscellaneous receipts.

Annual payments shall be made by the Secretary to the Treasury of the United States as miscellaneous receipts by reason of costs incurred by the Government through the employment of appropriated funds by the Secretary in carrying out the provisions of this subchapter. These payments shall be computed by applying to the average monthly balance of appropriated funds retained in the revolving fund a percentage determined annually in advance by the Secretary of the Treasury. Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations.

(e) Contributions to Civil Service Retirement and Disability Fund and employees' compensation fund; annual billings.

The Secretary shall contribute to the Civil Service Retirement and Disability Fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the Civil Service Retirement System applicable to the employees engaged in carrying out the provisions of this subchapter. The Secretary shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor for the benefit payments made from such fund on account of the employees engaged in carrying out the provisions of this subchapter. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Secretary into the Treasury as miscellaneous receipts. (Pub. L. 85–726, title XIII, § 1306, Aug. 23, 1958, 72 Stat. 803.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

§ 1537. Administrative provisions.

(a) Issuance of policies; rules and regulations; settlement of claims.

The Secretary, in the administration of this subchapter, may issue such policies, rules, and regulations as he deems proper and, subject to the following provisions of this subsection, may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this subchapter. In the case of any aircraft which is insured under the provisions of this subchapter, (1) the policy shall specify a stated amount to be paid in the event of total loss, and such stated amount shall not exceed an amount determined by the Secretary, after consultation with the Civil Aeronautics Board, to represent the fair and reasonable value of the aircraft, and (2) the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount.

(b) Forms and policies; rates.

The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and rates of premium provided for in this subchapter: *Provided,* That with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

(c) Commercial practice controlling; limitation on fees.

The Secretary, in administering this subchapter, may exercise his powers, perform his duties and

functions, and make his expenditures, in accordance with commercial practice in the aviation insurance business. Except as authorized in subsection (d) of this section, no insurance broker or other person acting in a similar intermediary capacity shall be paid any fee or other consideration by the Secretary by virtue of his participation in arranging any insurance wherein the Secretary directly insures any of the risk thereof.

(d) Underwriting agents.

The Secretary may, and whenever he finds it practical to do so shall, employ companies or groups of companies authorized to do an aviation insurance business in any State of the United States, to act as his underwriting agent. The Secretary may allow such companies or groups of companies fair and reasonable compensation for servicing insurance written by such companies or groups of companies as underwriting agent for the Secretary. The services of such underwriting agents may be utilized in the adjustment of claims under insurance provided by this subchapter, but no claim shall be paid unless and until it has been approved by the Secretary. Such compensation may include an allowance for expenses reasonably incurred by such agent, but such allowance shall not include any payment by such agent on account of solicitation for or stimulation of insurance business.

(e) Utilization of services of other Government agencies.

The Secretary with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this subchapter.

(f) Budget program; maintenance of integral set of accounts; audit; credit for certain expenditures.

The Secretary, in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, shall prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended. The Secretary shall maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial transactions as provided by the said Government Corporation Control Act: *Provided,* That, because of the business activities authorized by this subchapter, the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions, and make expenditures required in accordance with commercial practice in the aviation insurance business, and the General Accounting Office shall allow credit for such expenditures when shown to be necessary because of the nature of such authorized activities. (Pub. L. 85–726, title XIII, § 1307, Aug. 23, 1958, 72 Stat. 803.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (f), is classified to chapter 14 of Title 31, Money and Finance.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1531 of this title.

§ 1538. Rights of airmen under existing law.

This subchapter shall not affect rights of airmen under existing law. (Pub. L. 85–726, title XIII, § 1308, Aug. 23, 1958, 72 Stat. 805.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

§ 1539. Annual and quarterly reports to Congress.

The Secretary shall include in his annual report to Congress a detailed statement of all activities and of all expenditures and receipts under this subchapter for the period covered by such report and in addition make quarterly progress reports to the Congress with reference to contracts entered into, proposed contracts, and the general progress of his insurance activities. (Pub. L. 85–726, title XIII, § 1309, Aug. 23, 1958, 72 Stat. 805.)

REPORTS OF AVIATION WAR RISK INSURANCE ACTIVITIES

Pub. L. 89–348, § 1(6), Nov. 8, 1965, 79 Stat. 1310, repealed provision of this section which related to quarterly report of contracts entered into, proposed contracts, and general progress with respect to aviation war risk insurance activities.

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85–726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary

of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

§ 1540. Actions on claims for losses; jurisdiction of courts; limitation of actions.

Upon disagreement as to a loss insured under this subchapter, suit may be maintained against the United States in the United States District Court for the District of Columbia or in the United States district court in and for the district in which the claimant or his agent resides, notwithstanding the amount of the claim and any provision of existing law as to the jurisdiction of United States district courts, and this remedy shall be exclusive of any other action by reason of the same subject matter against any agent or employee of the United States employed or retained under this subchapter. If the claimant has no residence in the United States, suit may be brought in the United States District Court for the District of Columbia or in any other United States district court in which the Attorney General of the United States agrees to accept service. The procedure in such suits shall otherwise be the same as that provided for suits in the district courts by section 1346(a)(2) of Title 28, so far as applicable. All persons having or claiming or who might have an interest in such insurance may be made parties either initially or upon the motion of either party. In any case where the Secretary acknowledges the indebtedness of the United States on account of such insurance, and there is a dispute as to the persons entitled to receive payment, the United States may bring an action in the nature of a bill of interpleader against such parties, in the United States District Court for the District of Columbia, or in the United States district court of the district in which any such person resides. In such actions any party, if not a resident of or found within the district, may be brought in by order of court served in such reasonable manner as the court directs. If the court is satisfied that persons unknown might assert a claim on account of such insurance, it may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such suit shall discharge the United States from further liability to any parties to such action, and to all persons when service by publication upon persons unknown is directed by the court. The period within which suits may be commenced contained in section 2401 of Title 28 providing for bringing of suits against the United States shall, if claim be filed therefor within such period, be suspended from such time of filing until the claim shall have been administratively denied by the Secretary and for sixty days thereafter: *Provided, however,* That such claim shall be deemed to have been administratively denied if not acted upon within six months after the time of filing, unless the Secretary for good cause shown shall have otherwise agreed with the claimant. (Pub. L. 85-726, title XIII, § 1310, Aug. 23, 1958, 72 Stat. 805.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

§ 1541. Additional insurance with other underwriters.

A person having an insurable interest in an aircraft may, with the approval of the Secretary, insure with other underwriters in an amount in excess of the amount insured with the Secretary, and, in that event, the Secretary shall not be entitled to the benefit of such insurance, but nothing in this section shall prevent the Secretary from entering into contracts of coinsurance. (Pub. L. 85-726, title XIII, § 1311, Aug. 23, 1958, 72 Stat. 806.)

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

§ 1542. Expiration of authority to provide insurance.

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire at the termination of September 7, 1975. (Pub. L. 85-726, title XIII, § 1312, Aug. 23, 1958, 72 Stat. 806; Pub. L. 87-89, July 20, 1961, 75 Stat. 210; Pub. L. 89-447, June 13, 1966, 80 Stat. 199; Pub. L. 91-399, Sept. 8, 1970, 84 Stat. 837.)

AMENDMENTS

1970—Pub. L. 91-399 substituted "1975" for "1970".

1966—Pub. L. 89-447 substituted "September 7, 1970" for "June 13, 1966".

1961—Pub. L. 87-89 substituted "1966" for "1961."

EFFECTIVE DATE

Section effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now the Federal Aviation Administration] first appointed under this chapter qualifies and takes office, see section 1505(2) of Pub. L. 85-726, set out as a note under section 1301 of this title. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under this section relating generally to aircraft were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(a)(3)(c) of this title.

CHAPTER 21.—URBAN MASS TRANSPORTATION

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§ 1601. Declaration of findings and purposes.

(a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the welfare and vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway, and other federally aided programs are being jeopardized by the deterioration or inadequate provision of urban transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis; and

(3) that Federal financial assistance for the development of efficient and coordinated mass transportation systems is essential to the solution of these urban problems.

(b) The purposes of this chapter are—

(1) to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and private; and

(3) to provide assistance to State and local governments and their instrumentalities in financing such systems, to be operated by public or private mass transportation companies as determined by local needs.

(Pub. L. 88–365, § 2, July 9, 1964, 78 Stat. 302.)

SHORT TITLE

Section 1 of Pub. L. 88–365 provided: "That this Act [which enacted this chapter] may be cited as the 'Urban Mass Transportation Act of 1964'."

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603 and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603 (a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1601a. Same; additional findings.

The Congress finds that the rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and at a reasonable cost an urgent national problem; that it is imperative, if

efficient, safe, and convenient transportation compatible with soundly planned urban areas is to be achieved, to continue and expand the provisions of this chapter; and that success will require a Federal commitment for the expenditure of at least $10,000,000,000 over a twelve-year period to permit confident and continuing local planning, and greater flexibility in program administration. It is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban mass transportation requirements. (Pub. L. 91–453, § 1, Oct. 15, 1970, 84 Stat. 962.)

REFERENCES IN TEXT

This Act, referred to in text, refers to the Urban Mass Transportation Assistance Act of 1970. See Short Title note hereunder.

SHORT TITLE

Section 14 of Pub. L. 91–453 provided that: "This Act [enacting this section and section 1612 of this title, amending sections 1602 to 1605, 1608, 1610 and 1611 of this title and section 5316 of Title 5, and enacting provisions set out as notes under sections 1602 and 1605 of this title] may be cited as the 'Urban Mass Transportation Assistance Act of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1602. Federal financial assistance.

(a) Grants or loans to States and local public agencies; uses of funds; eligible facilities and equipment; eligibility of applicant; payment of operating expenses; real property acquisition; condition.

The Secretary is authorized, in accordance with the provisions of this chapter and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas. Eligible facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

(1) the legal, financial, and technical capacity to carry out the proposed project; and

(2) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) of this section upon a determination, which shall be in lieu of the preceding determinations, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonprofit operating expenses. An applicant for assistance under this section for a project located wholly or partly in a State in which there is statewide comprehensive transportation planning shall furnish a copy of its application to the Governor of each State affected concurrently with submission to the Secretary. If, within thirty days thereafter, the Governor submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

(b) Acquisition of real property; uses; provisions of loan agreement; repayment and forgiveness of loans; submission of applications to the Secretary and the comprehensive planning agency of the community affected and consideration of comments of such agency by the Secretary.

The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including the net cost of property management and relocation payments made pursuant to section 1606 of this title. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination, which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayment of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. A grant agreement for construction of facilities under this chapter may provide for forgiveness of the repayment of the principal and accrued interest on the loan then outstanding in lieu of a cash grant in the amount thus forgiven, which for all purposes shall be considered a part of the grant and of the Federal portion of the cost of the project. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning agency of the community affected concurrently with submission to the Secretary. If within a period of thirty days thereafter (or, in a case where the comprehensive planning agency of the community (during such thirty-day period) requests more time, within such longer period as the Secretary may determine) the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

(c) Loan restrictions and limitations; interest.

No loans shall be made under this section for any project for which a grant is made under this section, except—

(1) loans may be made for projects as to which grants are made for relocation payments; and

(2) project grants may be made even though the real property involved in the project has been or will be acquired as a result of a loan under subsection (b) of this section.

Interest on loans made under this section shall be at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs and probable losses under the program. No loans shall be made, including renewals or extensions thereof, and no securities or obligations shall be purchased, which have maturity dates in excess of forty years.

(d) Notice and public hearings.

Any application for a grant or loan under this chapter to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall include a certification that the applicant—

(1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and has held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

(2) has considered the economic and social effects of the project and its impact on the environment; and

(3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Notice of any hearings under this subsection shall include a concise statement of the proposed project, and shall be published in a newspaper of general circulation in the geographic area to be served. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the application.

(e) Private transit operators.

No financial assistance shall be provided under this chapter to any State or local public body or agency thereof for the purpose, directly or indirectly, of acquiring any interest in, or purchasing any facilities or other property of, a private mass transportation company, or for the purpose of constructing, improving, or reconstructing any facilities or other property acquired (after July 9, 1964) from any such company, or for the purpose of providing by contract or otherwise for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing mass transportation company, unless (1) the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, (2) the Secretary finds that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies, (3) just and adequate compensation will be paid to such companies for acquisition of their franchises or property to the extent required by applicable State or local laws, and (4) the Secretary of Labor certifies that such assistance complies with the requirements of section 1609(c) of this title. (Pub. L. 88–365, § 3, July 9, 1964, 78 Stat. 303; Pub. L. 89–562, § 2(b)(1), Sept. 8, 1966, 80 Stat. 716; Pub. L. 90–19, § 20(a), May 25, 1967, 81 Stat. 25; Pub. L. 91–453, § 2, Oct. 15, 1970, 84 Stat. 962.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–453, § 2(2), added provisions authorizing the Secretary to make loans for real property acquisition upon a determination that such real property is reasonably expected to be required in connection with a mass transportation system and that it would be used for such purpose in a reasonable time and requiring applicants for such assistance for projects located in States having statewide comprehensive transportation planning to furnish copies of the application to the Governors of the respective States and to the Secretary and requiring the Secretary to consider the comments of the Governors before a determination, if submitted to him within thirty days.

Subsec. (b). Pub.L. 91–453, § 2(2), added subsec. (b). Former subsec. (b) amended redesignated as subsec. (c).

Subsec. (c). Pub.L. 91–453, § 2(2), redesignated former subsec. (b) as subsec. (c), and in subsec. (c) as so redesignated, substituted provisions prohibiting loans for the same project, except for relocation payments and for real property acquired with a loan, for provisions restricting loans by reference to section 1606 of this title and sections 1492 and 1493 of Title 42, added a new formula for the determination of interest on loans, and laid down the maximum date for maturity at forty years.

Subsec. (d). Pub.L. 91–453, § 2(2), added subsec. (d).

Subsec. (e). Pub. L. 91–453, § 2(1), redesignated former subsec. (c) as subsec. (e).

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)—(c) of this section.

1966—Subsec. (c). Pub. L. 89–562 substituted reference to "section 13(c)" of Pub. L. 88–365 for reference to "section 10(c)" of Pub. L. 88–365 pursuant to the redesignation of section 10 as section 13 by Pub. L. 89–562. Since "section 10(c) of this Act" was translated to "section 1609(c) of this title" for purposes of codification, and since "section 13(c) of this Act" also translated as "section 1609(c) of this title", the amendment produced no change in the text as codified.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under this section and sections 1603 and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under subsec. (c)(1) of this section and sections 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

STUDY AND REPORT ON FEASIBILITY OF FEDERAL ASSISTANCE TO MASS TRANSPORTATION COMPANIES

Section 9 of Pub. L. 91–453 provided that: "The Secretary of Transportation shall conduct a study of the feasibility of providing Federal assistance to help defray the operating costs of mass transportation companies in urban areas and of any changes in the Urban Mass Transportation Act of 1964 [this chapter] which would be necessary in order to provide such assistance, and shall report

his findings and recommendations to the Congress within one year after the date of the enactment of this Act [Oct. 15, 1970]."

ENCOURAGEMENT OF ADVERSELY AFFECTED INDUSTRIES TO COMPETE FOR CONTRACTS

Section 10 of Pub. L. 91-453 provided that: "The Secretary of Transportation shall in all ways (including the provision of technical assistance) encourage industries adversely affected by reductions in Federal Government spending on space, military, and other Federal projects to compete for the contracts provided for under sections 3 and 6 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602 and 1605), as amended by this Act [see Short Title note under section 1601a]."

TAXATION STUDIES OF SYSTEMS BENEFITING UNDER THIS CHAPTER

Pub. L. 88-554, § 3, Aug. 31, 1964, 78 Stat. 761, provided that:

"(a) The Secretary of Commerce is authorized and directed to investigate and study the feasibility of imposing taxes on those transit and commuter systems which are the beneficiaries of Federal financial assistance under the Urban Mass Transportation Act of 1964 [this chapter] for the purpose of raising revenues to defray Federal expenditures under such Act.

"(b) In making the investigation and study under subsection (a), the Secretary of Commerce is authorized to cooperate and consult with appropriate Federal, State, and local government agencies, and with representatives of the transit and commuter service industry and national organizations concerned with mass transportation service.

"(c) The costs of making the investigation and study under subsection (a) shall be paid from appropriations available for expenses of the Office of the Secretary of Commerce.

"(d) The Secretary of Commerce shall report the results of the investigation and study under subsection (a), together with his recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at the earliest practicable date, but not later than June 30, 1965."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1604, 1606, 1608, 1609, 1610, 1611, 1612 of this title.

§ 1603. Long-range program.

(a) Terms and conditions; planning requirements; "net project cost" defined; Federal grant for two-thirds and non-Federal funds for one-third of net project cost; refunds.

Except as specified in section 1604 of this title, no Federal financial assistance shall be provided pursuant to subsection (a) of section 1602 of this title unless the Secretary determines that the facilities and equipment for which the assistance is sought are needed for carrying out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and are necessary for the sound economic, and desirable development of such area. Such program shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area. The Secretary, on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 1602 of this title cannot be reasonably financed from revenues—which portion shall hereinafter be called "net project cost". The Federal grant for such a project shall not exceed two-thirds of the net project cost. The remainder of the net project cost shall be provided, in cash from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant.

(b) Appropriations; advance or progress payments.

To finance grants under this chapter there is hereby authorized to be appropriated at any time after July 9, 1964 not to exceed $75,000,000 for fiscal year 1965; $150,000,000 for fiscal year 1966; $150,000,000 for each of the fiscal years 1967, 1968 and 1969; $190,000,000, for fiscal year 1970; and $300,000,000 for fiscal year 1971. Any amount so appropriated shall remain available until expended; and any amount authorized but not appropriated for any fiscal year may be appropriated for any succeeding fiscal year. The Secretary is authorized, notwithstanding the provisions of section 529 of Title 31, to make advance or progress payments on account of any grant or contract made pursuant to this chapter.

(c) Additional appropriations.

To finance grants and loans under sections 1602, 1606(b), and 1607a of this title, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $3,100,000,000, less amounts appropriated pursuant to section 1608 (d) of this title and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91-168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation on October 15, 1970, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. The total amounts appropriated under this subsection and section 1608 (d) of this title shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended.

(d) Annual reports and authorization requests to Congress.

The Secretary shall report annually to the Congress with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section. To assure program conti-

nuity and orderly planning and project development, the Secretary, after consultation with State and local public agencies, shall submit to the Congress (1) authorization requests for fiscal years 1976 and 1977 not later than February 1, 1972, (2) authorization requests for fiscal years 1978 and 1979 not later than February 1, 1974, (3) authorization requests for fiscal years 1980 and 1981 not later than February 1, 1976, and (4) an authorization request for fiscal year 1982 not later than February 1, 1978. Such authorization requests shall be designed to meet the Federal commitment specified in section 1601a of this title. Concurrently with these authorization requests, the Secretary shall also submit his recommendations for any necessary adjustments in the schedule for liquidation of obligations. (Pub. L. 88–365, § 4, July 9, 1964, 78 Stat. 304; Pub. L. 89–562, § 1(a), Sept. 8, 1966, 80 Stat. 715; Pub. L. 90–19, § 20(a), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title VII, §§ 701(a), 704(a), Aug. 1, 1968, 82 Stat. 534, 535; Pub. L. 91–152, title III, § 306(a), Dec. 24, 1969, 83 Stat. 392; Pub. L. 91–453, §§ 3, 13(a), Oct. 15, 1970, 84 Stat. 965, 969.)

REFERENCES IN TEXT

Pub. L. 91–168, referred to in subsec. (c), is the Department of Transportation and Related Agencies Appropriation Act, 1970, which appropriated $214,000,000 to the Urban Mass Transportation Fund for the fiscal year 1971, of which not to exceed $20,000,000 were to be available for research, development and demonstration grants. Such provisions were not classified to the Code.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–453, § 3(a), substituted reference to section 1602(a) for reference to section 1602 in the first sentence and provided that all or any part of the local share of "net project cost" may come from other than public sources and that any public or private transit system funds received must be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital, and eliminated requirement that a determination be made of the "fiscal inability" of the applicant when more than 50 percent of the local share was provided from the specified sources.

Subsec. (b). Pub. L. 91–453, § 13(a), extended the authority of the Secretary to make advance or progress payments on account of contracts.

Subsecs. (c), (d). Pub. L. 91–453, § 3(b), added subsecs. (c) and (d).

1969—Subsec. (b). Pub. L. 91–152 authorized appropriations of $300,000,000 for fiscal year 1971.

1968—Subsec. (a). Pub. L. 90–448, § 704(a), authorized not more than 50 per centum of the remainder of the net project cost to be provided from other than public sources, and any public or private transit system funds to be provided solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital, except that in the cases of demonstrated fiscal inability of an applicant actively engaged in preparing and effectuating a program for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, the remainder may be provided from other than public sources.

Subsec. (b). Pub. L. 90–448, § 701(a), authorized appropriations of $190,000,000 for fiscal year 1970.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1966—Subsec. (b). Pub. L. 89–562 authorized appropriations of $150,000,000 for each of the fiscal years 1968 and 1969.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Department under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under this section and sections 1602 and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under subsec. (a) of this section and sections 1602(c)(1) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of subsec. (a) of this section, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1605, 1607b, 1607c, 1611, 1612 of this title.

§ 1604. Emergency program; terms and conditions; grants for net project costs.

Prior to July 1, 1972, Federal financial assistance may be provided pursuant to section 1602 of this title where (1) the program for the development of a unified or officially coordinated urban transportation system, referred to in section 1603(a) of this title, is under active preparation although not yet completed, (2) the facilities and equipment for which the assistance is sought can reasonably be expected to be required for such a system, and (3) there is an urgent need for their preservation or provision. The Federal grant for such a project shall not exceed one-half of the net project cost: *Provided,* That where a Federal grant is made on such a one-half basis, and the planning requirements specified in section 1603(a) of this title are fully met within a three-year period after the execution of the grant agreement, an additional grant may then be made to the applicant equal to one-sixth of the net project cost. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant. (Pub. L. 88–365, § 5, July 9, 1964, 78 Stat. 304; Pub. L. 90–34, June 28, 1967, 81 Stat. 81; Pub. L. 90–169, Dec. 1, 1967, 81 Stat. 526; Pub. L. 90–448, title VII, §§ 703, 704(b), Aug. 1, 1968, 82 Stat. 535; Pub. L. 91–152, title III, § 306(b), Dec. 24, 1969, 83 Stat. 392; Pub. L. 91–453, § 4, Oct. 15, 1970, 84 Stat. 966.)

AMENDMENTS

1970—Pub. L. 91–453 substituted "July 1, 1972" for "July 1, 1971" and substituted provision that the remainder of the net project cost may be provided in whole or in part from other than public sources and that any public or private transit system funds so provided be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital, for provision permitting not more than 50 per centum of the remainder of the net project cost to be provided from other than public sources, and requiring public or private transit system funds to be provided solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital, except that in the cases of demonstrated fiscal inability of

an applicant actively engaged in preparing and effectuating a program for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, the remainder be provided from other than public sources.

1969—Pub. L. 91-152 substituted "July 1, 1971" for "July 1, 1970".

1968—Pub. L. 90-448 substituted "July 1, 1970" for "November 1, 1968", and inserted provisions permitting not more than 50 per centum of the remainder of the net project cost to be provided from other than public sources, and any public or private transit system funds to be provided solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital, except that in the cases of demonstrated fiscal inability of an applicant actively engaged in preparing and effectuating a program for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, the remainder may be provided from other than public sources.

1967—Pub. L. 90-169 substituted "November 1, 1968" for "November 1, 1967".

Pub. L. 90-34 substituted "November 1, 1967," for "July 1, 1967".

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under this section and sections 1602 and 1603 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under this section and sections 1603(a) and 1602(c)(1) of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1605. Research, development, and demonstration projects.

(a) Phases of urban mass transportation; acquisition of data.

The Secretary is authorized to undertake research, development, and demonstration projects in all phases of urban mass transportation (including the development, testing, and demonstration of new facilities, equipment, techniques, and methods) which he determines will assist in the reduction of urban transportation needs, the improvement of mass transportation service, or the contribution of such service toward meeting total urban transportation needs at minimum cost. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies). In carrying out the provisions of this section, the Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

(b) Omitted.

(c) Availability and limitation of funds.

The Secretary may make available to finance projects under this section not to exceed $10,000,000 of the mass transportation grant authorization provided in section 1603(b) of this title, which limit shall be increased to $20,000,000 on July 1, 1965, and to $30,000,000 on July 1, 1966, to $40,000,000 on July 1, 1967, and to $56,000,000 on July 1, 1968. On or after July 1, 1969, the Secretary may make available to finance projects under this section such additional sums out of the grant authorization provided in section 1603(b) of this title as he deems appropriate.

(d) Authority of Secretary.

Nothing contained in this section shall limit any authority of the Secretary under section 1701d-3 of Title 12 or any other provision of law. (Pub. L. 88-365, § 6, July 9, 1964, 78 Stat. 305; Pub. L. 89-117, title III, § 304(b), Aug. 10, 1965, 79 Stat. 475; Pub. L. 89-562, §§ 1(b), 3, Sept. 8, 1966, 80 Stat. 715, 717; Pub. L. 90-19, § 20(a), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title VII, § 701(b), Aug. 1, 1968, 82 Stat. 535; Pub. L. 91-453, § 13(b), Oct. 15, 1970, 84 Stat. 969.)

CODIFICATION

Subsec. (b) called for a study and for a program of research, development, and demonstration of new systems of urban transportation, with the report, findings, and recommendations resulting from such activities to be submitted not later than 18 months after Sept. 8, 1966, and has been omitted as executed.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-453 extended the authority of the Secretary to undertake projects by grant

1968—Subsec. (c). Pub. L. 90-448 substituted "$56,000,000" for "$50,000,000", and inserted provisions authorizing the Secretary, on or after July 1, 1969, to make available to finance projects under this section such additional sums out of the grant authorization as he deems appropriate.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (c), and (d) of this section.

1966—Subsec. (b). Pub. L. 89-562, § 3, added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub L. 89-562, §§ 1(b), 3, redesignated former subsec. (b) as (c) and, in subsec. (c) as so redesignated, added provisions for an increase to $40,000,000 on July 1, 1967, and to $50,000,000 on July 1, 1968, in the limit on the amount made available by the Administrator to finance projects. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89-562, § 3, redesignated former subsec. (c) as (d).

1965—Subsec. (b). Pub. L. 89-117 deleted provisions which limited the unobligated balance of the amount available for mass transportation demonstration grants to the proviso in section 1453(b) of title 42 to financing projects under this section.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under subsec. (a) of this section and sections 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603 and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

SECRETARY'S AUTHORITY TO MAKE GRANTS FOR RESEARCH PROJECTS AND TECHNICAL STUDIES UNAFFECTED

Section 11 of Pub. L. 91-453 provided that: "Nothing in this Act [see Short Title note under section 1601a of this

title] shall affect the authority of the Secretary of Housing and Urban Development to make grants, under the authority of sections 6(a), 9, and 11 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1605 (a), 1607a, and 1607c), and Reorganization Plan Numbered 2 of 1968 [set out in the Appendix to Title 5, Government Organization and Employees], for projects or activities primarily concerned with the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, out of funds appropriated to him for that purpose."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1612 of this title.

§ 1606. Relocation requirements and payments.

(a) No financial assistance shall be extended to any project under section 1602 of this title unless the Secretary determines that an adequate relocation program is being carried on for families displaced by the project and that there are being or will be provided (in the same area or in other areas generally not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the displaced families) an equal number of decent, safe, and sanitary dwellings available to those displaced families and reasonably accessible to their places of employment.

(b) Notwithstanding any other provision of this chapter, financial assistance extended to any project under section 1602 of this title may include grants for relocation payments, as herein defined. Such grants may be in addition to other financial assistance for the project under section 1602 of this title, and no part of the amount of such relocation payments shall be required to be contributed as a local grant. The term "relocation payments" means payments by the applicant to individuals, families, business concerns, and nonprofit organizations for their reasonable and necessary moving expenses and any actual direct losses of property, except goodwill or profit, for which reimbursement or compensation is not otherwise made, resulting from their displacement by the project. Such payments shall be made subject to such rules and regulations as may be prescribed by the Secretary, and shall not exceed $200 in the case of an individual or family, or $3,000 (or if greater, the total certified actual moving expenses) in the case of a business concern or nonprofit organization. Such rules and regulations may include provisions authorizing payment to individuals and families of fixed amounts (not to exceed $200 in any case) in lieu of their respective reasonable and necessary moving expenses and actual direct losses of property. (Pub. L. 88-365, § 7, July 9, 1964, 78 Stat. 305; Pub. L. 90-19, § 20(a), May 25, 1967, 81 Stat. 25.)

REPEAL

Provisions of subsec. (b) of this section repealed by Pub. L. 91-646, title II, § 220(a) (4), applicable to any State so long as sections 4630 and 4655 of Title 42 are not applicable in such State; but such sections completely applicable to all States after July 1, 1972. Until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as a note under section 4601 of Title 42, The Public Health and Welfare.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by Section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a note under section 4621 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1603, 1611 of this title.

§ 1607. Coordination of Federal assistance for highways and for mass transportation facilities.

CODIFICATION

Section, Pub. L. 88-365, § 8, July 9, 1964, 78 Stat. 306; Pub. L. 90-19, § 20(a), May 25, 1967, 81 Stat. 25, called for consultation between the Secretary of Housing and Urban Development and the Secretary of Commerce on general urban transportation policies and programs and called for the exchange of information on proposed projects in urban areas. It has been omitted in view of section 6(a)(2)(A) of Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, set out as section 1655(a)(2)(A) of this title, which created the Department of Transportation and transferred to the Secretary of Transportation all functions, powers, and duties of the Secretary of Commerce under this chapter, and in view of Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title, which transferred to the Secretary of Transportation all functions of the Secretary of Housing and Urban Development under this section, thereby combining in one official all consultive functions hereunder.

§ 1607a. Grants for technical studies.

The Secretary is authorized to make grants to States and local public bodies and agencies thereof for the planning, engineering, and designing of urban mass transportation projects, and for other technical studies, to be included, or proposed to be included, in a program (completed or under active preparation) for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; and (3) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of

mass transportation systems, facilities, and equipment. A grant under this section shall be made in accordance with criteria established by the Secretary and shall not exceed two-thirds of the cost of carrying out the activities for which the grant is made. (Pub. L. 88-365, § 9, as added Pub. L. 89-562, § 2(a)(2), Sept. 8, 1966, 80 Stat. 715.)

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under this section and sections 1605(a) and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603 and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1607b. Grants for managerial training programs.

(a) Fellowships; basis for selection; fellowship funds.

The Secretary is authorized to make grants to States, local bodies, and agencies thereof to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field. Fellowships shall be for not more than one year of advanced training in public or private nonprofit institutions of higher education offering programs of graduate study in business or public administration, or in other fields having application to the urban mass transportation industry. The State, local body, or agency receiving a grant under this section shall select persons for such fellowships on the basis of demonstrated ability and for the contribution which they can reasonably be expected to make to an efficient mass transportation operation. Not more than one hundred fellowships shall be awarded in any year. The grant assistance under this section toward each such fellowship shall not exceed $12,000, nor 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the educational institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient).

(b) Limitation on fellowships awarded in any one state.

Not more than 12½ per centum of the fellowships authorized pursuant to subsection (a) of this section shall be awarded for the training of employees of mass transportation companies in any one State.

(c) Limitation on funds available for fellowships.

The Secretary may make available to finance grants under this section not to exceed $1,500,000 per annum of the grant funds appropriated pursuant to section 1603(b) of this title. (Pub. L. 88-365, § 10, as added Pub. L. 89-562, § 2(a)(2), Sept. 8, 1966, 80 Stat. 716.)

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1607c. Grants for research and training in urban transportation problems.

(a) The Secretary is authorized to make grants to public and private nonprofit institutions of higher learning to assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to conduct competent and qualified research and investigations into the theoretical or practical problems of urban transportation, or both, and to provide for the training of persons to carry on further research or to obtain employment in private or public organizations which plan, construct, operate, or manage urban transportation systems. Such research and investigations may include, without being limited to, the design and functioning of urban mass transit systems; the design and functioning of urban roads and highways; the interrelationship between various modes of urban and interurban transportation; the role of transportation planning in overall urban planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and esthetic aspects of urban transportation. In making such grants the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban transportation problems.

(b) The Secretary may make available to finance grants under this section not to exceed $3,000,000 per annum of the grant funds appropriated pursuant to section 1603(b) of this title. (Pub. L. 88-365, § 11, as added Pub. L. 89-562, § 2(a)(2), Sept. 8, 1966, 80 Stat. 716.)

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under this section and sections 1605(a) and 1607a of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and

assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1608. General provisions.

(a) Functions, powers, and duties of Secretary.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a of Title 12, except subsections (c)(2) and (f) of such section. Funds obtained or held by the Secretary in connection with the performance of his functions under this chapter shall be available for the administrative expenses of the Secretary in connection with the performance of such functions.

(b) Records; audit and examination.

All contracts for construction, reconstruction, or improvement of facilities and equipment in furtherance of the purposes for which a loan or grant is made under this chapter, entered into by applicants under other than competitive bidding procedures as defined by the Secretary, shall provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the contracting parties that are pertinent to the operations or activities under such contracts.

(c) Definitions.

As used in this chapter—

(1) the term "States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States;

(2) the term "local public bodies" includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities, and political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State;

(3) the term "Secretary" means the Secretary of Transportation;

(4) the term "urban area" means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth;

(5) the term "mass transportation" means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

(d) Authorization of appropriations.

There are hereby authorized to be appropriated, without fiscal year limitation out of any money in the Treasury not otherwise appropriated, the funds necessary to carry out the functions under this chapter.

(e) Regulation of operation of system, rates, rentals, or other charges; compliance with undertakings.

None of the provisions of this chapter shall be construed to authorize the Secretary to regulate in any manner the mode of operation of any mass transportation system with respect to which a grant is made under section 1602 of this title or, after such grant is made, to regulate the rates, fares, tolls, rentals, or other charges fixed or prescribed for such system by any local public or private transit agency; but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to require compliance by the agency or agencies involved with any undertakings furnished by such agency or agencies in connection with the application for the grant. (Pub. L. 88–365, § 12, formerly § 9, July 9, 1964, 78 Stat. 306; Pub. L. 89–117, title XI, § 1109, Aug. 10, 1965, 79 Stat. 507; renumbered Pub. L. 89–562, § 2(a)(1), Sept. 8, 1966, 80 Stat. 715, and amended Pub. L. 90–19, § 20, May 25, 1967, 81 Stat. 25; 1968 Reorg. Plan No. 2, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369; Pub. L. 90–448, title VII, § 702, Aug. 1, 1968, 82 Stat. 535; Pub. L. 91–453, § 5, Oct. 15, 1970, 84 Stat. 966.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–453 struck out reference to loans under section 1602 of this title and administrative expenses.

1968—Subsec. (c)(5). Pub. L. 90–448 included special service to the public, and substituted "on a regular and continuing basis" for "and moving over prescribed routes."

1967—Pub. L. 90–19, § 20(a), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), (c)(4), and (e) of this section.

Subsec. (c)(3). Pub L. 90–19, § 20(b), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1965—Subsec. (c). Pub. L. 89–117, § 1109, redesignated former subsec. (d) as subsec. (c) and repealed former subsec. (c) which required that all contracts for construction, reconstruction, or improvement in furtherance of this chapter include a provision that only articles manufactured in the United States be used by the contractor.

Subsec. (d). Pub. L. 89–117, § 1109, redesignated former subsec. (e) as subsec. (d). Former subsec. (d) redesignated as subsec. (c).

Subsec. (e). Pub. L. 89–117, § 1109, redesignated former subsec. (f) as subsec. (e). Former subsec. (e) redesignated as subsec. (d).

Subsec. (f). Pub. L. 89–117, § 1109, redesignated former subsec. (f) as subsec. (e). Former subsec. (e) redesignated as subsec. (d).

TRANSFER OF FUNCTIONS

"Secretary of Transportation" has been substituted for "Secretary of Housing and Urban Development" in subsec. (c)(3) pursuant to Reorg. Plan No. 2 of 1968, set out below, which transferred to the Secretary of Transportation the functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603

(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title.

REORGANIZATION PLAN NO. 2 OF 1968

Eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled February 26, 1968, pursuant to the provisions of chapter 9 of Title 5 of the United States Code.

URBAN MASS TRANSPORTATION

SECTION 1. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Secretary of Transportation:

(1) The functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under the Urban Mass Transportation Act of 1964 (78 Stat. 302; 49 U.S.C. 1601–1611), except that there is reserved to the Secretary of Housing and Urban Development (i) the authority to make grants for or undertake such projects or activities under sections 6(a), 9, and 11 of that Act (49 U.S.C. 1605(a); 1607a; 1607c) as primarily concern the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, and (ii) so much of the functions under sections 3, 4, and 5 of the Act (49 U.S.C. 1602—1604) as will enable the Secretary of Housing and Urban Development (A) to advise and assist the Secretary of Transportation in making findings and determinations under clause (1) of section 3(c), the first sentence of section 4(a), and clause (1) of section 5 of the Act, and (B) to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 4(a) of the Act.

(2) Other functions of the Secretary of Housing and Urban Development, and functions of the Department of Housing and Urban Development or of any agency or officer thereof, all to the extent that they are incidental to or necessary for the performance of the functions transferred by section 1(a)(1) of this reorganization plan, including, to such extent, the functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under (i) title II of the Housing Amendments of 1955 (69 Stat. 642; 42 U.S.C. 1491—1497), insofar as functions thereunder involve assistance specifically authorized for mass transportation facilities or equipment, and (ii) title IV of the Housing and Urban Development Act of 1965 (79 Stat. 485; 42 U.S.C. 3071—3074).

(3) The functions of the Department of Housing and Urban Development under section 3(b) of the Act of November 6, 1966 (P.L. 89–774; 80 Stat. 1352; 40 U.S.C. 672(b)).

(b) Any reference in this reorganization plan to any provision of law shall be deemed to include, as may be appropriate, reference there to as amended.

SEC. 2. DELEGATION

The Secretary of Transportation may delegate any of the functions transferred to him by this reorganization plan to such officers and employees of the Department of Transportation as he designates, and may authorize successive redelegations of such functions.

SEC. 3. URBAN MASS TRANSPORTATION ADMINISTRATION

(a) There is hereby established within the Department of Transportation an Urban Mass Transportation Administration.

(b) The Urban Mass Transportation Administration shall be headed by an Urban Mass Transportation Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Administrator shall perform such duties as the Secretary of Transportation shall prescribe and shall report directly to the Secretary.

SEC. 4. INTERIM ADMINISTRATOR

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the executive branch of the government to act as Urban Mass Transportation Administrator until the office of Administrator is for the first time filled pursuant to the provisions of section 3(b) of this reorganization plan or by recess appointment, as the case may be. The person so designated shall be entitled to the compensation attached to the position he regularly holds.

SEC. 5. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Transportation by this reorganization plan as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine shall be transferred from the Department of Housing and Urban Development to the Department of Transportation at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget [now the office of Management and Budget] shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the close of June 30, 1968, or at the time determined under the provisions of section 906(a) of title 5 of the United States Code, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As long as he has lived in cities, man has struggled with the problem of urban transportation. But:

—Never before have these problems affected so many of our citizens.

—Never before has transportation been so important to the development of our urban centers.

—Never before have residents of urban areas faced a clearer choice concerning urban transportation—shall it dominate and restrict enjoyment of all the values of urban living, or shall it be shaped to bring convenience and efficiency to our citizens in urban areas.

How America and its cities solve the transportation problem depends largely on our two newest Federal Departments—the Department of Transportation and the Department of Housing and Urban Development:

—The Department of Housing and Urban Development is responsible for the character of all urban development.

—The Department of Transportation is concerned specifically with all the modes of transportation and their efficient interrelationship.

At present, responsibility for program assistance for urban highways and urban airports, and urban mass transportation is divided between the Department of Transportation and the Department of Housing and Urban Development. As a result:

—Federal coordination of transportation systems assistance is more difficult than it need be.

—Communities which have measured their own needs and developed comprehensive transportation proposals must deal with at least two federal agencies to carry out their programs.

To combine efficiently the facilities and services necessary for our urban centers and to improve transportation within our cities, State and local government agencies should be able to look to a single federal agency for program assistance and support. The large future cost of transportation facilities and services to the Federal Government, to State and local governments, and to the transportation industry makes side investments and efficient transportation systems essential.

An urban transportation system must:

—combine a basic system of efficient, responsive mass transit with all other forms and systems of urban, regional, and inter-city transportation;

—conform to and support balanced urban development.

In this, my second reorganization plan of 1968, I ask the Congress to transfer urban mass transportation programs to the Secretary of Transportation and to establish

an Urban Mass Transportation Administration within the Department of Transportation to strengthen the organizational capacity of the Federal Government to achieve these objectives.

The plan transfers to and unifies in a new Urban Mass Transportation Administration in the Department of Transportation those functions which involve urban mass transportation project assistance and related research and development activities. Because urban research and planning and transportation research and planning are closely related, however, the plan provides that the Department of Housing and Urban Development perform an important role in connection with transportation research and planning insofar as they have significant impact on urban development.

We expect the Department of Transportation to provide leadership in transportation policy and assistance. The Department of Housing and Urban Development will provide leadership in comprehensive planning at the local level that includes transportation planning and relates it to broader urban development objectives.

The transfer of urban mass transportation programs will not diminish the overall responsibilities of the Department of Housing and Urban Development with respect to our cities. Rather, adequate authority is reserved to that Department to enable it to join with the Department of Transportation to assure that urban transportation develops as an integral component of the broader development of growing urban areas.

The new Urban Mass Transportation Administration in the Department of Transportation, working with other elements of the Department, will consolidate and focus our efforts to develop and employ the most modern transportation technology in the solution of the transportation problems of our cities.

The reorganization plan provides for an Administrator at the head of the Administration who would be appointed by the President, by and with the advice and consent of the Senate. The Administrator would report directly to the Secretary of Transportation and take his place in the Department with the heads of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration and the Coast Guard.

I have found, after investigation, that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in sections 901(a) of title 5 of the United States Code.

I have also found that it is necessary to include in the accompanying plan, by reason of these reorganizations, provisions for the appointment and compensation of the new officer specified in section 3(b) of the plan. The rate of compensation fixed for this officer is comparable to those fixed for officers in the Executive Branch of the Government having similar responsibilities.

The reorganizations included in this plan will provide more effective management of transportation programs. It is not feasible to itemize the reduction in expenditures which the plan will achieve, but I have no doubt that this reorganization will preserve and strengthen overall comprehensive planning for developing urban areas while simultaneously insuring more efficient transportation systems for our cities than would otherwise have occurred.

I strongly urge that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 26, 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1609. Labor standards.

(a) Action of Secretary.

The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not approve any such loan or grant without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

(b) Authority of Secretary of Labor.

The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a) of this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267, and section 276c of Title 40.

(c) Interests of employees; protective arrangements; terms and conditions.

It shall be a condition of any assistance under section 1602 of this title that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of this title. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements. (Pub. L. 88–365, § 13, formerly § 10, July 9, 1964, 78 Stat. 307, renumbered and amended Pub. L. 89–562, § 2(a)(1), (b)(2), Sept. 8, 1966, 80 Stat. 715, 716; Pub. L. 90–19, § 20(a), May 25, 1967, 81 Stat. 25.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

1966—Subsec. (c). Pub. L. 89–562, § 2(b)(2), substituted "under section 1602 of this title" for "under this chapter".

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605 (a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the

Secretary of Transportation to make findings and determinations under sections 1602(c)(1), and 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title and in title 40 section 682.

§ 1610. Environmental protection.

(a) It is hereby declared to be the national policy that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets, in the planning, designing, and construction of urban mass transportation projects for which Federal assistance is provided pursuant to section 1602 of this title. In implementing this policy the Secretary shall cooperate and consult with the Secretaries of Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Interior, and with the Council on Environmental Quality with regard to each project that may have a substantial impact on the environment.

(b) The Secretary shall review each transcript of hearing submitted pursuant to section 1602(d) of this title to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and that the project application includes a detailed statement on—

(1) the environmental impact of the proposed project,

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) alternatives to the proposed project, and

(4) any irreversible and irretrievable impact on the environment which may be involved in the proposed project should it be implemented.

(c) The Secretary shall not approve any application for assistance under section 1602 of this title unless he finds in writing, after a full and complete review of the application and of any hearings held before the State or local public agency pursuant to section 1602(d) of this title, that (1) adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration has been given to the preservation and enhancement of the environment and to the interest of the community in which the project is located, and (2) either no adverse environmental effect is likely to result from such project, or there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which a hearing has not been held before the State or local agency pursuant to section 1602(d) of this title, or in which the Secretary determines that the record of hearings before the State or local public agency is inadequate to permit him to make the findings required under the preceding sentence, he shall conduct hearings, after giving adequate notice to interested persons, on any environmental issues raised by such application. Findings of the Secretary under this subsection shall be made a matter of public record. (Pub. L. 88–365, § 14, formerly § 11, July 9, 1964, 78 Stat. 308, renumbered Pub. L. 89–562, § 2(a)(1), Sept. 8, 1966, 80 Stat. 715, and amended Pub. L. 90–19, § 20(a), May 25, 1967, 81 Stat. 25; Pub. L. 91–453, § 6, Oct. 15, 1970, 84 Stat. 966.)

AMENDMENTS

1970—Pub. L. 91–453 broadened the existing air pollution control requirement that in planning, designing, and constructing mass transportation projects financed under this chapter, special effort be made to preserve the natural beauty of the physical environment and important historical and cultural assets, and required the Secretary, in carrying out this policy, to cooperate and consult with the Secretaries of Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Interior and with the Council on Environmental Quality, with regard to each project that may have a substantial impact on the environment, and to provide a fair opportunity for the presentation of views on the impact of the proposed project on the environment, and to make a finding that no adverse environmental effect is likely to result from the project, or that there is no feasible and prudent alternative to it.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator."

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1611. Limitation on grants within one State.

Grants made under section 1602 of this title (other than for relocation payments in accordance with section 1606(b) of this title) before July 1, 1970, for projects in any one State shall not exceed in the aggregate 12½ per centum of the aggregate amount of grant funds authorized to be appropriated pursuant to section 1603(b) of this title; except that the Secretary may, without regard to such limitation, enter into contracts for grants under section 1602 of this title aggregating not to exceed $12,500,000 (subject to the total authorization provided in section 1603(b) of this title) with local public bodies and agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this section has been obligated. Grants made under section 1602 of this title on or after July 1, 1970, for projects in any one State may not exceed in the aggregate 12½ per centum of the aggregate amount of funds authorized to be obligated under section 1603(c) of this title, except that 15 per centum of the aggregate amount of grant funds authorized to be obligated under section 1603(c) of this title may be used by the Secretary, without regard to this limitation, for grants in States where more

than two-thirds of the maximum amounts permitted under this section has been obligated. In computing State limitations under this section, grants for relocation payments shall be excluded. Any grant made under section 1602 of this title to a local public body or agency in a major metropolitan area which is used in whole or in part to provide or improve urban mass transportation service, pursuant to an interstate compact approved by the Congress, in a neighboring State having within its boundaries population centers within normal commuting distance from such major metropolitan area, shall, for purposes of computing State limitations under this section, be allocated on an equitable basis, in accordance with regulations prescribed by the Secretary, between the State in which such public body or agency is situated and such neighboring State. (Pub. L. 88–365, § 15, formerly § 12, July 9, 1964, 78 Stat. 308, renumbered and amended Pub. L. 89–562, §§ 2(a)(1), 4, Sept. 8, 1966, 80 Stat. 715, 717; Pub. L. 91–453, § 7, Oct. 15, 1970, 84 Stat. 967.)

AMENDMENTS

1970—Pub. L. 91–453 added provision that capital grants made on or after July 1, 1970, under section 1602 of this title, for projects in any one State, may not exceed in the aggregate 12½ percent of the aggregate amount of funds authorized to be obligated under section 1603(c) of this title, except that 15 percent of the aggregate amount of the funds authorized to be obligated under section 1603(c) of this title may be used by the Secretary, without regard to the 12½ percent limitation, for grants in States where more than two-thirds of the funds available under the 12½ percent limitation had been obligated and that in the computation of State limitations, grants for relocation payments were to be excluded, and further provided for an equitable distribution of grants made under section 1602 of this title when the project is in pursuance of a specified interstate compact.

1966—Pub. L. 89–562, § 4, added a proviso authorizing the Secretary, without regard to the 12½ per centum limitation, to enter into contracts for grants under section 1602 of this title aggregating not to exceed $12,500,000 with local public bodies and agencies in states where more than two-thirds of the maximum grants permitted in the respective states had been obligated.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development under this chapter, except the authority to make grants for or undertake projects or activities under sections 1605(a), 1607a, and 1607c of this title as primarily concern the relationship of urban transportation systems to the comprehensive planned development of urban areas or the role of transportation planning in overall urban planning and the functions under sections 1602, 1603, and 1604 of this title required to enable the Secretary of Housing and Urban Development to advise and assist the Secretary of Transportation to make findings and determinations under sections 1602(c)(1), 1603(a) and 1604 of this title and to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 1603(a) of this title, see Reorg. Plan No. 2 of 1968, eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369, set out as a note under section 1608 of this title.

§ 1612. Planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped.

(a) Congressional declaration of policy.

It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this chapter) should contain provisions implementing this policy.

(b) Grants and loans for special projects to meet the needs of elderly and handicapped persons.

In addition to the grants and loans otherwise provided for under this chapter, the Secretary is authorized to make grants or loans for the specific purpose of assisting States and local public bodies and agencies thereof in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons. Grants and loans made under the preceding sentence shall be subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under section 1602(a) of this title, and shall be considered for the purposes of all other laws to have been made under such section. Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 1603(a) of this title, 1½ per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

(c) Financing of research, development and demonstration projects.

Of any amounts made available to finance research, development, and demonstration projects under section 1605 of this title after October 15, 1970, 1½ per centum may be set aside and used exclusively to increase the information and technology which is available to provide improved transportation facilities and services planned and designed to meet the special needs of elderly and handicapped persons.

(d) Definition.

For purposes of this chapter, the term "handicapped person" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. (Pub. L. 88–365, § 16, as added Pub. L. 91–453, § 8, Oct. 15, 1970, 84 Stat. 967.)

Chapter 22.—HIGH-SPEED GROUND TRANSPORTATION

Sec.
1631. Research and development.
1632. Demonstrations.
1633. Limitation of research and development or demonstrations to particular mode of transportation.
1634. Collection and collation of transportation data.
1635. Advisory committee; establishment; composition; appointment; duties.
1636. Protective arrangements for common carrier employees; labor standards.
1637. Authority of Secretary.
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Sec.
1639. Consultation and cooperation with other departments and agencies, institutions and private industry.
1640. Reports and information.
(a) Annual report to President and Congress.
(b) Evaluation report to President and Congress; recommendations.
(c) Information furnished to Congressional committees.
1641. Authorization of appropriations.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 section 322.

§ 1631. Research and development.

Consistent with the objective of promoting a safe, adequate, economical, and efficient national transportation system, the Secretary of Transportation (hereafter in this chapter referred to as the "Secretary") is authorized to undertake research and development in high-speed ground transportation, including, but not limited to, components, such as materials, aerodynamics, vehicle propulsion, vehicle control, communications, and guideways. (Pub. L. 89–220, § 1, Sept. 30, 1965, 79 Stat. 893; Pub. L. 90–423, § 1(a), July 24, 1968, 82 Stat. 424.)

AMENDMENTS

1968—Pub. L. 90–423 substituted "Secretary of Transportation" for "Secretary of Commerce".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1635, 1637 of this title.

§ 1632. Demonstrations.

The Secretary is authorized to contract for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable. (Pub. L. 89–220, § 2, Sept. 30, 1965, 79 Stat. 893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1635, 1636, 1637 of this title.

§ 1633. Limitation of research and development or demonstrations to particular mode of transportation.

Nothing in this chapter shall be deemed to limit research and development carried out under section 1631 of this title or demonstrations contracted for under section 1632 of this title to any particular mode of high-speed ground transportation. (Pub. L. 89–220, § 3, Sept. 30, 1965, 79 Stat. 893.)

§ 1634. Collection and collation of transportation data.

The Secretary is authorized to collect and collate transportation data, statistics, and other information which he determines will contribute to the improvement of the national transportation system. In carrying out this activity, the Secretary shall utilize the data, statistics, and other information available from Federal agencies and other sources of the greatest practicable extent. The data, statistics, and other information collected under this section shall be made available to other Federal agencies and to the public insofar as practicable. (Pub. L. 89–220, § 4, Sept. 30, 1965, 79 Stat. 893.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1642 of this title.

§ 1635. Advisory committee; establishment; composition; appointment; duties.

(a) There is hereby established in the Department of Transportation an advisory committee consisting of seven members who shall be appointed by the Secretary without regard to the civil service laws. The Secretary shall designate one of the members of the Advisory Committee as its Chairman. Members of the Advisory Committee shall be selected from among leading authorities in the field of transportation.

(b) The Advisory Committee shall advise the Secretary with respect to policy matters arising in the administration of this chapter, particularly with respect to research and development carried out under the section 1631 of this title and contracts for demonstrations entered into under section 1632 of this title. (Pub. L. 89–220, § 5, Sept. 30, 1965, 79 Stat. 893; Pub. L. 90–423, § 1(b), July 24, 1968, 82 Stat. 424.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a) of this section, are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–423 substituted "Department of Transportation" for "Department of Commerce".

§ 1636. Protective arrangements for common carrier employees; labor standards.

(a) In carrying out the provisions of section 1632 of this title, the Secretary shall provide fair and equitable arrangements, as determined by the Secretary of Labor, to protect the interests of the employees of any common carrier who are affected by any demonstration carried out under a contract between the Secretary and such carrier under such section. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements, or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment as a result of such demonstration; (4) assurances of priority of reemployment of employees terminated or laid off as a result of such demonstration; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment as the result of such demonstrations which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of this title. Any contract entered into pursuant to

the provisions of section 1632 of this title shall specify the terms and conditions of such protective arrangements.

(b) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained upon the construction work. The Secretary of Labor shall have with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 89–220, § 6, Sept. 30, 1965, 79 Stat. 893.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (b) of this section, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b) of this section, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1637. Authority of Secretary.

In exercising the authority granted in sections 1631 and 1632 of this title, the Secretary may lease, purchase, develop, test, and evaluate new facilities, equipment, techniques, and methods and conduct such other activities as may be necessary, but nothing in this chapter shall be deemed to authorize the Secretary to acquire any interest in any line of railroad. In furtherance of these activities, the Secretary may acquire necessary sites by purchase, lease, or grant and may acquire, construct, repair, or furnish necessary support facilities. In furtherance of a demonstration program, the Secretary may contract for the construction of two suburban rail station, one at Lanham, Maryland, and one at Woodbridge, New Jersey, without acquiring any property interest therein. (Pub. L. 89–220, § 7, Sept. 30, 1965, 79 Stat. 894; Pub. L. 90–423, § 1(c), July 24, 1968, 72 Stat. 424.)

AMENDMENTS

1968—Pub. L. 90–423 added provisions authorizing the Secretary to acquire the necessary sites by purchase, lease, or grant and to acquire, construct, repair, or furnish the necessary support facilities, and provisions authorizing the construction of two suburban rail stations, without acquiring any property interest therein, in furtherance of a demonstration program.

§ 1638. Contracts with public or private agencies; appointment of personnel; procurement of services.

(a) (1) In exercising the authority granted under this chapter, the Secretary is authorized to enter into agreements and to contract with public or private agencies, institutions, organizations, corporations, and individuals, without regard to section 529 of Title 31 and section 5 of Title 41.

(2) To the maximum extent practicable, the private agencies, institutions, organizations, corporations, and individuals with which the Secretary enters into such agreements or contracts to carry out research and development under this chapter shall be geographically distributed throughout the United States.

(3) Each agreement or contract entered into under this chapter under other than competitive bidding procedures, as determined by the Secretary, shall provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, may, for the purpose of audit and examination, have access to any books, documents, papers, and records of the parties to such agreement or contract which are pertinent to the operations or activities under such agreement or contract.

(b) The Secretary is authorized to appoint, subject to the civil service laws and regulations, such personnel as may be necessary to enable him to carry out efficiently his functions and responsibilities under this chapter. The Secretary is further authorized to procure services as authorized by section 55a of Title 5, but at rates for individuals not to exceed $100 per diem, unless otherwise specified in an appropriation Act. (Pub. L. 89–220, § 8, Sept. 30, 1965, 79 Stat. 894.)

CODIFICATION

The provisions of section 55a of title 5, referred to in this section, have been incorporated in revised title 5, section 3109(b).

§ 1639. Consultation and cooperation with other departments and agencies, institutions and private industry.

In exercising the authority granted under this chapter, the Secretary shall consult and cooperate, as he deems appropriate, with the Secretary of Housing and Urban Development and other departments and agencies, Federal, State, and local. The Secretary shall further consult and cooperate, as he deems appropriate, with institutions and private industry. (Pub. L. 89–220, § 9, Sept. 30, 1965, 79 Stat. 895; Pub. L. 90–423, § 1(d), July 24, 1968, 82 Stat. 424.)

AMENDMENTS

1968—Pub. L. 90–423 substituted "Secretary of Housing and Urban Development" for "Administrator of the Housing and Home Finance Agency".

§ 1640. Reports and information.

(a) Annual report to President and Congress.

The Secretary shall report to the President and the Congress not less often than annually with respect to activities carried out under this chapter.

(b) Evaluation report to President and Congress; recommendations.

The Secretary shall report to the President and the Congress the results of his evaluation of the research and development program and the demonstration program authorized by this chapter, and shall make recommendations to the President and the Congress with respect to such future action as may be appropriate in the light of these results and their relationship to other modes of transportation in attaining the objective of promoting a safe, adequate, economical, and efficient national transportation system.

(c) Information furnished to Congressional committees.

The Secretary shall, if requested by any appropriate committee of the Senate or House of Representatives, furnish such committee with information concerning activities carried out under this chapter and information obtained from research and development carried out with funds appropriated pursuant to this chapter. (Pub. L. 89-220, § 10, Sept. 30, 1965, 79 Stat. 895.)

§ 1641. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter, but not to exceed $20,000,000 for the fiscal year ending June 30, 1966; $35,000,000 for the fiscal year ending June 30, 1967; $35,000,000 for the fiscal year ending June 30, 1968; $16,200,000 for the fiscal year ending June 30, 1969; $21,200,000 for the fiscal year ending June 30, 1970; and $21,700,000 for the fiscal year ending June 30, 1971. Such sums shall remain available until expended. (Pub. L. 89-220, § 11, Sept. 30, 1965, 79 Stat. 895; Pub. L. 90-423, § 1(e), July 24, 1968, 82 Stat. 424; Pub. L. 91-444, § 1(a), Oct. 13, 1970, 84 Stat. 915.)

AMENDMENTS

1970—Pub. L. 91-444 authorized appropriation of $21,700,000 for the fiscal year ending June 30, 1971.

1968—Pub. L. 90-423 authorized appropriations of $16,200,000 and $21,200,000 for the fiscal years ending June 30, 1969, and June 30, 1970, respectively.

§ 1642. Termination date.

Except for section 1634 of this title, this chapter shall terminate on June 30, 1972. The termination of this chapter shall not affect the disbursement of funds under, or the carrying out of, any contract commitment, or other obligation entered into pursuant to this chapter prior to such date of termination. (Pub. L. 89-220, § 12, Sept. 30, 1965, 79 Stat. 895; Pub. L. 90-423, § 1(f), July 24, 1968, 82 Stat. 424; Pub. L. 91-444, § 1(b), Oct. 13, 1970, 84 Stat. 915.)

AMENDMENTS

1970—Pub. L. 91-444 extended termination date of chapter from June 30, 1971, to June 30, 1972.

1968—Pub. L. 90-423 extended termination date of chapter from June 30, 1969 to June 30, 1971.

Chapter 23.—DEPARTMENT OF TRANSPORTATION

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This chapter is referred to in section 1431 of this title.

§ 1651. Congressional declaration of purpose.

(a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

(b)(1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. (Pub. L. 89-670, § 2, Oct. 15, 1966, 80 Stat. 931.)

EFFECTIVE DATE

Section 15 of Pub. L. 89-670 provided that:

"(a) This Act [see Short Title note under this section] shall take effect ninety days after the Secretary first takes office, or on such prior date after enactment of this Act [Oct. 15, 1966] as the President shall prescribe and publish in the Federal Register.

"(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act [Oct. 15, 1966]. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act."

See Ex. Ord. No. 11340, May 30, 1967, 32 F.R. 5453, set out as a note under this section.

SHORT TITLE

Section 1 of Pub. L. 89-670 provided: "That this Act [enacting this chapter, amending section 19 of Title 3, The President, sections 101, 5312, 5314, 5315, 5316 and 5317 of Title 5, Government Organization and Employees, section 801 of Title 10, Armed Forces, section 1404 of Title 15, Commerce and Trade, section 1020 of Title 18, Crimes and Criminal Procedure, section 401 note of Title 23, Highways, section 213(b)(1) of Title 29, Labor, sections 981 and 1102 of Title 33, Navigation and Navigable Waters, sections 201 and 206 of Appendix to Title 40, Public Buildings, Property, and Works, sections 312 and 1376 of Title 49, Transportation, and section 123 of Title 50, War and National Defense, and enacting material set out as notes under this section, section 101 of Title 5, Government Organization and Employees, and section 981 of Title 33, Navigation and Navigable Waters] may be cited as the 'Department of Transportation Act'."

SAVINGS PROVISIONS; CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.; PENDING PROCEEDINGS; STATUTORY REFERENCES TO TRANSFERRED OFFICES OR OFFICERS DEEMED REFERENCES TO TRANSFEREES

Section 12 of Pub. L. 89-670 provided that:

"(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

"(1) which have been issued, made, granted, or allowed to become effective—

"(A) under any provision of law amended by this Act [see Short Title note under this section], or

"(B) in the exercise of duties, powers, or functions which are transferred under this Act,

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction, and

"(2) which are in effect at the time this Act takes effect [see Effective Date note under this section],

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), by any court of competent jurisdiction, or by operation of law.

"(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency (or component thereof), functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the department or agency before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), by a court of competent jurisdiction, or by operation of law.

"(c)(1) Except as provided in paragraph (2)—

"(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

"(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceedings commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

"(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

"(A) such department or agency is transferred to the Secretary, or

"(B) any function of such department, agency, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the department, agency, or officer which was a party to the suit prior to the effective date of this Act).

"(d) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the officer or agency in which this Act vests such function after such transfer."

SUBMISSION OF PROPOSED CODIFICATION OF ALL LAWS TRANSFERRED TO OR VESTED IN SECRETARY OF TRANSPORTATION

Section 14 of Pub. L. 89-670 provided that: "The Secretary is directed to submit to the Congress within two years from the effective date of this Act [see Effective Date note under this section], a proposed codification of all laws that contain the powers, duties, and functions transferred to or vested in the Secretary or the Department by this Act."

EX. ORD. NO. 11340. EFFECTIVE DATE

Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, provided: By virtue of the authority vested in me as President of the United States by Section 15 of the Department of Transportation Act (Public Law 89-670, approved October 15, 1966; 80 Stat. 950) [set out as a note under this section] April 1, 1967, is hereby prescribed as the date on which the Department of Transportation Act [this chapter] shall take effect.

LYNDON B. JOHNSON.

§ 1652. Establishment of Department.

(a) Designation and appointment of Secretary of Transportation.

There is hereby established at the seat of government an executive department to be known as the Department of Transportation (hereafter referred to in this chapter as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereafter referred to in this chapter as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Under Secretary; appointment; functions, powers, and duties.

There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(c) Assistant Secretaries; General Counsel; appointment; functions, powers, and duties.

There shall be in the Department four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(d) Assistant Secretary for Administration; appointment; functions, powers, and duties.

There shall be in the Department an Assistant Secretary for Administration, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(e) Federal Highway Administration; Federal Railroad Administration; Federal Aviation Administration; establishment; Administrators and Deputy Federal Aviation Administrator; appointment, functions, powers and duties; transfer of functions.

(1) There is hereby established within the Department a Federal Highway Administration; a Federal Railroad Administration; and a Federal Aviation Administration. Each of these components shall be headed by an Administrator, and in the case of the Federal Aviation Administration there shall also be a Deputy Administrator. The Administrators and the Deputy Federal Aviation Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The qualifications of the Administrator of the Federal Aviation Agency specified in section 1341(b) of this title, and the qualifications and status of the Deputy Administrator specified in section 1342(b) of this title shall apply, respectively, to the Administrator and Deputy Administrator of the Federal Aviation Administration. However, nothing in this chapter shall be construed to preclude the appointment of the present Administrator of the Federal Aviation Agency as Administrator of the Federal Aviation Administration in accordance with the provisions of the Act of June 22, 1965, as amended (79 Stat. 171).

(3) In addition to such functions, powers, and duties as are specified in this chapter to be carried out by the Administrators, the Administrators and the Commandant of the Coast Guard shall carry out such additional functions, powers, and duties as the Secretary may prescribe. The Administrators and the Commandant of the Coast Guard shall report directly to the Secretary.

(4) The functions, powers, and duties specified in this chapter to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan submitted pursuant to provisions of chapter 9 of Title 5 or by statute.

(f) National Traffic Safety Bureau; National Highway Safety Bureau; establishment; appointment of Directors; transfer and continuation of office of Federal Highway Administrator under title of Director of Public Roads.

(1) The Secretary shall carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through a National Traffic Safety Bureau (hereafter referred to in this paragraph as "'Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 shall apply.

(2) The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (including chapter 4 of Title 23) through a National Highway Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. All other provisions of the Highway Safety Act of 1966 shall apply.

(3) The President is authorized, as provided in section 201 of the Highway Safety Act of 1966, to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

(4) The Office of Federal Highway Administrator, created by section 303 of Title 23, is hereby transferred to and continued within the Department under the title Director of Public Roads. The Director shall be the operating head of the Bureau of Public Roads, or any other agency created within the Department to carry out the primary functions carried out immediately before the effective date of this Act by the Bureau of Public Roads. (Pub. L. 89–670, § 3, Oct. 15, 1966, 80 Stat. 931; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 224.)

REFERENCES IN TEXT

The Act of June 22, 1965, as amended (79 Stat. 171), referred to in subsec. (e)(2), is set out as a note under section 1341 of this title.

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (f)(1), is Pub. L. 89–563, Sept. 9, 1966, 80 Stat. 718, and is classified to chapter 38 of Title 15, Commerce and Trade.

The Highway Safety Act of 1966, referred to in subsec. (f)(2), is Pub. L. 89–564, Sept. 9, 1966, 80 Stat. 731, and is classified principally to chapter 4 of Title 23, Highways.

Level V of the Executive Schedule, referred to in subsec. (f) (1), (2), is set out in section 5316 of Title 5, Government Organization and Employees.

Section 201 of the Highway Safety Act of 1966, referred to in subsec. (f)(3), is set out as a note under section 401 of Title 23, Highways.

The effective date of this Act, referred to in subsec. (f)(4), means the effective date of Pub. L. 89–670. See Effective Date Note under section 1651 of this title.

AMENDMENTS

1967—Subsec. (f). Pub. L. 90–83 struck out provisions covering the compensation at level V of the Executive Schedule for the Director of the National Traffic Safety Bureau and the Director of the National Highway Safety Bureau.

EFFECTIVE DATE: INTERIM APPOINTMENTS

Provisions of this section effective April 1, 1967, see section 15 of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

NATIONAL HIGHWAY SAFETY BUREAU

Administration of National Traffic and Motor Vehicle Safety Act through the Bureau and its Director, see Ex. Ord. No. 11357, June 6, 1967, 32 F.R. 8225, set out as a note under section 1392 of Title 15, Commerce and Trade.

EX. ORD. NO. 11382. AMENDMENT OF EXECUTIVE ORDERS RELATING TO FUNCTIONS OF TRANSPORTATION DEPARTMENT

Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, as amended by Ex. Ord. No. 11428, Sept. 5, 1968, 32 F.R. 12719, provided:

WHEREAS the Department of Transportation Act (Public Law 89–670, 80 Stat. 931) [this chapter], hereinafter referred to as the Act, established the Department of Transportation in the Executive Branch to be headed by a Secretary of Transportation and to be composed of the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Coast Guard, the Saint Lawrence Seaway Development Corporation and the National Transportation Safety Board; and

WHEREAS the Act vested in the Secretary of Transportation new major responsibilities in the field of transportation, including that of exercising leadership under the

direction of the President in transportation matters, and also transferred to the Secretary of Transportation and to certain instrumentalities of the Department of Transportation many functions involving transportation; and

WHEREAS, the transportation functions established or transferred by the Act involve additional activities which are currently assigned by Executive orders and other Executive documents to officers and agencies from whom the related statutory functions have been transferred by the Act; and

WHEREAS, it is appropriate and desirable with the establishment of the Department of Transportation that certain authority and duties concerned with transportation be assigned to the Secretary of Transportation or to officers and agencies under his jurisdiction:

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and by the laws cited as authority for the Executive orders amended below, and as President of the United States, it is ordered as follows:

SECTION 1. *Classified information.* (a) Executive Order No. 10501 of November 5, 1953, as amended, is further amended by—

(1) inserting "Department of Transportation" in the list of departments and agencies in subsection (a) of section 2 thereof after "Department of Labor" and

(2) deleting "Federal Aviation Agency" from that list. The Department of Transportation shall be deemed to have had authority for classification of information and material from April 1, 1967.

(b) Executive Order No. 10865 of February 20, 1960, as amended, is further amended by striking out the words "Administrator of the Federal Aviation Agency", "Deputy Administrator of the Federal Aviation Agency", and "Federal Aviation Agency" and inserting in place thereof "Secretary of Transportation", "Under Secretary of Transportation", and "Department of Transportation", respectively.

SEC. 2. Federal Airport Act. Executive Order No. 10536 of June 9, 1954, is amended by striking out the words "Administrator of Civil Aeronautics" and inserting in place thereof the words "Secretary of Transportation".

SEC. 3. *Life saving medals.* The regulations prescribed by section 1 of Executive Order No. 10765 of April 24, 1958 (being §§ 9.1 *et seq.* of Chapter I of Title 49 of the Code of Federal Regulations) are amended by—

(1) striking out the words "Interstate Commerce Commission" and "Commission" in §§ 9.1 and 9.3 and inserting in place thereof "Department of Transportation" and "Department", respectively, and

(2) striking out all of §§ 9.4, 9.5, and 9.6 and inserting in place thereof the following:

"§ 9.4 *Review of evidence; recommendations.* Applications for medals, together with all affidavits, testimony, and other evidence received in connection therewith, and the records developed in connection with investigations initiated by the Department of Transportation, shall be referred to a committee of three Department officials designated by the Secretary of Transportation. One of such officials shall be directly concerned with railroad safety, and another with motor-carrier safety. The committee shall carefully consider each application or record, and after thoroughly weighing the evidence shall prepare an abstract or brief covering the case and forward it, together with the committee's recommendation, to the Secretary of Transportation for his consideration.

"§ 9.5 *Award of Medals.* Upon approval by the Secretary of Transportation of the committee's recommendation in any case, the Secretary shall make the award of the medal in the name and on behalf of the President.

"§ 9.6 *Adoption and revision of designs.* The Secretary of Transportation is authorized to adopt and revise the existing designs for the medal, rosette, and ribbon provided for by the Act."

SEC. 4. *Contracting authority.* Executive Order No. 10789 of November 14, 1958, as amended, is further amended by inserting the words "Department of Transportation" in the list of departments and agencies in section 21 thereof after the words "Department of Commerce" and striking out of that list the words "Federal Aviation Agency".

SEC. 5. *Assignment of claims.* (a) Executive Order No. 10840 of September 30, 1959, is amended by striking out the words "Federal Aviation Agency" in the text and heading and inserting in place thereof the words "Federal Aviation Administration".

(b) The utilization by the Federal Aviation Administration of the authority made available to it by section 5(a) of this order shall be subject to direction and control by the Secretary of Transportation.

SEC. 6. *Extra-territorial jurisdiction.* (a) Executive Order No. 10854 of November 27, 1959 (as limited by section 7 of Executive Order No. 11326 of February 13, 1967), is amended by striking out the words "Administrator of the Federal Aviation Agency" and "Administrator" and inserting in place thereof the words "Secretary of Transportation".

(b) Executive Order No. 11326 of February 13, 1967, is hereby amended by striking out the words "Administrator of the Federal Aviation Agency" and inserting in place thereof the words "Secretary of Transportation".

SEC. 7. *International aviation.* (a) The Presidential Memorandum of August 11, 1960, on the subject of Executive Order No. 10883 of the same date, is amended by—

(1) striking out the words "Administrator of the Federal Aviation Agency" and "Administrator" and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out the words "Federal Aviation Agency" and inserting in place thereof the words "Department of Transportation" and

(3) striking out the second sentence of the third paragraph of the memorandum.

(b) The Presidential Letter of June 22, 1963, assigning responsibility to the Secretary of State regarding international aviation policy, is amended by—

(1) striking out the words "Federal Aviation Agency" in the second paragraph and inserting in place thereof the words "Department of Transportation" and

(2) striking out the last two sentences of the third paragraph and inserting in place thereof the following: "The other members will be the Secretary of Defense, the Secretary of Commerce, and the Secretary of Transportation, or their respective representatives, the Chairman of the Civil Aeronautics Board, and the Administrator of the Agency for International Development. The Secretary of Transportation will serve as vice chairman."

SEC. 8. *Interdepartmental Highway Safety Board.* [Deleted by Ex. Ord. No. 11515, Mar. 13, 1970, 35 F.R. 4543].

SEC. 9. *Allowances and benefits.* Executive Order No. 11137 of January 7, 1964, is amended by—

(1) striking out the words "Secretary of the Treasury" and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out all of section 101 and inserting in place thereof the following:

"SECTION 101. The term 'employee', as defined in 5 U.S.C. 5921(3), is hereby further defined as including civilian employees, compensated from non-appropriated funds, of the instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c)." and

(3) striking out the words "Section 203 of the Overseas Differentials and Allowances Act (5 U.S.C. 3035)" in section 102 and inserting in place thereof the words "5 U.S.C. 5922(c)" and

(4) striking out the words "Section 1 of the Act of June 19, 1952, ch. 444 (5 U.S.C. 150k)" in section 201 and inserting in place thereof the words "5 U.S.C. 2105(c)" and

(5) striking out the words "Section 111(6) of the Overseas Differentials and Allowances Act (5 U.S.C. 3032 (6)" in section 202(b) and inserting in place thereof the words "5 U.S.C. 5921(6)".

SEC. 10. *Supersonic Transport.* [Revoked by Ex. Ord. No. 11428, Sept. 5, 1968, 33 F.R. 12719.]

SEC. 11. *Wartime status.* Executive Order No. 11161 of July 7, 1964, is hereby amended by—

(1) striking out the words "Administrator of the Federal Aviation Agency" the first time they appear in section 1 and the word "Administrator" in section 2 and inserting in place thereof the words "Secretary of Transportation" and

(2) striking out the words "Administrator of the Federal Aviation Agency" the other times they appear and inserting in place thereof the words "Federal Aviation Administrator" and

(3) striking out the words "Federal Aviation Agency" in the text and heading and inserting in place thereof the words "Federal Aviation Administration" and

(4) striking out the word "Secretary" in section 2 and inserting in place thereof the words "Secretary of Defense".

SEC. 12. *Alaska Development Committees.* Executive Order No. 11182 of October 2, 1964, is amended by striking out the words "Administrator of the Federal Aviation Agency" and inserting the words "Secretary of Transportation".

SEC. 13. *Coast Guard.* The Executive Orders listed below are further amended by striking out the words "Secretary of the Treasury" and inserting in place thereof the words "Secretary of Transportation":

(1) Executive Order No. 10448 of April 22, 1953, as amended

(2) Executive Order No. 10631 of August 17, 1955

(3) Executive Order No. 10977 of December 4, 1961

(4) Executive Order No. 11016 of April 25, 1962

(5) Executive Order No. 11046 of August 24, 1962

(6) Executive Order No. 11079 of January 25, 1963

(7) Executive Order No. 11157 of June 22, 1964, as amended

(8) Executive Order No. 11190 of December 29, 1964

(9) Executive Order No. 11231 of July 8, 1965

(10) Executive Order No. 11239 of July 31, 1965

SEC. 14. *Redelegation of authority.* Unless prohibited by law or otherwise specified in the applicable order, and in addition to any other applicable authority to delegate and redelegate, the Secretary of Transportation and the Federal Aviation Administrator may redelegate and authorize successive redelegations of any authority conferred in this order or the orders amended by this order.

SEC. 15. *Prior actions.* All orders, determinations, rules, regulations, permits, contracts, agreements, interpretations, rulings, directives, certificates, circulars, policies, licenses, privileges, awards, and other actions relating to any function affected by this order shall remain in effect according to their terms, except for the substitution of the appropriate official by or under the authority of this order, until modified, terminated, superseded, set aside, amended, or revoked by appropriate authority, and nothing in this order shall affect the validity or force of anything done under previous delegations or other assignments of the functions affected by this order.

SEC. 16. *Revocations.* The following are revoked:

(1) Executive Order No. 10534 of June 9, 1954

(2) Executive Order No. 10771 of June 20, 1958

(3) Executive Order No. 10858 of January 13, 1960

(4) Executive Order No. 10968 of October 10, 1961.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1657 of this title; title 23 section 303.

§ 1653. General provisions.

(a) Responsibilities of Secretary of Transportation; leadership, consultation, and coordination.

The Secretary in carrying out the purposes of this chapter shall, among his responsibilities, exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; provide leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their consideration and implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; consult and cooperate with the Secretary of Labor in gathering information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation; promote and undertake research and development relating to transportation, including noise abatement, with particular attention to aircraft noise; consult with the heads of other Federal departments and agencies on the transportation requirements of the Government, including the procurement of transportation or the operation of their own transport services in order to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system; and consult and cooperate with State and local governments, carriers, labor, and other interested parties, including, when appropriate, holding informal public hearings.

(b) Congressional policy standards for transportation; prohibition against adoption of standards or policy without appropriate Congressional action.

(1) In carrying out his duties and responsibilities under this chapter, the Secretary shall be governed by all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended; the national transportation policy of the Interstate Commerce Act, as amended; Title 23, relating to Federal-aid highways; and Title 14, titles LII and LIII of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard.

(2) Nothing in this chapter shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

(A) any transportation policy, or

(B) any investment standards or criteria.

(3) In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter, the Secretary shall give full consideration to the need for operational continuity of the functions transferred, to the need for effectiveness and safety in transportation systems, and to the needs of the national defense.

(c) Judicial review of orders of the Secretary, National Transportation Safety Board, and Administrators.

Orders and actions of the Secretary or the National Transportation Safety Board in the exercise of functions, powers, and duties transferred under this chapter, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this chapter, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such functions by the Secretary, the Administrators, or the National Transportation Safety Board.

(d) Carryover of authority to Secretary, Administrators, and National Transportation Safety Board from departments and agencies formerly exercising functions and duties.

In the exercise of the functions, powers, and duties transferred under this chapter, the Secretary, the Administrators, and the National Transportation

Safety Board shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

(e) Safety record of applicants seeking operating authority from Interstate Commerce Commission.

It shall be the duty of the Secretary—

(1) to promptly investigate the safety compliance records in the Department of each applicant seeking operating authority from the Interstate Commerce Commission (referred to in this subsection as the "Commission") and to report his findings to the Commission;

(2) when the safety record of an applicant for permanent operating authority, or for approval of a proposed transaction involving transfer of operating authority, fails to satisfy the Secretary, to intervene and present evidence of such applicant's fitness in Commission proceedings;

(3) to furnish promptly upon request of the Commission a statement regarding the safety record of any applicant seeking temporary operating authority from the Commission; and

(4) (A) to furnish upon request of the Commission a complete report of the safety compliance of any carrier, (B) to have made such additional inspections or safety compliance surveys which the Commission deems necessary or desirable in order to process an application or to determine the fitness of a carrier, and (C) if the Commission so requests, to intervene and present evidence in any proceeding in which a determination of fitness is required.

(f) Maintenance and enhancement of natural beauty of land traversed by transportation lines.

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After August 23, 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significane as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(g) Consultation with Secretary of Housing and Urban Development; annual report to the President for submission to Congress.

The Secretary and the Secretary of Housing and Urban Development shall consult and exchange information regarding their respective transportation policies and activities; carry on joint planning, research and other activities; and coordinate assistance for local transportation projects. They shall jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas. They shall, within one year after the effective date of this Act, and annually thereafter, report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable. The Secretary and the Secretary of Housing and Urban Development shall study and report within one year after the effective date of this Act to the President and the Congress on the logical and efficient organization and location of urban mass transportation functions in the Executive Branch. (Pub. L. 89–670, § 4, Oct. 15, 1966, 80 Stat. 933; Pub. L. 90–495, § 18(b), Aug. 23, 1968, 82 Stat. 824.)

REFERENCES IN TEXT

The Federal Aviation Act of 1958, as amended, referred to in subsec. (b)(1), is classified principally to section 1301 et seq. of this title.

The national transportation policy of the Interstate Commerce Act, referred to in subsec. (b)(1), is set out in provisions preceding sections 1, 301, 901, and 1001 of this title.

Titles LII and LIII of the Revised Statutes, referred to in subsec. (b)(1), relating to the United States Coast Guard, are classified to chapters 2A, 7, 11, 14, 15, and 18 of Title 46, Shipping.

The Act of April 25, 1940, as amended, referred to in subsec. (b)(1), is classified to sections 526–526u of Title 46, Shipping.

The Act of September 2, 1958, as amended, referred to in subsec. (b)(1), is classified to sections 527–527h of Title 46, Shipping.

The effective date of this Act, referred to in subsecs. (f), (g), means the effective date of Pub. L. 89–670 See Effective Date Note under section 1651 of this title.

AMENDMENTS

1968—Subsec. (f). Pub. L. 90–495 amended subsection by inserting reference to enumerated lands "of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 502 of Title 23, Highways.

EFFECTIVE DATE

Provisions of this section effective April 1, 1967, see section 15(a) of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

AUTOMOBILE INSURANCE INVESTIGATION

Congress, by joint resolution, Pub. L. 90–313, May 22, 1968, 82 Stat. 126, authorized and directed the Secretary of Transportation, in cooperation with those other Federal agencies which possess relevant competencies, to conduct a comprehensive study and investigation of all relevant aspects of the existing motor vehicle accident compensation system, directed the President to appoint an Interagency Advisory Committee on Compensation for Motor Vehicle Accident Losses consisting of the Secretary as Chairman and one representative each of the Departments

of Commerce, Justice, Labor, Health, Education, and Welfare, and Housing and Urban Development, the Federal Trade Commission, the Interstate Commerce Commission, and the Securities and Exchange Commission, and such other Federal agencies as would be designated by the President to advise the Secretary on the preparation for and the conduct of the study, authorized the Secretary, or on the authorization of the Secretary, any officer or employee of the Department of Transportation, to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deemed advisable, directed the Secretary to submit to the President and to the Congress interim reports from time to time and a final report not later than twenty-four months after May 22, 1968, with such final report to contain a detailed statement of the findings, conclusions, and recommendations of the Secretary, and such proposed legislation or other action as the Secretary might consider necessary to carry out his recommendations, and directed that the authority of the Secretary under such joint resolution terminate ninety days after the submission of his final report.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Transportation, see Parts 1, 13, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under sections 2292 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1656 of this title.

§ 1654. National Transportation Safety Board.

(a) Establishment.

There is hereby established within the Department a National Transportation Safety Board (referred to hereafter in this chapter as "Board").

(b) Functions, powers, and duties of Board.

There are hereby transferred to, and it shall be the duty of the Board to exercise, the functions, section 1655 of this title and section 8 of this Act with regard to—

(1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents; and

(2) reviewing on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary or by an Administrator.

(c) Aircraft accident investigations.

The Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary by section 1655(d) of this title.

(d) Transportation safety; investigation of transportation accidents; recommendations.

The Board is further authorized to—

(1) make such recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety;

(2) conduct special studies on matters pertaining to safety in transportation and the prevention of accidents;

(3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the circumstances of the accident involved;

(4) initiate on its own motion or conduct rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate;

(5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations;

(6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate;

(7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or Administrators in such cases as it deems appropriate; and

(8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

(e) Publication of reports, orders, decisions, rules, and regulations.

Except as otherwise provided by statute, the Board shall make public all reports, orders, decisions, rules, and regulations issued pursuant to subsections (b)(1) and (b)(2) of this section, and the Board shall also make public—

(1) every recommendation made to the Secretary or an Administrator;

(2) every special study conducted; and

(3) every action of the Board requesting the Secretary or an Administrator to take action,

pursuant to subsection (d)(1), (2), (3), (5), (6), or (8) of this section.

(f) Independent status of Board.

In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(g) Annual report and recommendations to Congress.

The Board shall report to the Congress annually on the conduct of its functions under this chapter and the effectiveness of accident investigations in the Department, together with such recommendations for legislation as it may deem appropriate.

(h) Membership of Board; appointment and political affiliation of members; fitness; removal for inefficiency, neglect of duty, or malfeasance in office.

The Board shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. Members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers, and duties vested in and imposed upon the Board, and may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(i) Term of office of members; filling of vacancies.

Members of the Board shall be appointed for terms of five years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed

shall be appointed only for the remainder of such term, and (2) the five members first appointed shall serve for terms (designated by the President at the time of appointment) ending on the last day of the first, second, third, fourth, and fifth calendar years beginning after 1966. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(j) Designation of Chairman and Vice Chairman; administrative authority; three members required for quorum.

The President shall designate from time to time one of the members of the Board as Chairman and one of the members as Vice Chairman, who shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman. The Chairman shall be the chief executive and administrative officer of the Board and shall exercise the responsibility of the Board with respect to (1) the appointment and supervision of personnel employed by the Board; (2) the distribution of business among the Board's personnel; and (3) the use and expenditure of funds. In executing and administering the functions of the Board on its behalf, the Chairman shall be governed by the general policies of the Board and by its decisions, findings, and determinations. Three of the members shall constitute a quorum of the Board.

(k) Rules and regulations.

The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

(*l*) Conduct of hearings; issuance of subpenas; oaths; witnesses; reception of evidence.

In carrying out its functions, the Board (or, upon the authorization of the Board, any member thereof or any hearing examiner assigned to or employed by the Board) shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

(m) Delegation of functions.

The Board may delegate to any officer or official of the Board, or, with the approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate, except that—

(1) with respect to aviation, the proviso in section 1441(g) of this title shall apply to the Secretary, the Federal Aviation Administrator and their representatives, and

(2) the Board shall not delegate the appellate or determination of probable cause functions transferred to it by section 1655(d) of this title.

(n) Employment of investigators, attorneys, hearing examiners, and other employees.

Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix compensation of such officers and employees, including investigators, attorneys and hearing examiners, as shall be necessary to carry out its powers and duties under this chapter.

(*o*) Use of services, equipment, personnel, and facilities of other agencies; use of state facilities.

The Board is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department and such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board. The Board is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies. (Pub. L. 89–670, § 5, Oct. 15, 1966, 80 Stat. 935.)

REFERENCES IN TEXT

Section 8 of this Act, referred to in subsec. (b), is section 8 of the Department of Transportation Act, Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which enacted this chapter. Section 8 of that Act amended sections in this title and Titles 15, 23, 29, 33, 40 App. and 50. For classification of section 8, see Tables Volume.

EFFECTIVE DATE: INTERIM APPOINTMENTS

Provisions of this section effective April 1, 1967, see section 15 of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar. 20, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

§ 1655. Transfer of functions.

(a) Powers and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce relating to highways, ground transportation generally, aircraft, pilotage, and traffic and highway safety generally.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23.

(B) The Federal-Aid Highway Act of 1966.

(C) The Federal-Aid Highway Act of 1962, as amended.

(D) The Act of July 14, 1960, as amended.

(E) The Federal-Aid Highway Act of 1954, as amended.

(F) The Act of September 26, 1961, as amended.

(G) The Highway Revenue Act of 1956, as amended.

(H) The Highway Beautification Act of 1965, as amended.

(I) The Alaska Omnibus Act, as amended.

(J) The Joint Resolution of August 28, 1965, as amended.

(K) Section 525(c) of Title 33.

(L) The Act of April 27, 1962, as amended.

(M) Reorganization Plan No. 7 of 1949.

(2) the following laws and provisions of law relating generally to ground transportation:

(A) The Act of September 30, 1965, as amended.

(B) The Urban Mass Transportation Act of 1964, as amended.

(3) the following laws and provisions of law relating generally to aircraft:

(A) The Act of September 7, 1957, as amended.

(B) Section 1380 of this title.

(C) Title XIII of the Federal Aviation Act of 1958, as amended.

(4) the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended.

(5) the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended.

(6) the following laws relating generally to traffic and highway safety:

(A) The National Traffic and Motor Vehicle Safety Act of 1966.

(B) The Highway Safety Act of 1966.

(b) Coast Guard; functions of the Secretary of the Treasury and other offices and officers of the Department of the Treasury relating to the Coast Guard.

(1) The Coast Guard is hereby transferred to the Department, and there are hereby transferred to and vested in the Secretary all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury.

(2) Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of Title 14.

(3) Notwithstanding any other provision of this chapter, the functions, powers, and duties of the General Counsel of the Department of the Treasury set out in chapter 47 of Title 10 (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

(c) Federal Aviation Agency; functions, powers, and duties of Administrator and other offices and officers.

(1) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft: *Provided, however*, That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this chapter shall affect the power of the President under section 1343(c) of this title to transfer, to the Department of Defense in the event of war, any functions transferred by this chapter from the Federal Aviation Agency.

(d) Civil Aeronautics Board; chairman, members, officers, and offices; transfer to National Transportation Safety Board.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, members, officers, and offices thereof under titles VI and VII of the Federal Aviation Act of 1958, as amended: *Provided, however*, That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the courts.

(e) Interstate Commerce Commission; functions, powers, and duties relating to safety appliances and equipment on railroad engines and cars, protection of employees and travelers, hours of service, medals for heroism, explosives and other dangerous articles, standard time zones and daylight saving time; safety of operation and equipment.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

(1) the following laws relating generally to safety appliances and equipment on railroad engines and cars, and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended.

(B) The Act of March 2, 1903, as amended.

(C) The Act of April 14, 1910, as amended.

(D) The Act of May 30, 1908, as amended.

(E) The Act of February 17, 1911, as amended.

(F) The Act of March 4, 1915, as amended.

(G) Reorganization Plan No. 3 of 1965.

(H) Joint Resolution of June 30, 1906, as amended.

(I) The Act of May 27, 1908, as amended.

(J) The Act of March 4, 1909, as amended.

(K) The Act of May 6, 1910, as amended.

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended.

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended.

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831–835 of Title 18.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended.

(B) The Act of March 4, 1921, as amended.

(C) The Uniform Time Act of 1966, as amended.

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) relating generally to safety appliances methods and systems: Section 26 of this title.

(B) relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 325 of this title.

(C) relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment: Sections 304(a) (1) and (2), of this title, to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment; and sections 304(a) (3), (3a), and (5) of this title.

(D) to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 321(a), 321(c), and 324 of this title.

(f) Retention by Interstate Commerce Commission of powers and functions not expressly transferred; railroad, pipeline, and motor carrier safety under Federal Railroad and Federal Highway Administrators; review of administrative decisions.

(1) Nothing in subsection (e) of this section shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended (49 U.S.C. 1(6), 306 et seq.), or under any other section of that Act not specifically referred to in subsection (e) of this section.

(2)(A) With respect to any function which is transferred to the Secretary by subsection (e) of this section and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e) of this section.

(B) For purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following provisions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (6) and (7), 204(c), 204(d), 205 (d), 205(f), 220 (except subsection (c) and the proviso of subsection (a) thereof), 222 (except subsections (b)(2) and (b)(3) thereof, and 417(b)(1).

(3)(A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involves notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the National Transportation Safety Board or the courts, as appropriate.

(g) Department of the Army; functions, powers, and duties of the Secretary of the Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of the sea by oil, and location and clearance of bridges and causeways on navigable waters.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended.

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended.

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended.

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended.

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended.

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended.

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended.

(B) Section 503 of the General Bridge Act of 1946, as amended.

(C) Section 17 of the Act of June 10, 1930, as amended.

(D) The Act of June 27, 1930, as amended.

(E) The Act of August 21, 1935, as amended.

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended.

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended.

(B) The Act of March 23, 1906, as amended.

(C) The General Bridge Act of 1946; as amended.

(h) Applicability of administrative procedure and judicial review provisions of Title 5.

The provisions of subchapter II of chapter 5 and of chapter 7 of Title 5, shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this chapter except that notwithstanding this or any other provision of this chapter, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of Title 5, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this chapter.

(i) Alaska Railroad.

The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended, and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963, relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order. (Pub. L. 89–670, § 6, Oct. 15, 1966, 80 Stat. 937.)

REFERENCES IN TEXT

The Federal-Aid Highway Act of 1966, referred to in subsec. (a)(1)(B), is Pub. L. 89–574, Sept. 13, 1966, 80 Stat. 766, and is classified generally to Title 23, Highways.

The Federal-Aid Highway Act of 1962, as amended, referred to in subsec. (a)(1)(C), is Pub. L. 87–866, Oct. 23, 1962, 76 Stat. 1145, and is classified to Title 23, Highways.

The Act of July 14, 1960, as amended, referred to in subsec. (a)(1)(D), is Pub. L. 86–660, 74 Stat. 526, and is set out as a note under section 313 of Title 23, Highways.

The Federal-Aid Highway Act of 1954, as amended, referred to in subsec. (a)(1)(E), is Act May 6, 1954, ch. 181, 68 Stat. 70, and was classified to section 1020 of Title 18, Crimes and Criminal Procedure, and provisions now appearing in Title 23, Highways.

The Act of September 26, 1961, referred to in subsec. (a)(1)(F), was not classified to the Code.

The Highway Revenue Act of 1956, as amended, referred to in subsec. (a)(1)(g), is act June 29, 1956, ch. 462, 70 Stat. 387, which was classified to Title 26, Internal Revenue Code, and provisions set out as notes under sections throughout Title 23, Highways.

The Highway Beautification Act of 1965, as amended, referred to in subsec. (a)(1)(H), is Pub. L. 89–285, Oct. 22, 1965, 79 Stat. 1028, and was classified generally to Title 23, Highways.

The Alaska Omnibus Act, as amended, referred to in subsec. (a)(1)(I), is Pub. L. 86–70, June 25, 1959, 73 Stat. 141, and is set out preceding section 21 of Title 48, Territories and Insular Possessions.

The Joint Resolution of August 28, 1965, as amended, referred to in subsec. (a)(1)(J), is Pub. L. 89–139, Aug. 28, 1965, 79 Stat. 578, and is classified to Title 23, Highways.

The act of April 27, 1962, as amended, referred to in text, is Pub. L. 87–441, Apr. 27, 1962, 76 Stat. 59, which was not classified to the Code.

Reorganization Plan No. 7 of 1949, referred to in subsec. (a)(1)(M), is cited 14 F.R. 5228, 63 Stat. 1070, and is set out in the Appendix to Title 5, Government Organization and Employees.

The act of September 30, 1965, as amended, referred to in subsec. (a)(2)(A), is Pub. L. 89–220, Sept. 30, 1965, 79 Stat. 893, which was classified to chapter 22 of this title.

The Urban Mass Transportation Act of 1964, as amended, referred to in subsec. (a)(2)(B), is Pub. L. 88–365, July 9, 1964, 78 Stat. 302, which was classified to chapter 21 of this title.

The act of September 7, 1957, as amended, referred to in subsec. (a)(3)(A), is Pub. L. 85–307, Sept. 7, 1957, 71 Stat. 629, which is set out as a note under section 1324 of this title.

Title XIII of the Federal Aviation Act of 1958, as amended, referred to in subsec. (a)(3)(C), is classified to section 1531 et seq. of this title.

The Great Lakes Pilotage Act of 1960, as amended, referred to in subsec. (a)(4), is Pub. L. 86–555, June 30, 1960, 74 Stat. 259, which is classified to chapter 10A of Title 46, Shipping.

The act of August 1, 1947, as amended, referred to in subsec. (a)(5), was classified to former section 1161 et seq. of Title 5, Executive Departments and Government Officers and Employees.

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (a)(6)(A), is Pub. L. 89–563, Sept. 9, 1966, 80 Stat. 718, which is classified to section 1381 et seq. of Title 15, Commerce and Trade.

The Highway Safety Act of 1966, referred to in subsec. (a)(6)(B), is Pub. L. 89–564, Sept. 9, 1966, 80 Stat. 731, which is classified principally to chapter 4 of Title 23, Highways.

Sections 103, 302(e), 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended, referred to in subsecs. (c) and (d), are classified respectively to sections 1303, 1343(c), 1347, 1348, 1349, 1350, 1354, 1355, 1501, 1505, and 1511, and section 1421 et seq., 1441 et seq., 1471, et seq., and 1521 et seq. of this title.

The act of March 2, 1893, as amended, referred to in subsec. (e)(1)(A), is classified to section 1 et seq. of Title 45, Railroads.

The act of March 2, 1903, as amended, referred to in subsec. (e)(1)(B), is classified to section 8 et seq. of Title 45, Railroads.

The act of April 14, 1910, as amended, referred to in subsec. (e)(1)(C), is classified to section 11 et seq. of Title 45, Railroads.

The act of May 30, 1908, as amended, referred to in subsec. (e)(1)(D), is classified to section 17 et seq. of Title 45, Railroads.

The act of February 17, 1911, as amended, referred to in subsec. (e)(1)(E), is classified to section 22 et seq. of Title 45, Railroads.

The act of March 4, 1915, referred to in subsec. (e)(1)(F), is classified to section 30 of Title 45, Railroads.

The Reorganization Plan No. 3 of 1965 (79 Stat. 1320), referred to in subsec. (e)(1)(G), is set out in the Appendix to Title 5, Government Organization and Employees.

The Joint Resolution of June 30, 1966, as amended, referred to in subsec. (e)(1)(H), is classified to section 35 of Title 45, Railroads.

The act of May 27, 1908, as amended, referred to in subsec. (e)(1)(I), is classified to section 36 et seq. of Title 45, Railroads.

The act of March 4, 1909, as amended, referred to in subsec. (e)(1)(J), is classified to section 37 of Title 45, Railroads.

The act of May 6, 1910, as amended, referred to in subsec. (e)(1)(K), is classified to section 38 et seq. of Title 45, Railroads.

The Act of March 4, 1907, as amended, referred to in subsec. (e)(2), is classified to section 61 et seq. of Title 45, Railroads.

The act of February 23, 1905, as amended, referred to in subsec. (e)(3), is classified to section 1201 et seq. of this title.

The act of March 19, 1918, as amended, referred to in subsec. (e)(5)(A), is classified to section 261 et seq. of Title 15, Commerce and Trade.

The act of March 4, 1921, as amended, referred to in subsec. (e)(5)(B), is classified to section 265 of Title 15, Commerce and Trade.

The Uniform Time Act of 1966, referred to in subsec. (e)(5)(C), is Pub. L. 89–387, Apr. 13, 1966, 80 Stat. 107, which is classified to section 260 et seq. of Title 15, Commerce and Trade.

Section 25 of the Interstate Commerce Act, referred to in subsec. (e)(6)(A), is classified to section 26 of this title.

Section 226 of the Interstate Commerce Act, referred to in subsec. (e)(6)(B), is classified to section 325 of this title.

Sections 204(a)(1), (2), (3), (3a), (5) of the Interstate Commerce Act, referred to in subsec. (e)(6)(C), are classified to section 304 of this title.

Sections 221(a), 221(c), and 224 of the Interstate Commerce Act, referred to in subsec. (e)(6)(D), are classified to sections 321(a), 321(c), and 324 of this title.

Sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended, referred to in subsec. (f)(1), are classified to sections 1(6), 306, 307, 309, 310a, 312, and 316 of this title.

Sections 12, 13(1), 13(2), 14, 16(12), 18(1), 20, 204(a)(6) and (7), 204(c), 204(d), 205(d), 205(f), 220, 222, and 417(b)(1), referred to in subsec. (f)(2)(B), are classified respectively to sections 12, 13(1), 13(2), 14, 16(12), 18, 20, 304(a)(6) and (7), 304(c), 304(d), 305(d), 305(f), 320, 322, and 1017(b)(1) of this title.

Section 7 of the Act of March 4, 1915, as amended, referred to in subsec. (g)(1)(A), is classified to section 471 of Title 33, Navigation and Navigable Waters.

Article 11 of section 1 of the Act of June 7, 1897, as amended, referred to in subsec. (g)(1)(B), is classified to section 180 of Title 33, Navigation and Navigable Waters.

Rule 9 of section 1 of the Act of February 8, 1895, as amended, referred to in subsec. (g)(1)(C), is classified to section 258 of Title 33, Navigation and Navigable Waters.

Rule numbered 13 of section 4233 of the Revised Statutes, as amended, referred to in subsec. (g)(1)(D), is classified to section 322 of Title 33, Navigation and Navigable Waters.

Section 5 of the Act of August 18, 1894, as amended, referred to in subsec. (g)(2), is classified to section 499 of Title 33, Navigation and Navigable Waters.

The Act of June 21, 1940, as amended, referred to in subsec. (g)(3), is classified to section 511 et seq. of Title 33, Navigation and Navigable Waters.

Section 4 of the Act of March 23, 1906, as amended, referred to in subsec. (g)(4)(A), is classified to section 494 of Title 33, Navigation and Navigable Waters.

Section 503 of the General Bridge Act of 1946, as amended, referred to in subsec. (g)(4)(B), is classified to section 526 of Title 33, Navigation and Navigable Waters.

Section 17 of the Act of June 10, 1930, as amended, referred to in subsec. (g)(4)(C), is classified to section 498a of Title 33, Navigation and Navigable Waters.

The act of June 27, 1930, as amended, referred to in subsec. (g) (4) (D), is classified to section 498b of Title 33, Navigation and Navigable Waters.

The act of August 21, 1935, as amended, referred to in subsec. (g)(4)(E), is classified to section 503 et seq. of Title 33, Navigation and Navigable Waters.

The Oil Pollution Act, 1961, as amended, referred to in subsec. (g)(5), is classified to section 1001 et seq. of Title 33, Navigation and Navigable Waters.

Section 9 of the act of March 3, 1899, as amended, referred to in subsec. (g)(6)(A), is classified to section 401 of Title 33, Navigation and Navigable Waters.

The act of March 23, 1906, as amended, referred to in subsec. (g)(6)(B), is classified to section 491 et seq. of Title 33, Navigation and Navigable Waters.

The General Bridge Act of 1946, as amended, referred to in subsec. (g)(6)(C), is classified to section 525 et seq. of Title 33, Navigation and Navigable Waters.

The act of March 12, 1914, as amended (38 Stat. 308), referred to in subsec. (i), was classified to sections 301–308 of Title 48, Territories and Insular Possessions, and section 353a of Title 16, Conservation.

The Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), referred to in subsec. (i), is set out in the note preceding section 21 of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE

Provisions of this section effective April 1, 1967, see section 15(a) of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

AMENDMENT OF EXECUTIVE ORDER RELATING TO FUNCTIONS

Amendment of Executive Orders relating to functions transferred to Transportation Department, see Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, set out as a note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1654, 1657 of this title.

§ 1656. Transportation investment standards; promulgation by Secretary of Transportation; use of standards and criteria in surveys, plans, and reports of Federal agencies.

(a) The Secretary, subject to the provisions of section 1653 of this title, shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an inter-oceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89-80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 1962a of Title 42 is hereby expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects.

(b) Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) of this section shall be (1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the

affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him. (Pub. L. 89-670, § 7, Oct. 15, 1966, 80 Stat. 941.)

REFERENCES IN TEXT

Pub. L. 89-80, referred to in subsec. (b), is the Water Resources Planning Act, July 22, 1965, 79 Stat. 244, which is classified principally to section 1962 et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Provisions of this section effective April 1, 1967, see section 15(a) of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

§ 1657. Administrative provisions.

(a) Authority of Secretary to employ personnel and prescribe their authority and duties.

In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this chapter and to prescribe their authority and duties.

(b) Temporary or intermittent employment of experts and consultants.

The Secretary may obtain services as authorized by section 3109 of Title 5, but at rates not to exceed $100 per diem for individuals unless otherwise specified in an appropriation Act.

(c) Detailing of participating military personnel for service in Department of Transportation.

The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation.

(d) Military personnel assigned to Department of Transportation; annual report to Congress on assignment of personnel.

(1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of subsections (c) and (p) of this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

(e) Delegation and redelegation of powers and functions.

(1) Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties, the Secretary may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter, delegate any of his residual functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(2) In addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to or specified by this chapter to be carried out by any officer in the Department, such officer may delegate any of such functions, powers, and duties to such other officers and employees of the Department as he may designate; may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable; and may make such rules and regulations as may be necessary to carry out such functions, powers, and duties.

(3) The Administrators established by section 1652(e) of this title may not delegate any of the statutory duties and responsibilities specifically assigned to them by this chapter outside of their respective administrations.

(f) Transfer of personnel, assets, liabilities, contracts, property, records, and unexpended funds of the Federal Aviation Agency to the Secretary of Transportation.

The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Federal Aviation Agency, and of the head and other officers and offices thereof, are hereby transferred to the Secretary: *Provided, however,* That the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available, or to be made available in carrying out the duties and functions transferred by this chapter to the Secretary which are specified by this chapter to be carried out by the Federal Aviation Administrator shall be assigned by the Secretary to the Federal Aviation Administrator for these purposes.

(g) Determination of personnel and property transfers to Secretary of Transportation; transfer of property and funds of Civil Aeronautics Boards to National Transportation Safety Board.

So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by section 1655 of this title (except subsection (c)) and section 8 (d) and (e) of this Act as the Director of the Office of Management and Budget shall determine shall be transferred to the Secretary: *Provided, however*, That the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available, or to be made available, by the Civil Aeronautics Board in carrying out the duties transferred by this chapter to be exercised by the National Transportation Safety Board shall be transferred to the National Transportation Safety Board. Except as provided in subsection (h) of this section, personnel engaged in functions, powers, and duties transferred under this chapter shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(h) Prohibition against reduction in classification or compensation of transferees for one year.

The transfer of personnel pursuant to subsections (f) and (g) of this section shall be without reduction in classification or compensation for one year after such transfer.

(i) Lapse of transferred offices and agencies; compensation of executive positions upon continuity of service.

In any case where all of the functions, powers, and duties of any office or agency, other than the Coast Guard, are transferred pursuant to this chapter, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

(j) Administrative services; establishment of capital fund; transactions involving the capital fund.

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

(k) Seal of office.

The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(*l*) Authority to provide necessary facilities and services for personnel stationed in remote localities.

In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or other officer in the Department, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Motion picture equipment and film for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons; and

(6) Living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(m) Authority to accept and hold gifts and bequests for purpose of aiding or facilitating the work of the Department.

(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and

the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(n) Authority to fill requests for statistical compilations covering Department matters on reimbursable basis.

(1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to foreign and domestic transportation, and special studies relating to other matters falling within the province of the Department, to prepare from its records special statistical compilations, and to furnish transcripts of its studies, tables, and other records upon the payment of the actual cost of such work by the person or body requesting it.

(2) All moneys received by the Department in payment of the cost of work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. These moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States.

(o) Advisory committees; appointment, compensation.

The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(p) Appointment of Coast Guard personnel on active duty to serve with Department; retired Coast Guard personnel.

(1) Notwithstanding any provision of this chapter or other law, a member of the Coast Guard on active duty may be appointed, detailed, or assigned to any position in the Department other than Secretary, Under Secretary, and Assistant Secretary for Administration.

(2) Subject to the provisions of Title 5 a retired member of the Coast Guard may be appointed to any position in the Department.

(q) Contracts with private agencies for research; capabilities of research agency; dissemination of resulting data.

(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this section.

(4) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research. (Pub. L. 89-670, § 9, Oct. 15, 1966, 80 Stat. 944; 1970, Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

The civil service and classification laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

Section 8(d) and (e) of this Act, referred to in subsec. (g), is section 8(d) and (e) of Pub. L. 89-670 which amended section 312(a) of this title and section 213(b)(1) of Title 29, Labor.

For the effective date of this Act, referred to in subsec. (i), see Effective Date Note under section 1651 of this title.

The Executive Schedule, referred to in subsec. (i), is set out in section 5311 et seq., of Title 5, Government Organization and Employees.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

EFFECTIVE DATE: INTERIM APPOINTMENTS

Provisions of this section effective April 1, 1967, see section 15 of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.F. 5453, set out as notes under section 1651 of this title.

§ 1658. Annual reports.

The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. (Pub. L. 89–670, § 11, Oct. 15, 1966, 80 Stat. 949.)

EFFECTIVE DATE

Provisions of this section effective April 1, 1967, see section 15(a) of Pub. L. 89–670, and Ex. Ord. No. 11340, Mar 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of this title.

§ 1659. Separability of provisions.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Pub. L. 89–670, § 13, Oct. 15, 1966, 80 Stat. 950.)

Chapter 24.—NATURAL GAS PIPELINE SAFETY

Sec.
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§ 1671. Definitions.

As used in this chapter—

(1) "Person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(2) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive;

(3) "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage in or affecting interstate or foreign commerce; except that it shall not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the Secretary may define as a nonrural area;

(4) "Pipeline facilities" includes, without limitation, new and existing pipe rights-of-way and any equipment facility, or building used in the transportation of gas or the treatment of gas during the course of transportation but "rights-of-way" as used in this chapter does not authorize the Secretary to prescribe the location or routing of any pipeline facility;

(5) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(6) "Municipality" means a city, county, or any other political subdivision of a State;

(7) "National organization of State commissions" means the national organization of the State commissions referred to in part II of the Interstate Commerce Act;

(8) "Interstate transmission facilities" means pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act; and

(9) "Secretary" means the Secretary of Transportation. (Pub. L. 90–481, § 2, Aug. 12, 1968, 82 Stat. 720.)

REFERENCES IN TEXT

Part II of the Interstate Commerce Act, referred to in text, is Part II of act Feb. 4, 1887, ch. 104, as added Aug. 9, 1935, ch. 498, 49 Stat. 543, which is classified to section 301 et seq. of this title.

The Natural Gas Act, referred to in text, is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified to section 717 et seq. of Title 15, Commerce and Trade.

SHORT TITLE

Section 1 of Pub. L. 90–481 provided: "That this Act [enacting this chapter] may be cited as the 'Natural Gas Pipeline Safety Act of 1968'."

§ 1672. Federal safety standards.

(a) Interim standards.

As soon as practicable but not later than three months after August 12, 1968, the Secretary shall, by order, adopt as interim minimum Federal safety standards for pipeline facilities and the transportation of gas in each State the State standards regulating pipeline facilities and the transportation of gas within such State on August 12, 1968. In any State in which no such standards are in effect, the

Secretary shall, by order, establish interim Federal safety standards for pipeline facilities and the transportation of gas in such State which shall be such standards as are common to a majority of States having safety standards for the transportation of gas and pipeline facilities on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities.

(b) Minimum standards; factors to be considered; State standards.

Not later than twenty-four months after August 12, 1968, and from time to time thereafter, the Secretary shall, by order, establish minimum Federal safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Whenever the Secretary shall find a particular facility to be hazardous to life or property, he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards. Such Federal safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Secretary shall consider—

(1) relevant available pipeline safety data;

(2) whether such standards are appropriate for the particular type of pipeline transportation;

(3) the reasonableness of any proposed standards; and

(4) the extent to which such standards will contribute to public safety.

Any State agency may adopt such additional or more stringent standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the minimum Federal safety standards referred to in this subsection become effective any such standards applicable to interstate transmission facilities.

(c) Effective date of standards.

Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance.

(d) Administrative procedure.

The provisions of subchapter II of chapter 5 of Title 5 shall apply to all orders establishing, amending, revoking, or waiving compliance with, any standard established under this chapter. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(e) Waiver of compliance with standards.

Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the Secretary may, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this chapter, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 1674(a) of this title or an agreement pursuant to section 1674(b) of this title, may waive compliance with a safety standard in the same manner as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted. (Pub. L. 90–481, § 3, Aug. 12, 1968, 82 Stat. 720.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsecs. (a) and (b) is act June 21, 1938, chapter 556, 52 Stat. 821, which is classified to section 717 et seq. of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

§ 1673. Technical Pipeline Safety Standards Committee.

(a) Creation; membership; qualifications.

The Secretary shall establish a Technical Pipeline Safety Standards Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of the transportation of gas and of pipeline facilities or technically qualified by training and experience in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

(1) Five members shall be selected from governmental agencies, including State and Federal Governments, two of whom, after consultation with representatives of the national organization of State commissions, shall be State commissioners;

(2) Four members shall be selected from the natural gas industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of natural gas pipelines; and

(3) Six members shall be selected from the general public.

(b) Report of proposed standards; publication; record of Committee proceedings.

The Secretary shall submit to the Committee all proposed standards and amendments to such standards and afford such Committee a reasonable opportunity, not to exceed ninety days, unless extended by the Secretary, to prepare a report on the technical feasibility, reasonableness, and practicability of each such proposal. Each report by the Committee, including any minority views, shall be published by the Secretary and form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of gas to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(c) Compensation.

Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary not to exceed $100 per diem (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose. (Pub. L. 90–481, § 4, Aug. 12, 1968, 82 Stat. 722.)

§ 1674. State certifications and agreements.

(a) Report to Secretary by State agency; annual certification.

Except for the fourth sentence of section 1672(b) of this title, section 1681(b) of this title, and except as otherwise provided in this section, the provisions of this chapter shall not apply to pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State when the safety standards and practices applicable to same are regulated by a State agency (including a municipality) which submits to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of such pipeline facilities and transportation of gas; (2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this chapter as of the date of the certification; (3) is enforcing each such standard; and (4) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 1681 of this title and the filing for approval of plans of inspection and maintenance described in section 1680 of this title; and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 1678 and 1679 of this title; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed two years after August 12, 1968. Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding $1,000, together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding twelve months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification, the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

(b) Agreements with State agencies; notification to Secretary of violations of standards.

With respect to any pipeline facilities and transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary is authorized by agreement with a State agency (including a municipality) to authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards;

(2) establish procedures for approval of plans of inspection and maintenance substantially the

same as are required under section 1680 of this title;

(3) implement a compliance program acceptable to the Secretary including provision for inspection of pipeline facilities used in such transportation of gas; and

(4) cooperate fully in a system of Federal monitoring of such compliance program and reporting under regulations prescribed by the Secretary.

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) Grants to aid State enforcement.

(1) Upon an application submitted not later than September 30 in any calendar year, the Secretary is authorized to pay out of funds appropriated pursuant to section 1684 of this title up to 50 per centum of the cost of the personnel, equipment, and activities of a State agency reasonably required to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section during the following calendar year. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding the date of enactment of this section.

(2) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(3) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(d) Recertification.

A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard for pipeline facilities or the transportation of gas, not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, established pursuant to this chapter after the date of such certification. The provisions of this chapter shall apply to any such new or amended Federal safety standard until the State agency has adopted such standard and has submitted an appropriate certification in accordance with the provisions of subsection (a) of this section.

(e) Termination of agreement.

Any agreement under this section may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agreement. Such finding and termination shall be published in the Federal Register, and shall become effective no sooner than fifteen days after the date of publication. (Pub. L. 90–481, § 5, Aug. 12, 1968, 82 Stat. 722.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsecs. (a), (b), and (d), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified to section 717 et seq. of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1672, 1680, 1683 of this title.

§ 1675. Judicial review.

(a) Person aggrieved; venue.

Any person who is or will be adversely affected or aggrieved by any order issued under this chapter may at any time prior to the sixtieth day after such order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Jurisdiction.

Upon the filing of the petition referred to in subsection (a) of this section, the court shall have jurisdiction to review the order in accordance with chapter 7 of Title 5 and to grant appropriate relief as provided in such chapter.

(c) Appeal.

The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(d) Successors in office.

Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(e) Remedies.

The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law. (Pub. L. 90–481, § 6, Aug. 12, 1968, 82 Stat. 724.)

§ 1676. Cooperation with Federal Power Commission and State commissions.

Whenever the establishment of a standard or action upon application for waiver under the provisions of this chapter, would affect continuity of any gas services, the Secretary shall consult with and advise the Federal Power Commission or State commission having jurisdiction over the affected pipeline facility before establishing the standard or acting on the waiver application and shall defer the effective date until the Federal Power Commission or any such commission has had reasonable opportunity to grant the authorizations it deems necessary. In any proceedings under section 717 of Title 15 for authority to establish, construct, operate, or extend a gas pipeline which is or will be

subject to Federal or other applicable safety standards, any applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the pipeline facilities in accordance with Federal and other applicable safety standards and plans for maintenance and inspection. Such certification shall be binding and conclusive upon the Commission unless the relevant enforcement agency has timely advised the Commission in writing that the applicant has violated safety standards established pursuant to this chapter. (Pub. L. 90–481, § 7, Aug. 12, 1968, 82 Stat. 725.)

§ 1677. Compliance with standards, inspection and maintenance requirements, and discovery provisions; tort liability.

(a) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall—

(1) at all times after the date any applicable safety standard established under this chapter takes effect comply with the requirements of such standard; and

(2) file and comply with a plan of inspection and maintenance required by section 1680 of this title; and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 1681 of this title.

(b) Nothing in this chapter shall affect the common law or statutory tort liability of any person. (Pub. L. 90–481, § 8, Aug. 12, 1968, 82 Stat. 725.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1678 of this title.

§ 1678. Civil penalties.

(a) Any person who violates any provision of section 1677(a) of this title, or any regulation issued under this chapter, shall be subject to a civil penalty of not to exceed $1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed $200,000 for any related series of violations: *Provided,* That for a reasonable period of time, not to exceed one year after August 12, 1968, such civil penalties shall not be applicable to pipeline facilities existing on August 12, 1968.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged or may be recovered in a civil action in the United States district courts. (Pub. L. 90–481, § 9, Aug. 12, 1968, 82 Stat. 725.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1679 of this title.

§ 1679. Injunction and jurisdiction.

(a) Restraint of violations and enforcement of standards.

The United States district courts shall have jurisdiction, subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter (including the restraint of transportation of gas or the operation of a pipeline facility) or to enforce standards established hereunder upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt.

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue.

Actions under subsection (a) of this section and section 1678 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found.

(d) Subpena.

In any action brought under subsection (a) of this section and section 1678 of this title, subpenas for witnesses who are required to attend a United States district court may run into any other district. (Pub. L. 90–481, § 10, Aug. 12, 1968, 82 Stat. 726.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

§ 1680. Inspection and maintenance plans.

Each person who engages in the transportation of gas or who owns or operates pipeline facilities not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act shall file with the Secretary or, where a certification or an agreement pursuant to section 1674 of this title is in effect, with the State agency, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of gas or who own or operate pipeline facilities subject to the provisions of this chapter to file such plans for approval. If at any

time the agency with responsibility for enforcement of compliance with the standards established under this chapter finds that such plan is inadequate to achieve safe operation, such agency shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the agency shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, such agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

(Pub. L. 90–481, § 11, Aug. 12, 1968, 82 Stat. 726.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in text, is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified to section 717 et seq. of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1677 of this title.

§ 1681. Records, reports, and inspection.

(a) Compliance with standards.

Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such person has acted or is acting in compliance with this chapter and the standards established under this chapter. Each such person shall, upon request of an officer, employee, or agent authorized by the Secretary, permit such officer, employee, or agent to inspect books, papers, records, and documents relevant to determining whether such person has acted or is acting in compliance with this chapter and the standards established pursuant to this chapter.

(b) State enforcement practices; monitoring and inspection.

The Secretary is authorized to conduct such monitoring of State enforcement practices and such other inspection and investigation as may be necessary to aid in the enforcement of the provisions of this chapter and the standards established pursuant to this chapter. He shall furnish the Attorney General any information obtained indicating noncompliance with such standards for appropriate action. For purposes of enforcement of this chapter, officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the individual in charge, are authorized (1) to enter upon, at reasonable times, pipeline facilities, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Accident reports; public information.

Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(d) Confidential nature of trade secrets.

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) of this section which information contains or relates to a trade secret referred to in section 1905 of Title 18 shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress. (Pub. L. 90–481, § 12, Aug. 12, 1968, 82 Stat. 727.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1677 of this title.

§ 1682. Administration.

(a) Research and development contracts.

The Secretary shall conduct research, testing, development, and training necessary to carry out the provisions of this chapter. The Secretary is authorized to carry out the provisions of this section by contract, or by grants to individuals, States, and nonprofit institutions.

(b) Information furnished to Federal Power Commission.

Upon request, the Secretary shall furnish to the Federal Power Commission any information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of gas or the operation of pipeline facilities.

(c) Cooperation with other agencies.

The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards. (Pub. L. 90–481, § 13, Aug. 12, 1968, 82 Stat. 727.)

§ 1683. Annual report to the President and Congress.

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 17 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the accidents and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board;

(2) a list of Federal gas pipeline safety standards established or in effect in such year with identification of standards newly established during such year;

(3) a summary of the reasons for each waiver granted under section 1672(e) of this title during such year;

(4) an evaluation of the degree of observance of applicable safety standards for the transportation of gas and pipeline facilities including a list of enforcement actions, and compromises of alleged violations by location and company name;

(5) a summary of outstanding problems confronting the administration of this chapter in order of priority;

(6) an analysis and evaluation of research activities, including the policy implications thereof, completed as a result of Government and private sponsorship and technological progress for safety achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter;

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certifications filed by State agencies (including municipalities) under section 1674(a) of this title which were in effect during the preceding calendar year, and

(B) certifications filed under section 1674(a) of this title which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for each such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies (including municipalities) under section 1674(b) of this title which were in effect during the preceding calendar year, and

(B) agreements entered into under section 1674(b) of this title which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of gas pipeline safety and to strengthen the national gas pipeline safety program. (Pub. L. 90–481, § 14, Aug. 12, 1968, 82 Stat. 728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1672 of this title.

§ 1684. Authorization of appropriations.

For the purpose of carrying out the provisions of this chapter over a period of three fiscal years, beginning with the fiscal year ending June 30, 1969, there is authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1969; not to exceed $2,000,000 for the fiscal year ending June 30, 1970; and not to exceed $4,000,000 for the fiscal year ending June 30, 1971. (Pub. L. 90–481, § 15, Aug. 12, 1968, 82 Stat. 729.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1674 of this title.

Chapter 25.—AVIATION FACILITIES EXPANSION AND IMPROVEMENT

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 1701. Congressional declaration of policy.

The Congress hereby finds and declares—

That the Nation's airport and airway system is inadequate to meet the current and projected growth in aviation.

That substantial expansion and improvement of the airport and airway system is required to meet the demands of interstate commerce, the postal service, and the national defense.

That the annual obligational authority during the period July 1, 1970, through June 30, 1980, for the acquisition, establishment, and improvement of air navigational facilities under the Federal Aviation Act of 1958, should be no less than $250,000,000.

That the obligational authority during the period July 1, 1970, through June 30, 1980, for airport assistance under this chapter should be $2,500,000,000. (Pub. L. 91-258, title I, § 2, May 21, 1970, 84 Stat. 219.)

REFERENCES IN TEXT

As originally enacted "chapter" read "title" meaning title I of Pub. L. 91-258, known as Airport and Airway Development Act of 1970, which enacted this chapter (except section 1742) and sections 1344(e), 1430(a)(8), 1432 of this title, amended sections 1354(c), 1509(e) of this title, section 7a of title 16, section 214(c) of Appendix to Title 40, sections 3188a(c), 3338(2) of Title 42, section 1622(g)(1) of Appendix to Title 50, and Reorg. Plan No. 14 of 1950, set out in the Appendix to Title 5, repealed sections 1101 to 1103, 1104 to 1106, and 1107a to 1120 of this title, and enacted provisions set out as notes under this section and section 1430 of this title.

Federal Aviation Act of 1958, referred to in the text, is classified to section 1301 et seq. of this title.

SHORT TITLE

Section 1 of Pub. L. 91-258 provided that "This title [which enacted this chapter (except section 1742) and sections 1344(e), 1430(a)(8), 1432 of this title, amended sections 1354(c), 1509(e) of this title, section 7a of Title 16, section 214(c) of Appendix to Title 40, sections 3188a(c), 3338(2) of Title 42, section 1622(g)(1) of Appendix to Title 50, and Reorg. Plan No. 14 of 1950, set out in the Appendix to Title 5, repealed sections 1101 to 1103, 1104 to 1106, and 1107a to 1120 of this title, and enacted provisions set out at notes under this section and section 1430 of this title] may be cited as the 'Airport and Airway Development Act of 1970'."

SAVING PROVISIONS

Section 52(c) of Pub. L. 91-258 provided that: "All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary of Transportation or any court of competent jurisdiction under any provision of the Federal Airport Act, as amended [former sections 1101 to 1103, 1104 to 1106 and 1107a to 1120 of this title], which are in effect at the time this section takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Transportation or by any court of competent jurisdiction, or by operation of law."

SEPARABILITY PROVISION

Section 52(d) of Pub. L. 91-258 provided that: "If any provision of this title [see Short Title note hereunder] or the application thereof to any person or circumstances is held invalid, the remainder of the title [see Short Title note hereunder] and the application of the provision to other persons or circumstances is not affected thereby."

§ 1702. National transportation policy.

(a) Formulation.

Within one year after May 21, 1970, the Secretary of Transportation shall formulate and recommend to the Congress for approval a national transportation policy. In the formulation of such policy, the Secretary shall take into consideration, among other things—

(1) the coordinated development and improvement of all modes of transportation, together with the priority which shall be assigned to the development and improvement of each mode of transportation; and

(2) the coordination of recommendations made under this chapter relating to airport and airway development with all other recommendations to the Congress for the development and improvement of our national transportation system.

(b) Annual report.

The Secretary shall submit an annual report to the Congress on the implementation of the national transportation policy formulated under subsection (a) of this section. Such report shall include the specific actions taken by the Secretary with respect to (1) the coordination of the development and improvement of all modes of transportation, (2) the

establishment of priorities with respect to the development and improvement of each mode of transportation, and (3) the coordination of recommendations under this chapter relating to airport and airway development with all other recommendations to the Congress for the development and improvement of our national transportation system. (Pub. L. 91–258, title I, § 3, May 21, 1970, 84 Stat. 219.)

REFERENCES IN TEXT

As originally enacted "chapter" read "title" meaning title I of Pub. L. 91–258, known as Airport and Airway Development Act of 1970. For classification in the Code of title I of Pub. L. 91–258, see note set out under section 1701 of this title.

§ 1703. Cost allocation study.

The Secretary of Transportation shall conduct a study respecting the appropriate method for allocating the cost of the airport and airway system among the various users, and shall identify the cost to the Federal Government that should appropriately be charged to the system and the value to be assigned to any general public benefit, including military, which may be determined to exist. In conducting the study the Secretary shall consult fully with and give careful consideration to the views of the users of the system. The Secretary shall report the results of the study to Congress within two years from May 21, 1970. (Pub. L. 91–258, title I, § 4, May 21, 1970, 84 Stat. 220.)

SUBCHAPTER II.—AIRPORT AND AIRWAY DEVELOPMENT

§ 1711. Definitions.

As used in this subchapter—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means (A) any work involved in construction, improving, or repairing a public airport or portion thereof, including the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and including safety equipment required by rule or regulation for certification of the airport under section 1432 of this title, and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport master planning" means the development for planning purposes of information and guidance to determine the extent, type, and nature of development needed at a specific airport. It may include the preparation of an airport layout plan and feasibility studies, and the conduct of such other studies, surveys, and planning actions as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular airport as a part of a system of airports.

(5) "Airport system planning" means the development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public airports. It includes identification of the specific aeronautical role of each airport within the system, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports.

(6) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(7) "Government aircraft" means aircraft owned and operated by the United States.

(8) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States (including the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this subchapter is to be used.

(9) "Project" means a project for the accomplishment of airport development, airport master planning, or airport system planning.

(10) "Project costs" means any costs involved in accomplishing a project.

(11) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam or any agency of any of them; a municipality or other political subdivision; or a tax-supported organization; or an Indian tribe or pueblo.

(12) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(13) "Secretary" means the Secretary of Transportation.

(14) "Sponsor" means any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this subchapter, an application for financial assistance.

(15) "State" means a State of the United States or the District of Columbia.

(16) "Terminal area" means that area used or intended to be used for such facilities as terminal and cargo buildings, gates, hangars, shops, and other service buildings; automobile parking, airport motels, and restaurants, and garages and automobile service facilities used in connection with the airport; and entrance and service roads used by the public within the boundaries of the airport.

(17) "United States share" means that portion of the project costs of projects for airport development approved pursuant to section 1716 of this title which is to be paid from funds made available for the purposes of this subchapter. (Pub. L. 91–258, title I, § 11, May 21, 1970, 84 Stat. 220.)

§ 1712. National airport system plan.

(a) Formulation.

The Secretary is directed to prepare and publish, within two years after May 21, 1970, and thereafter to review and revise as necessary, a national airport system plan for the development of public airports in the United States. The plan shall set forth, for at least a ten-year period, the type and estimated cost of airport development considered by the Secretary to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet the special needs of the postal service. The plan shall include all types of airport development eligible for Federal aid under section 1714 of this title and terminal area development considered necessary to provide for the efficient accommodation of persons and goods at public airports, and the conduct of functions in operational support of the airport. Airport development identified by the plan shall not be limited to the requirements of any classes or categories of public airports. In preparing the plan, the Secretary shall consider the needs of all segments of civil aviation.

(b) Consideration of other modes of transportation.

In formulating and revising the plan, the Secretary shall take into consideration, among other things, the relationship of each airport to the rest of the transportation system in the particular area, to the forecasted technological developments in aeronautics, and to developments forecasted in other modes of intercity transportation.

(c) Federal, State, and other agencies.

In developing the national airport system plan, the Secretary shall to the extent feasible consult with the Civil Aeronautics Board, the Post Office Department, the Department of the Interior regarding conservation and natural resource values, and other Federal agencies, as appropriate; with planning agencies, and airport operators; and with air carriers, aircraft manufacturers, and others in the aviation industry. The Secretary shall provide technical guidance to agencies engaged in the conduct of airport system planning and airport master planning to insure that the national airport system plan reflects the product of interstate, State, and local airport planning.

(d) Cooperation with Federal Communications Commission.

The Secretary shall, to the extent possible, consult, and give consideration to the views and recommendations of the Federal Communications Commission, and shall make all reasonable efforts to cooperate with that Commission for the purpose of eliminating, preventing, or minimizing airport hazards caused by the construction or operation of any radio or television station. In carrying out this section, the Secretary may make any necessary surveys, studies, examinations, and investigations.

(e) Consultation with Department of Defense.

The Department of Defense shall make military airports and airport facilities available for civil use to the extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which military airports and airport facilities will be available for civil use.

(f) Consultation concerning environmental changes.

In carryng out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality, with regard to the preservation of environmental quality, shall, to the extent that the Secretary of Transportation determines to be feasible, be incorporated in the national airport system plan.

(g) Cooperation with Federal Power Commission.

The Secretary shall, to the extent possible, consult, and give consideration to the views and recommendations of the Federal Power Commission, and shall make all reasonable efforts to cooperate with that Commission for the purpose of eliminating, preventing, or minimizing airport hazards caused by the construction or operation of power facilities. In carrying out this section, the Secretary may make any necessary surveys, studies, examinations, and investigations.

(h) Aviation Advisory Commission; establishment; membership; duties; compensation and travel expenses; personnel, experts, and consultants; administrative services; information, assistance, and cooperation of Governmental agencies; report to President and Congress; termination; appropriation.

(1) There is established an Aviation Advisory Commission (hereafter in this subsection referred to as the "Commission"). The Commission shall be composed of nine members appointed by the President from private life as follows:

(A) One person to serve as Chairman of the Commission who is specially qualified to serve as Chairman by virtue of his education, training, or experience.

(B) Eight persons who are specially qualified to serve on such Commission from among representatives of the commercial air carriers, general aviation, aircraft manufacturers, airport sponsors, State aeronautics agencies, and three major organizations concerned with conservation or regional planning.

Not more than five members of the Commission shall be from the same political party. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made, and subject to the same limitations with respect to party affiliations. Five members shall constitute a quorum.

(2) It shall be the duty of the Commission—

(A) to formulate recommendations concerning the long-range needs of aviation, including but not limited to, future airport requirements and the national airport system plan described in subsection (a) of this section, and recommendations concerning surrounding land uses, ground access, airways, air service, and aircraft compatible with such plan;

(B) to facilitate consideration of other modes of transportation and cooperation with other agencies and community and industry groups as provided in subsections (b) through (g) of this section.

In carrying out its duties under this subsection, the Commission shall establish such task forces as are necessary to include technical representation from the organizations referred to in this subsection, from Federal agencies, and from such other organizations and agencies as the Commission considers appropriate.

(3) Each member of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the President, but not exceeding $100 per day, including travel time; and, while so serving away from his home or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(4) (A) The Commission is authorized, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates, to appoint and fix the compensation of such personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

(B) The Commission is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of Title 5, but at rates for individuals not to exceed $100 per diem.

(C) Administrative services shall be provided the Commission by the General Services Administration on a reimbursable basis.

(D) The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions under this subsection; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by the Chairman.

(5) The Commission shall submit to the President and to the Congress, on or before January 1, 1972, a final report containing the recommendations formulated by it under this subsection. The Commission shall cease to exist 60 days after the date of the submission of its final report.

(6) There are authorized to be appropriated from the Airport and Airway Trust Fund such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this subsection. (Pub. L. 91–258, title I, § 12, May 21, 1970, 84 Stat. 221.)

§ 1713. Planning grants.

(a) Authorization to make grants.

In order to promote the effective location and development of airports and the development of an adequate national airport system plan, the Secretary may make grants of funds to planning agencies for airport system planning, and to public agencies for airport master planning.

(b) Amount and apportionment of grants.

The award of grants under subsection (a) of this section is subject to the following limitations:

(1) The total funds obligated for grants under this section may not exceed $75,000,000 and the amount obligated in any one fiscal year may not exceed $15,000,000.

(2) No grant under this section may exceed two-thirds of the cost incurred in the accomplishment of the project.

(3) No more than 7.5 per centum of the funds made available under this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

(c) Regulations; coordination with Secretary of Housing and Urban Development.

The Secretary may prescribe such regulations as he deems necessary governing the award and administration of grants authorized by this section. The Secretary and the Secretary of Housing and Urban Development shall develop jointly procedures designed to preclude duplication of their respective planning assistance activities and to ensure that such activities are effectively coordinated. (Pub. L. 91–258, title I, § 13, May 21, 1970, 84 Stat. 224.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1720 of this title.

§ 1714. Airport and airway development program.

(a) General authority.

In order to bring about, in conformity with the national airport system plan, the establishment of a nationwide system of public airports adequate to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants for airport development by grant agreements with sponsors in aggregate amounts not less than the following:

(1) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, airports served by air carriers certificated by the Civil Aeronautics Board, and airports the primary purpose of which is to serve general aviation and to relieve congestion at airports having a high density of traffic serving other segments of aviation, $250,000,000 for each of the fiscal years 1971 through 1975.

(2) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, airports serving segments of aviation other than air carriers certificated by the Civil Aeronautics Board, $30,000,000 for each of the fiscal years 1971 through 1975.

(b) Obligational authority.

To facilitate orderly long-term planning by sponsors, the Secretary is authorized, effective on May 21, 1970, to incur obligations to make grants for airport development from funds made available under this subchapter for the fiscal year ending June 30, 1971, and the succeeding four fiscal years in a total amount not to exceed $840,000,000. No obligation shall be incurred under this subsection for a period of more than three fiscal years and no such obligation shall extend beyond June 30, 1975. The Secretary shall not incur more than one obligation under this subsection with respect to any single project for airport development. Obligations incurred under this subsection shall not be liquidated in an aggregate amount exceeding $280,000,000 prior to June 30, 1971, an aggregate amount exceeding $560,000,000 prior to June 30, 1972, and an aggregate amount exceeding $840,000,000 prior to June 30, 1973.

(c) Airway facilities.

For the purpose of acquiring, establishing, and improving air navigation facilities under section 1348(b) of this title, the Secretary is authorized, within the limits established in appropriations Acts, to obligate for expenditure not less than $250,000,000 for each of the fiscal years 1971 through 1975.

(d) Other expenses.

The balance of the moneys available in the trust fund shall be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsections (a) and (b) of this section, and for the maintenance and operation of air navigation facilities and the conduct of other functions under section 1348(b) of this title, not otherwise provided for in subsection (c) of this section, and for research and development activities under section 1353(c) of this title (as it relates to safety in air navigation) of the Federal Aviation Act of 1958. The initial $50,000,000 of any sums appropriated to the trust fund pursuant to subsection (d) of section 1742 of this title shall be allocated to such research and development activities. (Pub. L. 91–258, title I, § 14, May 21, 1970, 84 Stat. 224.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1712, 1715 of this title.

§ 1715. Distribution of funds; State apportionment.

(a) Apportionment of funds; discretionary fund addition from unexpended amounts; passengers enplaned.

(1) As soon as possible after July 1 of each fiscal year for which any amount is authorized to be obligated for the purposes of paragraph (1) of section 1714(a) of this title, the amount made available for that year shall be apportioned by the Secretary as follows:

(A) One-third to be distributed as follows:

(i) 97 per centum of such one-third for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States.

(ii) 3 per centum of such one-third for Hawaii, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, to be distributed in shares of 35 per centum, 35 per centum, 15 per centum, and 15 per centum, respectively.

(B) One-third to be distributed to sponsors of airports served by air carriers certificated by the Civil Aeronautics Board in the same ratio as the number of passengers enplaned at each airport of the sponsor bears to the total number of passengers enplaned at all such airports.

(C) One-third to be distributed at the discretion of the Secretary.

(2) As soon as possible after July 1 of each fiscal year for which any amount is authorized to be obligated for the purposes of paragraph (2) of section 1714(a) of this title, the amount made available for that year shall be apportioned by the Secretary as follows:

(A) Seventy-three and one-half per centum for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States.

(B) One and one-half per centum for Hawaii, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, to be distributed in shares of 35 per centum, 35 per centum, 15 per centum, and 15 per centum, respectively.

(C) Twenty-five per centum to be distributed at the discretion of the Secretary.

(3) Each amount apportioned to a State under paragraph (1)(A)(i) or (2)(A) of this subsection shall, during the fiscal year for which it was first authorized to be obligated and the fiscal year immediately following, be available only for approved airport development projects located in that State, or sponsored by that State or some public agency thereof but located in an adjoining State. Each amount apportioned to a sponsor of an airport under paragraph (1)(B) of this subsection shall, during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following, be available only for approved airport development projects located at airports sponsored by it. Any amount apportioned as described in this paragraph which has not been obligated by grant agreement at the expiration of the period of time for which it was so apportioned shall be added to the discretionary fund established by subsection (b) of this section.

(4) For the purposes of this section, the term "passengers enplaned" shall include United States domestic, territorial, and international revenue passenger enplanements in scheduled and nonscheduled service of air carriers and foreign air carriers in intrastate and interstate commerce as shall be

determined by the Secretary pursuant to such regulations as he shall prescribe.

(b) Discretionary fund; creation and uses.

(1) The amounts authorized by subsection (a) of this section to be distributed at the discretion of the Secretary shall constitute a discretionary fund.

(2) The discretionary fund shall be available for such approved projects for airport development in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam as the Secretary considers most appropriate for carrying out the national airport system plan regardless of the location of the projects. In determining the projects for which the fund is to be used, the Secretary shall consider the existing airport facilities in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, and the need for or lack of development of airport facilities in the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. Amounts placed in the discretionary fund pursuant to subsection (a) of this section, including amounts added to the discretionary fund pursuant to paragraph (3) of such subsection (a), may be used only in accordance with the purposes for which originally appropriated.

(c) Notice of apportionment; definitions.

Upon making an apportionment as provided in subsection (a) of this section, the Secretary shall inform the executive head of each State, and any public agency which has requested such information, as to the amounts apportioned to each State. As used in this section, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water. (Pub. L. 91–258, title I, § 15, May 21, 1970, 84 Stat. 225.)

§ 1716. Project applications for airport development.

(a) Submission.

Subject to the provisions of subsection (b) of this section, any public agency, or two or more public agencies acting jointly, may submit to the Secretary a project application, in a form and containing such information, as the Secretary may prescribe, setting forth the airport development proposed to be undertaken. No project application shall propose airport development other than that included in the then current revision of the national airport system plan formulated by the Secretary under this subchapter, and all proposed development shall be in accordance with standards established by the Secretary, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.

(b) Public agencies subject to State law.

Nothing in this subchapter shall authorize the submission of a project application by any municipality or other public agency which is subject to the law of any State if the submission of the project application by the municipality or other public agency is prohibited by the law of that State.

(c) Approval.

(1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this subchapter;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this subchapter;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this subchapter have been or will be met.

No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title, satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 1717 of this title and determined by him to be required for the safe and efficient use of he airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(4) It is declared to be national policy that airport development projects authorized pursuant to this subchapter shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

(d) Hearings.

(1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose

of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.

(2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary,

(e) Air and water quality.

(1) The Secretary shall not approve any project application for a project invloivng airport location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

(2) The Secretary shall condition approval of any such project application on compliance during construction and operation with applicable air and water quality standards.

(f) Airport site selection; metropolitan area.

(1) Whenever the Secretary determines (A) that a metropolitan area comprised of more than one unit of State or local government is in need of an additional airport to adequately meet the air transportation needs of such area, and (B) that an additional airport for such area is consistent with the national airport system plan prepared by the Secretary, he shall notify, in writing, the governing authorities of the area concerned of the need for such additional airport and request such authorities to confer, agree upon a site for the location of such additional airport, and notify the Secretary of their selection. In order to facilitate the selection of a site for an additional airport under the preceding sentence, the Secretary shall exercise such of his authority under this subchapter as he may deem appropriate to carry out the provisions of this paragraph. For the purposes of this subsection, the term "metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject however to such modifications and extensions as the Secretary may determine to be appropriate for the purposes of this subsection.

(2) In the case of a proposed new airport serving any area, which does not include a metropolitan area, the Secretary shall not approve any airport development project with respect to any proposed airport site not approved by the community or communities in which the airport is proposed to be located. (Pub. L. 91–258, title I, § 16, May 21, 1970, 84 Stat. 226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1711, 1717, 1722 of this title.

§ 1717. United States share of project costs.

(a) General provision.

Except as provided in subsections (b), (c), and (d) of this section, the United States share payable on account of any approved airport development project submitted under section 1716 of this title may not exceed 50 per centum of the allowable project costs.

(b) Projects in public land States.

In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 per centum of the total area of all lands therein, the United States share under subsection (a) of this section shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 per centum, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area.

(c) Projects in Virgin Islands.

The United States share payable on account of any approved project for airport development in the Virgin Islands shall be any portion of the allowable project costs of the project, not to exceed 75 per centum, as the Secretary considers appropriate for carrying out the provisions of this subchapter.

(d) Landing aids; cost limitation.

To the extent that the project costs of an approved project for airport development represent the cost of (1) land required for the installation of approach light systems, (2) touchdown zone and centerline runway lighting, or (3) high intensity runway lighting, the United States share shall be not to exceed 82 percentum of the allowable costs thereof. (Pub. L. 91–258, title I, § 17, May 21, 1970, 84 Stat. 228.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1716 of this title.

§ 1718. Project sponsorship requirements; compliance; contracts between Secretary and public agencies; air traffic control activities; relief of sponsors.

As a condition precedent to his approval of an airport development project under this subchapter, the Secretary shall receive assurances in writing, satisfactory to him, that—

(1) Public use.

the airport to which the project for airport development relates will be available for public use on fair and reasonable terms and without unjust discrimination;

(2) Maintenance and operation.

the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) Airport hazards.

the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(4) Compatible use of adjacent land.

appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent

reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operatons, including landing and takeoff of aircraft;

(5) Government use; charge.
all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) Air traffic control activities.
the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) Accounting.
all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) Self-sustaining fee and rental structure.
the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection;

(9) Reports.
the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request; and

(10) Inspection of records.
the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary uopn reasonable request.

To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this subchapter, as he considers necessary. Among other steps to insure such compliance the Secretary is authorized to enter into contracts with public agencies, on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, he is authorized to relieve the sponsor from any contractual obligation entered into under this subchapter or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent he finds that space no longer required for the purposes set forth in paragraph (6) of this section. (Pub. L. 91–258, title I, § 18, May 21, 1970, 84 Stat. 229.)

REFERENCES IN TEXT

The Federal Airport Act, referred to in the text was formerly classified to section 1101 et seq. of this title, was repealed by section 52(a) of Pub. L. 91–230 effective as of close of June 30, 1970, and is now covered by this chapter. Project sponsorship and relief of sponsor provisions were contained in former section 1110 of this title.

§ 1719. Grant agreements; offer of terms and conditions; acceptance.

Upon approving a project application for airport development, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the project application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this subchapter and the regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this subchapter, and shall stipulate the obligations to be assumed by the sponsor or sponsors. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Thereafter, the amount stated in the accepted offer as the maximum obligation of the United States may not be increased by more than 10 per centum. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred. (Pub. L. 91–258, title I, § 19, May 21, 1970, 84 Stat. 230.)

§ 1720. Project costs.

(a) Allowable project costs; regulations.

Except as provided in section 1721 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this subchapter, any portion of a project cost incurred in carrying out a project for airport development unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing airport development in conformity with approved plans and specifications for an approved airport development project and with the terms and conditions of the grant agreement entered into in connection with the project;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development accomplished under the project after the execution of the agreement. However, the allowable costs of a project may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, he may allow as an allowable project cost only so much of such project cost as he determines to be reasonable; except that in no event may he allow project costs in excess of the definite amount stated in the grant agreement; and

(4) it has not been included in any project authorized under section 1713 of this title.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as he considers necessary to effectuate the purposes of this section.

(b) Disallowable project costs.

The following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hanger or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport. (Pub. L. 91–258, title I, § 20, May 21, 1970, 84 Stat. 230.)

§ 1721. Payments under grant agreements; advance payments; percentage; recovery of excess and advance payments.

The Secretary, after consultation with the sponsor with which a grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of a grant agreement for airport development. Payments in an aggregate amount not to exceed 90 per centum of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport development to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that the airport development to which the advance payments relate has not been accomplished within a reasonable time or the development is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor. (Pub. L. 91–258, title I, § 21, May 21, 1970, 84 Stat. 231.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1720 of this title.

§ 1722. Performance of construction work.

(a) Regulations.

The construction work on any project for airport development approved by the Secretary pursuant to section 1716 of this title shall be subject to inspection and approval by the Secretary and in accordance with regulations prescribed by him. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) Minimum wage rates.

All contracts in excess of $2,000 for work on projects for airport development approved under this subchapter which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) Other labor provisions.

All contracts for work on projects for airport development approved under this subchapter which involve labor shall contain such provisions as are necessary to insure (1) that no convict labor shall be employed; and (2) that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given, where they are qualified, to individuals who have served as persons in the military service of the United States, as defined in section 511(1) of the Appendix to Title 50, and who have been honorably discharged from such service. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. (Pub. L. 91–258, title I, § 22, May 21, 1970, 84 Stat. 231.)

REFERENCES IN TEXT

Davis-Bacon Act, as amended, referred to in subsec. (b), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

§ 1723. Use of Government-owned lands.

(a) Requests for use.

Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project for airport development under this subchapter, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, he shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) Execution of conveyances.

Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency,

and shall notify the Secretary of his determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not in consistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the President and the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall at the option of the Secretary, revert to the United States.

(c) Exemption of certain lands.

Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the Bureau of Sport Fisheries and Wildlife; or within any national forest or Indian reservation. (Pub. L. 91–258, title I, § 23, May 21, 1970, 84 Stat. 232.)

EX. ORD. NO. 10536. EXERCISE OF FUNCTIONS WITHOUT APPROVAL OF THE PRESIDENT

Ex. Ord. No. 10536, June 9, 1954, 19 F.R. 3437, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided that:

The authority vested in the heads of departments and agencies by subsection (b) of section 16 of the Federal Airport Act, approved May 13, 1946 (60 Stat. 179), with the approval of the President and the Attorney General of the United States, to perform any acts and to execute any instruments necessary to make conveyances requested by the Secretary of Transportation under subsection (a) of the said section 16 may be exercised by such heads of departments and agencies without the approval of the President.

§ 1724. Reports to Congress.

On or before the third day of January of each year the Secretary shall make a report to the Congress describing his operations under this subchapter during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken the allocation of appropriations, and an itemized statement of expenditures and receipts. (Pub. L. 91–258, title I, § 24, May 21, 1970, 84 Stat. 232.)

§ 1725. False statements, representations, or reports; penalties.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this subchapter;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this subchapter, or;

(3) knowingly makes any false statement or false representation in any report required to be made under this subchapter;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both. (Pub. L. 91–258, title I, § 25, May 21, 1970, 84 Stat. 233.)

§ 1726. Access to records.

(a) Recordkeeping requirements.

Each recipient of a grant under this subchapter shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit.

(b) Audit and examination.

The Secretary and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this subchapter.

(c) Audit reports; report to Congress; regulations.

In any case in which an independent audit is made of the accounts of a recipient of a grant under this subchapter relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before January 3 of each year the Comptroller General shall make a report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as he may deem necessary to carry out the provisions of this subsection.

(d) Withholding information.

Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the

Congress. (Pub. L. 91-258, title I, § 26, May 21, 1970, 84 Stat. 233.)

§ 1727. General powers of Secretary.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this subchapter, as he considers necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this subchapter. (Pub. L. 91-258, title I, § 27, May 21, 1970, 84 Stat. 233.)

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§ 1741. Maximum charges for certain overtime services.

(a) Customs Service, Immigration and Naturalization Service, Public Health Service, and Department of Agriculture; services for private aircraft or vessel upon domestic arrival or departure.

Notwithstanding the provisions of section 1451 of Title 19 or any other provisions of law, the maximum amount payable by the owner, operator, or agent of any private aircraft or private vessel for services performed on or after July 1, 1970, upon the request of such owner, operator, or agent, by officers and employees of the Customs Service, by officers and employees of the Immigration and Naturalization Service, by officers and employees (including an independent contractor performing inspectional services) of the Public Health Service, and by officers and employees of the Department of Agriculture, on a Sunday or holiday, or at any time after 5 o'clock postmeridian or before 8 o'clock antemeridian on a week day, in connection with the arrival in or departure from the United States of such private aircraft or vessel, shall not exceed $25.

(b) Free week day services of regular personnel.

Notwithstanding any other provision of law, no payment shall be required for services described in subsection (a) of this section if such services are performed on a week day and an officer or employee stationed on his regular tour of duty at the place of arrival or departure is available to perform such services.

(c) Credit against expenses; deposit of collections in Treasury.

Amounts payable for services described in subsection (a) of this section shall be collected by the Department or agency providing the services and shall be deposited into the Treasury of the United States to the credit of the appropriation of that agency charged with the expense of such services.

(d) Definitions.

As used in this section—

(1) the term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) the term "private vessel" means any civilian vessel not being used (A) to transport persons or property for compensation or hire, or (B) in fishing operations or in processing of fish or fish products.

(Pub. L. 91-258, title I, § 53, May 21, 1970, 84 Stat. 236.)

§ 1742. Airport and Airway Trust Fund.

(a) Creation.

There is established in the Treasury of the United States a trust fund to be known as the "Airport and Airway Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) Transfer to Trust Fund of amounts equivalent to certain taxes.

There is hereby appropriated to the Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261, 4271, and 4491 (taxes on transportation by air and on use of civil aircraft) of the Internal Revenue Code of 1954;

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under section 4081 of such Code, with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under paragraphs (2) and (3) of section 4071(a) of such Code, with respect to tires and tubes of the types used on aircraft.

The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraphs (1), (2), and (3) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Transfer of unexpended funds.

At the close of June 30, 1970, there shall be transferred to the Trust Fund all unexpended funds which have been appropriated before July 1, 1970, out of the general fund of the Treasury to meet obligations of the United States (1) described in subparagraph (B) or (C) of subsection (f)(1) of this section, or (2) incurred under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.).

(d) Appropriation of additional sums.

There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (f) of this section.

(e) Management; report to Congress; investment: general provision, sale of obligations, interest on certain proceeds.

(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Transportation) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed

as a House document of the session of the Congress to which the report is made.

(2) (A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purpose for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the Unitied States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(3) Paragraph (2) of this subsection shall not apply until the beginning of the fiscal year immediately following the first fiscal year beginning after June 30, 1970, in which the receipts of the Trust Fund under subsection (b) of this section exceed 80 percent of the expenditures from the Trust Fund under subsection (f) (1) of this section.

(f) Expenditures from Trust Fund; airport and airway program; transfers from Trust Fund on account of certain refunds; transfers from Trust Fund on account of certain section 39 credits.

(1) Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1970, and before July 1, 1980, to meet those obligations of the United States—

(A) hereafter incurred under subchapter I of this chapter (as in effect on May 21, 1970), or incurred at any time before July 1, 1970, under the Federal Airport Act;

(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended, which are attributable to planning, research and development, construction, or operation and maintenance of—

(i) air traffic control,

(ii) air navigation,

(iii) communications, or

(iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

(2) The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to—

(A) the amounts paid after June 30, 1970, and before July 1, 1980, in respect of fuel used in aircraft, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), and 6427 (relating to fuels not used for taxable purposes) of the Internal Revenue Code of 1954, and

(B) the amounts paid under section 6426 of such Code (relating to refund of aircraft use tax where plane transports for hire in foreign air commerce),

on the basis of claims filed for periods beginning after June 30, 1970.

(3) The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 with respect to fuel used in aircraft during taxable years ending after June 30, 1970, and beginning before July 1, 1980, and attributable to use after June 30, 1970, and before July 1, 1980. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed. (Pub. L. 91–258, title II, § 208(a)–(f), May 21, 1970, 84 Stat. 250.)

REFERENCES IN TEXT

Sections of the Internal Revenue Code of 1954, referred to in subsec. (b) and (f) (2), (3), are identical with sections of Title 26, Internal Revenue Code.

Federal Airport Act, referred to in subsecs. (c) and (f) (1) (A), was formerly classified to section 1101 et seq. of this title, was repealed by section 52(a) of Pub. L. 91–258, and is now covered by this chapter.

Second Liberty Bond Act, as amended, referred to in subsec. (e) (2) (A), is classified to sections 745, 752 to 754b, 757, 757b to 757e, 758, 760, 764 to 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finace.

Federal Aviation Act of 1958, refererd to in subsec. (f) (1) (B), is classified to section 1301 et seq. of this title.

CODIFICATION

Section was enacted as a part of the Airport and Airway Revenue Act of 1970 and not as a part of the Airport and Airway Development Act of 1970, which comprises this chapter.

Subsec. (g) of section 208 of Pub. L. 91–258 added par. (5) relating to adjustments for aviation uses to section 209(c) of Highway Revenue Act of 1956, as amended, set out as Highway Trust Fund note under section 120 of Title 23, Highways.

INVESTIGATION AND REPORT TO CONGRESS

Section 209 of Pub. L. 91–258 provided that:

"(a) *Study and Investigation.*—The Secretary of Transportation is hereby authorized and directed, in cooperation

with such other Federal officers and agencies as may be designated by the President and through full consultation with and consideration of the views of the users of the system, to make a study and investigation to make available to the Congress information on the basis of which it may determine what revisions, if any, of the taxes imposed by the United States should be made in order to assure, insofar as practicable, an equitable distribution of the tax burden among the various classes of persons using the airports and airways of the United States, or otherwise deriving benefits from such airports and airways.

"(b) *Reports.*—The Secretary of Transportation shall report to the Congress the results of the study and investigation required by subsection (a). The final report shall be made as soon as possible but in no event later than March 1, 1972. On or before March 1, 1971, the Secretary of Transportation shall report to the Congress the progress that has been made in carrying out the study and investigation required by subsection (a). Each such report shall be printed as a House document of the session of the Congress to which the report is made. In addition, the Secretary of Transportation shall identify the costs to the Federal Government that should appropriately be charged to the system and the value to be appropriately assigned to the general public benefit.

"(c) *Funds for Study and Investigatin.*—There are hereby authorized to be appropriated out of the Airport and Airway Trust Fund such sums as may be necessary to enable the Secretary of Transportation to carry out the provisions of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1714 of this title.

Chapter 26.—HAZARDOUS MATERIALS TRANSPORTATION CONTROL

Sec.
1761. Authority of Secretary.
(a) Establishment of facilities and technical staff for evaluation of hazards; establishment of central reporting system for accidents; conduct of review and making of recommendations regarding transportation of hazardous materials.
(b) Additional to authority granted under sections 831 to 835 of Title 18.
(c) Annual report; contents.
(d) Recommendations for additional legislation.
1762. Authorization of appropriations.

§ 1761. Authority of Secretary.

(a) Establishment of facilities and technical staff for evaluation of hazards; establishment of central reporting system for accidents; conduct of review and making of recommendations regarding transportation of hazardous materials.

The Secretary of Transportation (hereafter in this chapter referred to as the "Secretary") shall, within six months after October 16, 1970—

(1) establish facilities and technical staff to maintain within the Federal Government the capability to evaluate the hazards connected with and surrounding the various hazardous materials being shipped;

(2) establish a central reporting system for hazardous materials accidents to provide technical and other information and advice to the law-enforcement and firefighting personnel of communities and to carriers and shippers for meeting emergencies connected with the transportation of hazardous materials; and

(3) conduct a review of all aspects of hazardous materials transportation to determine and recommend appropriate steps which can be taken immediately to provide greater control over the safe movement of such materials.

(b) Additional to authority granted under sections 831 to 835 of Title 18.

The authority granted the Secretary by this chapter shall be in addition to the authority granted by sections 831 to 835, inclusive, of Title 18.

(c) Annual report; contents.

The Secretary shall prepare and submit to the President for transmittal to the Congress on or before May 1 of each year a comprehensive report on the transportation of hazardous materials during the preceding calendar year. Such report shall include, but not be restricted to—

(1) a thorough statistical compilation of the accidents and casualties occurring in such year which involved the transportation of hazardous materials;

(2) a list of relevant Federal standards in effect or established in such year;

(3) a summary of the reason for each waiver or exemption granted pursuant to sections 831 to 835, inclusive, of Title 18;

(4) an evaluation of the degree of observance of safety standards for the transportation of hazardous materials; and

(5) a summary of outstanding problems created by the transportation of hazardous materials.

(d) Recommendations for additional legislation.

The report required by subsection (c) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary. (Pub. L. 91–458, title III, § 302, Oct. 16, 1970, 84 Stat. 977.)

SHORT TITLE

Section 301 of Pub. L. 91–458 provided that: "This title [which enacted this chapter] may be cited as the 'Hazardous Materials Transportation Control Act of 1970'."

SEPARABILITY OF PROVISIONS

Invalidity of any provision of this chapter or invalidity of application thereof to any person or circumstances not to affect remainder of this chapter or the application of such provision to other persons or circumstances, see section 401 of Pub. L. 91–458, set out as a note under section 421 of Title 45, Railroads.

§ 1762. Authorization of appropriations.

There is authorized to be appropriated to carry out the provisions of this chapter not to exceed $1,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. (Pub. L. 91–458, title III, § 303, Oct. 16, 1970, 84 Stat. 977.)

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